

Equality-Oriented Policies in Japan

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I. INTRODUCTION

This article is a brief summary of the dissertation thesis on ‘equality-oriented policies in Japan’.¹ The concept of equality-oriented policies (EOP) presents a new approach in the field of social policy.² It includes all policies that are targeted at achieving, promoting or maintaining equality. The enormous breadth of these policies – covering formal or substantive notions, relating to opportunities or outcomes, regarding material wealth or less tangible goods, and referring to different individual or group features – has been categorized under four headings:

- *regulatory policies*: e.g. affirmative action or anti-discrimination rules, but also general equality clauses as they are common in constitutions;
- *distributive policies*: the distributive arrangements of the tax system, tax-financed social benefits, and various distributive mechanisms under private, especially labour law;
- *discretionary spending*: e.g. the provision of social benefits on a non-entitlement basis or the institutionalized provision of core services, such as education or health;

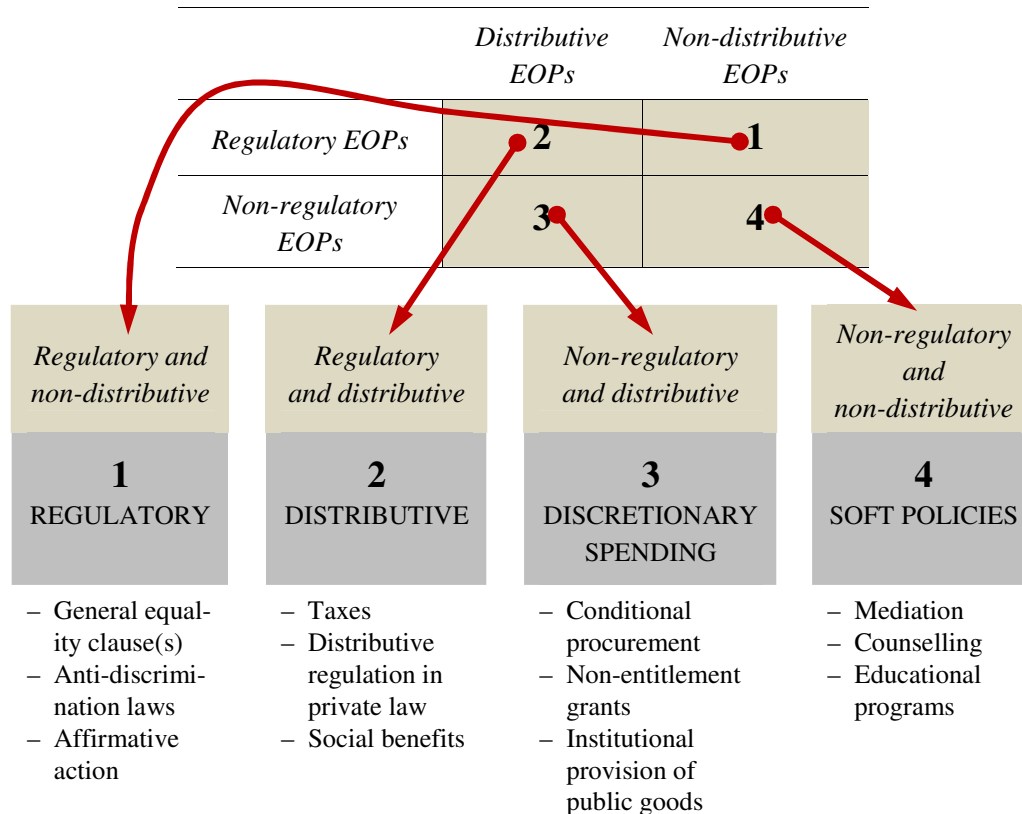
1 TIDTEN, *Inter Pares. Gleichheitsorientierte Politiken in Japan* (Iudicium 2012).

2 For further information, see <http://www.uni-regensburg.de/rechtswissenschaft/oeffentliches-recht/graser/forschung/laufende-projekte/index.html>.

- *soft policies*, which are neither regulatory nor distributive, but equality-oriented nonetheless, such as awareness-raising campaigns, mediation and counselling services, public monitoring and educational programs.

The following table shows an illustration of this systematization.

Table 1: *Systematization of EOPs: Second Step*



As part of a greater comparative project, this work deals with the EOP pattern in Japan. Japan's EOP pattern shows much emphasis on traditional welfare state policies – e.g. a highly developed social insurance law as well as a tax system with comparatively strong redistributing elements.³ By contrast, regulatory policies such as affirmative action or anti-discrimination laws are relatively rare. A net of strong non-regulatory policies (the third and fourth pillars of the EOP system) regarding certain groups might be a particularity of the Japanese EOP pattern.⁴

3 See TIDTEN, *supra* note 1, p. 157 et seqq. for further details.

4 *Ibid.*

II. FIRST PILLAR: REGULATORY – NON-REDISTRIBUTIVE POLICIES

The first pillar of the EOP system contains regulatory and non-redistributive policies. These can be divided into three groups: affirmative action, anti-discrimination laws and general equality clauses.

1. *Affirmative Action*

The term affirmative action has a rather broad meaning, covering many different policies. To achieve a precise distinction between the policies of the four EOP pillars, affirmative action shall be defined in a narrow sense in this paper: the term *affirmative action* will be used in the following only for policies that are regulatory but non-redistributive, such as binding quotas or conditions especially designed to favour or to disadvantage certain groups.

a) *Quotas for Disabled Persons*

The Japanese Fundamental Law for Disabled Persons⁵ regards people with mental or physical disabilities as ‘disabled’. Around 3.5 million people out of Japan’s population of 127 million were recognized as ‘disabled’ in terms of the above-mentioned law in July 2006.⁶

Art. 37 of the law empowers the Welfare Ministry to define binding quotas for employers, who have to employ at least the legal percentage of disabled persons. The quota varies according to the type of employer; the present quota for business companies with more than 56 employees is 1.8%, for public employers 2.2% with the exemption of prefectural employers, to whom a quota of 2.0% applies.⁷ If the quota of employed disabled people falls below the quota, employers have to pay an administrative fine of ¥ 50,000 (about 450 € at the present exchange rate of ca. ¥ 110 = 1 €); if an employer exceeds the quota, the employer will receive subsidies of ¥ 27,000 (ca. 250 € at present) per additional disabled employee.

This binding quota – a form of affirmative action according to the above-mentioned narrow definition – is in dispute.⁸ While some criticize that this quota narrows the freedom of employment of the employer more than is necessary, others argue that state fines are too low and complain about many public employers who do not fulfil the quota.

5 障害者基本法 (*Shōgai-sha kihon-hō*), ‘Fundamental law for disabled persons’, Law No. 84/1970.

6 平成 18 年身体障害児・者実態調査結果 (*heisei 18nenshintai shōgai jishajitsunō chōsa kekka*), 2006 survey, see www.mhlw.go.jp/toukei/saikin/hw/shintai/06/dl/01_0001.pdf.

7 The ministry provides data on the exact quotas under www.mhlw.go.jp/bunya/koyou/shougaiasha01/060401.html, see also ISHIKAWA, The law ‘*shōgaisha jiritsu shien-hō*’ and policies for disabled people (author: 石川満 (他)), Japanese title: ‘障害者自立支援法と自治体のしょうがい者施策’, 2007, p. 12.

8 TIDTEN, *supra* note 1, p. 33 et seqq.

Statistics show that almost 60% of private employers do not fulfil the quota.⁹ In small and medium-sized enterprises, only 1.24% of the employees are disabled in terms of the above-mentioned law.¹⁰

Employers are free to analyse whether it is more expensive to hire a disabled employee or to just pay the fine (which is quite high but entails no further consequences). While it may be argued whether this quota regulation leads to a better integration of disabled people in the labour market – which was undoubtedly the aim of the law makers – it is certainly one of the rare examples of a strict quota regulation amongst Japan's EOPs.

b) *Special Exams for 'Homecoming Children'*

The term '*kikokushijo*' (literally: 'homecoming children') describes students who have spent part of their childhood abroad. When Japanese employees started to work abroad more and more, this phenomenon increased. The 'homecoming children' often had problems reintegrating at school (and sometimes also in the society in general).¹¹

Many private and public universities have introduced special entrance exams for them in which their special skills (in most cases English language skills) are better accounted for.¹² It can be observed, though, that the discussions about 'problems' with the homecoming children – *kikokushijo mondai* – have become silent during the last one or two decades. This might be because in most cases, the lack of traditional Japanese education is more than compensated for by the intercultural social competence and the highly developed language skills the homecoming children bring with them. Some universities even emphasize their international profile and advertise themselves especially for the homecoming children.¹³

The widespread special exams for the *kikokushijo* are, for sure, a form of affirmative action. They are, however, not a policy in terms of EOP: the special exams are introduced by the respective universities on their own account. Neither government nor legislators require them to do so. Furthermore, they are – at least at present – not equality-oriented but inequality-oriented: the aim of the special exams is, at least at present, to attract students with special skills who improve the study environment at the universities. This form of affirmative action is therefore irrelevant for the EOP pattern discussed in this paper.

9 ISHIKAWA, *supra* note 7, p. 12.

10 *Ibid.*

11 CONRAD, *Das Phänomen der Rückkehrerkinder*, in: *Veröffentlichungen des japanisch-deutschen Zentrums Berlin* Band 46, 2002, p. 36.

12 TIDTEN, *supra* note 1, p. 34.

13 *Ibid.*

2. *Anti-discrimination Laws*

Japan's EOPs show no particular emphasis on general anti-discrimination laws. The only field in which broader anti-discrimination legislation can be found is labour law. The Constitution¹⁴ provides the fundamental freedom of contract in Arts. 22 and 29. For the field of labour law, this freedom is limited by certain anti-discrimination laws. The reason for these exceptions is, amongst others, the fact that in many cases employer and employee are not 'at eye level' when it comes to negotiating contracts and the constitutional provision of a 'right to work' in Art. 27. This is why lawmakers feel a stronger obligation to protect potentially discriminated employees.

Art. 3 of the Labor Standards Act¹⁵ states that 'an employer shall not engage in discriminatory treatment with regard to wages, working hours or other working conditions by reason of the nationality, creed or social status of any worker'. It should be noted that this provision applies only to 'workers', i.e. people who are already employed. Someone who is discriminated against by not receiving employment is not mentioned in the act. In such a case, the potential employer can only be sued based on Art. 90 of the Japanese Civil Code¹⁶ (breach of public order; this includes the constitutional equality clause of Art. 14, which is to be examined later on). Regarding unequal treatment of men and women, Art. 4 of the act prohibits unequal payment of male and female workers. Both a violation of Art. 3 and 4 can lead to penalties of up to ¥ 300 000 or even prison sentence, Art. 119 of the act.

Post-war litigation cases illustrate the development of equal rights for female workers. Women, who were not granted voting rights until 1946, played a significant role in the rise of Japan's post-war economy.¹⁷ The number of working women increased especially during these years. In the famous *Sumitomo Cement* case in 1966,¹⁸ the Tokyo District Court ruled that a labour contract clause that led to automatic dismissal of female workers as soon as they got married violated the principle of equal treatment of male and female workers. This may seem obvious nowadays, but in the 1960s such contract clauses were widespread in Japan, making the *Sumitomo Cement* case a landmark decision.

In 1969, the Tokyo District Court regarded a clause unlawful according to which the company pension for female workers should already start at the age of thirty (in contrast to the usual retirement age of fifty-five for male workers at that time).¹⁹ Since the above-mentioned provisions of the Labor Standards Act did not exist in the 1960s, these two cases were based on the 'public order' article of the Civil Code (Art. 90, which will be further examined later).

14 Japanese Constitution 憲法 (*kenpō*), no law number.

15 労働基準法 (*Rōdō kijun-hō*), Law No. 491947.

16 Civil Code, as amended by Law No. 89/1954.

17 SUGENO, Labour Law (author: '菅野和夫', Japanese title: '労働法'), 2008, p. 152.

18 Tokyo District Court, *Rōmin* 17, 6, 1407.

19 Tokyo District Court, *Rōmin* 20, 4, 715.

In a similar case, a contract clause leading to the dismissal of female workers as soon as they bore a second child was regarded as unlawful in 1975 by the Tokyo District Court.²⁰ In 2000, the Osaka District Court further developed the principle of equal treatment of male and female workers: if male workers were promoted after certain periods of time and female workers were not, the employer committed a tortious act in terms of Art. 709 of the Civil Code and had to pay damages to the female employer who was discriminated against.²¹ The suing female workers also demanded promotion; the court, however, ruled the damages paid were sufficient and there was no further need to promote the plaintiffs.²²

Contract clauses that foresaw more regular pay rises only to those employees who were *setainushi* (head of the family according to the Japanese family registers; in most cases, the husband) were regarded as indirectly discriminatory and therefore judged unlawful by the Tokyo District Court in 1994.²³

The situation regarding 'two-track employing systems' seems to have changed in recent years.²⁴ The two-track employing system practiced by some bigger companies provides two separated 'tracks'. While one track is for 'usual' work, the other is a 'career track'. Women as well as men who enter the company have to choose their track, which means they can either choose to work in simpler fields and without too much workload pressure or to work in the career track with all the advantages (and disadvantages) of being a hard-working career (wo)man. In the 1980s and 1990s, this two-track system was mostly regarded as a possible solution for women who were discriminated against in the labour market.²⁵ The system was to ensure that women willing to work like men should be treated like them, while men who chose a role traditionally regarded as the 'women's role' (i.e. having a priority on children or family members in need of care rather than their own career) should also find an acceptable solution for their individual situation.

In the 2000s, however, an increasing number of courts ruled the two-track system unlawful. In most cases, the career track was chosen almost exclusively by male employees, while the simple work track was chosen almost only by women. The District Courts of Tokyo and Nagoya judged in 2002 and 2004 that this could lead to a perpetuation of the so-called traditional roles instead of giving female workers equal opportunities. In these cases, the two-track system was considered indirectly discriminatory and therefore unlawful.²⁶ In another case, the Tokyo District Court ruled a two-track system

20 Tokyo District Court, Hanrei Jihō 789, 17.

21 Osaka District Court, Rōhan 797, 15; Osaka District Court, Rōhan 809, 5.

22 Ibid.

23 Tokyo District Court, Rōhan 651.

24 TIDTEN, *supra* note 1, p. 41 et seqq.

25 Ibid.

26 Tokyo District Court, Rōhan 822, 13; Nagoya District Court, Rōhan 888, 18.

in a specific company was not indirectly discriminatory since it gave equal opportunities regardless of the sex of the employee.²⁷

At the present time, there can be no final decision about the lawfulness or unlawfulness of the two-track system. Scholars, however, seem to see a clear tendency towards the unlawfulness of the system.²⁸

Foreign nationals are another potential group of workers who are possibly discriminated against in the labour market. Such discrimination would be unlawful according to Art. 3 of the Japanese Labor Standards Act. In 1974, the Yokohama District Court considered the dismissal of an employee with a foreign nationality unlawful.²⁹ The employee, who was a Korean national, had provided the employer with wrong data regarding his registered address and name. It was at that time an easy task to check the data on the family background in the official family register, which was, until 1976, open to the public. The employee had feared discrimination because of his Korean nationality and family background and had therefore not given his employer the correct data. The employer found out the true background of the worker during the probation period, and the worker was not hired. The Court ruled that, even though the employee had lied to the employer, the dismissal constituted indirect discrimination.

In conclusion, it can be said that there are anti-discrimination laws only in the limited field of labour law. Also, in many of the above-mentioned cases, the anti-discrimination provisions of the Labor Standards Act were not applicable, either because they did not exist at the time or they did not cover the specific case (e.g. not employing someone). The courts developed some of the principles of anti-discrimination. While the existing anti-discrimination rule in the Labor Standards Act was often taken into account, it can, however, hardly be said that regulatory anti-discrimination laws played a major role in Japanese EOPs over the past few decades.

3. *General Equality Clause*

Both Japan's Constitution and her Civil Code contain a general equality clause. The latter is less detailed than the constitutional equality clause and has, as shall be seen later, no specific further meaning beyond that of the constitutional clause.

a) *Constitutional Equality Clause*

Art. 14 of the Japanese post-war Constitution declared that all citizens were equal under the law and there should be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin. Peerage was abolished. The

27 Tokyo District Court, Rōhan 867, 19.

28 E.g. WADA, Article 14 of the Constitution and Labour Contracts (author: 和田輩, Japanese title: '憲法 14 条 1 項、民法 1 条の 2、同 90 条、そして労働契約'), in: FS Nakajima (Japanese title: '中嶋還暦・労働契約法の現代的展開'), 2004, p. 1.

29 Yokohama District Court, Hanrei Jihō 744, 29.

constitutional equality clause applies directly in the relations of individuals to the state, and indirectly (through the ‘public order’ article, Art. 90, of the Civil Code) for relations between private parties.

It should be noted that discrimination because of nationality is not mentioned in the text. When the Constitution was drafted in 1946, this was a strongly disputed point between the Japanese government and the General Headquarters (‘GHQ’) of the United States of America. The American side demanded that the clause also include nationality or ‘origin’.³⁰

Since it had not been long before, in the second half of the 19th century, that Japan was forced to sign ‘unequal treaties’ granting Westerners of certain countries extraterritorial privileges and other rights – a trauma for Japan – Japanese conservative government officials were suspicious about the Americans’ demands. When, upon request, the American side insisted that foreign nationals should be equal to Japanese nationals, the Japanese side suggested replacing ‘all citizens’ by ‘all natural persons’, which would include foreigners as well. GHQ agreed.³¹

In the final Japanese version, however, some translation ‘harmonizations’ took place, and the ‘natural persons’ in Art. 14 disappeared again to be replaced by the original ‘all citizens’.³² Since there has been no constitutional reform in Japan after 1946 (and it is, as some say, very unlikely that such a reform will take place without another world war), the constitutional equality clause still remains as it was drafted.

In a legal sense, of course, it does not make much of a difference whether the clause grants equality rights to ‘all citizens’ or to ‘all natural persons’, since Japanese courts have acknowledged Art. 14 of the Constitution as one of the many articles in the human rights chapter of the Japanese Constitution that apply to any human being. The struggle of the Japanese lawmakers in 1946 against the mentioning of nationality in the general equality clause is, however, highly noticeable. The attitude that foreigners should be treated differently because they are ‘different from us’ seems to be regarded as common sense rather than xenophobia in many parts of the Japanese society, as shall be seen later.

b) Constitutional Equality Clause and Public Sector

Japan has no special constitutional court, nor do special constitutional complaints or procedures for the examination of the compatibility of acts with the Constitution exist. The courts can – unlike the Federal Constitutional Court in Germany, for example – only judge on constitutional matters implicitly; there are no special suing procedures for constitutional law cases.

30 TIDTEN, *supra* note 1, p. 24 et seqq.

31 *Ibid.*

32 SATO, *History of the Genesis of the Japanese Constitution* (author: ‘佐藤達夫’, Japanese title: ‘日本国憲法成立史・第三巻’), 1994, p. 326.

This leads to two characteristics of Japanese constitutional case law: First, there are far fewer cases dealing with constitutional matters than in Germany, for example. Since it is only possible to question the constitutional compatibility of an act as a sub-question of a 'normal' civil, criminal or administrative case, it is not as easy as in Germany to bring up new merely constitutional cases. Second, much of the dogma of constitutional law is developed among and by scholars rather than judges.³³ Since it is only necessary to solve the concrete civil, criminal or administrative law problem, the court seldom feels obliged to pronounce a judgement on systematic questions or to develop dogmatics. Due to these two reasons, there are only very few cases that are relevant for the Japanese EOP pattern.

c) *Equal Weight of Voting Rights*

One on-going question is whether a particular division of the voting districts violates the general equality clause. The two chambers of the Japanese parliament are elected in a combined system of majority and proportional voting. Since the voting districts vary in their population size, votes for a majority voting system are not counted fully equal. There are regular complaints about violations of the equality principle by wrongful division (or non-division) of voting districts.³⁴

The Japanese Supreme Court generally acknowledges a large scope for the legislator in this field. According to the Supreme Court, factors such as the size of the districts, the history and cultural background and the number of parliamentary seats per prefecture should also be considered. *Table 2* and *Table 3* show the judgements of the Supreme Court in similar cases (the 'disequilibrium' column shows how 'unequally' the votes were counted; for example, for the election in 2001, a vote in a certain small voting district counted 5.06 times more than a vote in a certain large voting district).

The figures show that for upper house elections, only disequilibria of more than 6:1 were judged unconstitutional, while for the lower house, the margin seems to be a ratio of 3:1. With respect to the different composition and function of the two chambers (the lower house is the main legislative chamber, while the upper house is traditionally a chamber of representatives of the regions, thus being roughly comparable to the US Senate or the German *Bundesrat*), a differentiated judgement seems appropriate.

A disequilibrium of both 3:1 and 6:1 might seem too high for many German lawyers (for *Bundestag* elections, disequilibria may not exceed 1.67:1); it should be mentioned, though, that the American Senate has (intended) disequilibria of about 73:1 and the German *Bundesrat* (representatives of the states) of about 13.62:1. One may therefore conclude that Art. 14 of the Japanese Constitution plays a comparatively strong – though not extremely strong – role in this field.

33 TIDTEN, *supra* note 1, p. 56 et seqq.

34 HIGUCHI, *Constitutional Law*, (author: '樋口陽一', Japanese title: '憲法'), 1994, p. 326.

Table 2³⁵

House of Councillors (upper house)			
<i>Year of election</i>	<i>Judgement date</i>	<i>Disequilibrium</i>	<i>Violation of Art. 14?</i>
1962	5/10/1964	4.09	no violation
1971	25/04/1974	5.08	no violation
1977	27/04/1983	5.26	no violation
1992	11/09/1996	6.59	violation
1995	2/09/1998	4.97	no violation
1998	6/09/2000	4.98	no violation
2001	14/01/2004	5.06	no violation
2004	11/07/2004	5.13	no violation

Table 3³⁶

House of Representatives (lower house)			
<i>Year of election</i>	<i>Judgement date</i>	<i>Disequilibrium</i>	<i>Violation of Art. 14?</i>
1972	14/04/1976	4.99	violation
1980	7/11/1983	3.94	violation
1983	17/07/1985	4.4	violation
1986	21/10/1988	2.92	no violation
1996	10/11/1999	2.309	no violation

- 35 Supreme Court Judgement, 5. Feb. 1964, *Minshū* 18, 2, 270;
 Supreme Court Judgement, 25. Apr. 1974, *Hanrei Jihō* 737, 2;
 Supreme Court Judgement, 27. Apr. 1983, *Minshū* 37, 3, 345;
 Supreme Court Judgement, 11. Sep. 1996, *Minshū* 50, 8, 2283;
 Supreme Court Judgement, 2. Sep. 1998, *Minshū* 52, 6, 1373;
 Supreme Court Judgement, 6. Sep. 2000, *Minshū* 54, 7, 1997;
 Supreme Court Judgement, 14. Jan. 2004, *Minshū* 58, 1, 56;
 Supreme Court Judgement, 4. Okt. 2006, *Minshū* 60, 8, 2696
- 36 Supreme Court Judgement, 14. Apr. 1976, *Hanrei Jihō* 808, 24;
 Supreme Court Judgement, 7. Nov. 1983, *Hanrei Jihō* 1096, 19;
 Supreme Court Judgement, 17. Jul. 1985, available on www.courts.go.jp/search/jhsp0030?action_id=dspDetail&hanreiSrchKbn=01&hanreiNo=26075&hanreiKbn=01;
 Supreme Court Judgement, 21. Okt. 1988, *Toki no Hōrei* (時の法令) 1345;
 Supreme Court Judgement, 10. Nov. 1999, *Minshū* 53, 8, 1577.

d) *Inheritance Law: Legal Proportion of Extra-marriage Children*

In 1995, the Supreme Court had to decide the constitutionality of the rules on legal proportion in inheritance law of children born outside marriage. Art. 900 No. 4 of the Civil Code says the legal inheritance proportion of children born out of wedlock is half of the proportion of children born in wedlock. While the Tokyo High Court ruled that Art. 900 No. 4 of the Civil Code violated Art. 14 of the Constitution and was therefore unconstitutional,³⁷ the Supreme Court decided that Art. 900 No. 4 Civil Code was in conformity with the Constitution.³⁸

The Supreme Court explained that the legislator had to find a balance between the protection of the family on the one hand and the protection of the illegitimate child on the other hand. The Supreme Court ruled that the decision of the legislator was arguable, but did not exceed the reasonable parameters. The Supreme Court pointed out that protection of marriage was a principle of constitutional rank, and, furthermore, Art. 900 No. 4 Civil Code was no *ius cogens*, so the bequeather was free to give other instructions in a testament.

The decision was fiercely criticized:³⁹ many argue that marriage should be protected only by better securing the legal inheritance proportion of the spouse. The illegitimate child had no influence on whether he or she was born in or out of wedlock, and a smaller legal inheritance proportion would not lead to fewer illegitimate children. If birth in or out of wedlock were considered an element of the ‘social status’ of the constitutional equality clause – which the Supreme Court did not mention – it would hardly be possible to consider the inheritance law constitutional in this point.⁴⁰ Though the decision of the Supreme Court is certainly arguable, the case shows it is possible for courts to decide the constitutionality of legislative acts on the basis of the constitutional equality clause.

e) *Nationality Law*

In 2008, the Supreme Court had to decide on the constitutionality of Art. 3 of the Japanese Nationality Law. Art. 3 par. 1 of the Nationality Law⁴¹ defines several different constellations of children with only one Japanese parent and the conditions under which they become Japanese nationals.⁴² For children of foreign mothers and Japanese fathers, the law made the following distinction: if the father acknowledged the child to be his before it was born, it would automatically become a Japanese national. If he acknowledged

37 Tokyo High Court, Minshū 46, 2, 43.

38 Japanese Supreme Court, Minshū 49, 7, 1789.

39 TSUJIMURA, Constitutional Law (author: ‘辻村みよ子’, Japanese title: ‘憲法’), 2008, p. 196.

40 In a similar case: Tokyo High Court, Kōminshū 46, 2, 43.

41 Nationality Law, 国籍法 (*Kokuseki-hō*), the 1950 law no. 147.

42 Japanese Supreme Court, Hanrei Jihō 2002, 3.

his fatherhood only after the child's birth, the child would become a Japanese national only if the parents married each other.

The Supreme Court decided that the time of the acknowledgement (before or after the birth of the child) was in this constellation no reasonable criterion in terms of Art. 14 Constitution. The reason for the discussed article of the Nationality Law was the fear that any Japanese male could start acknowledging any children abroad – a numerical limit does not exist, and the fatherhood is not biologically tested once it is acknowledged – thus causing problems for the Japanese state. This fear may seem bizarre to some, but in Germany – where any German male can acknowledge any child of a foreign national mother as his – this system has been taken advantage of: a German in South America started acknowledging hundreds of children from poor countries as his because he wanted to grant them access to German educational institutions and welfare grants, as he frankly admitted.⁴³

In this case, Art. 14 Constitution was the direct base for the decision of the Supreme Court that the Nationality Law was partly unconstitutional. This is a rare but interesting case that shows how the Supreme Court can cause big changes.

f) *Constitutional Equality Clause and Private Sector*

As mentioned above, the constitutional equality clause can cause third-party effects among private parties under certain circumstances. The Supreme Court decided that the human rights articles of the Constitution are part of the public order mentioned in Art. 90 Civil Code, thus allowing the courts to also judge on possible serious violations of the values of the human rights articles – which include the equality clause of Art. 14 Constitution – between private parties.

One of the well-known cases is the *Otaru Onsen* case, in which the private owner of an *onsen* (a Japanese traditional hot spring spa house) denied access to 'foreigners'.⁴⁴ In the past, Japanese guests of the *onsen* in a harbour town in North Japan had complained about 'foreigners': some (presumably Russian) seamen had not obeyed the *onsen* rules and had entered the *onsen* drunk, had used the spa without properly washing themselves in advance or had been shouting around in the bathhouse. The owner reacted by putting up a sign that forbade entry to the *onsen* to any foreigners.

The plaintiff, a former US citizen who was a naturalized Japanese citizen at that time, was refused entry to the *onsen*. When he explained that he was Japanese, the defendant replied that the plaintiff was not properly Japanese and the other guests would feel uncomfortable in his presence, and that the plaintiff was therefore not allowed to enter. The case came to a bizarre climax when the two daughters of a mixed Western-Japanese family wanted to enter the *onsen*: the elder one – with a more Japanese-looking physiognomy – was permitted entry, while the younger one – with lighter hair and eyes, and

43 TIDTEN, *supra* note 1, p. 53.

44 DEBITO, *Japanese Only: The Otaru Hot Springs Case* (2004).

thus looking more like a ‘Westerner’ – was regarded as a ‘foreigner’ by the *onsen* staff and was not allowed to enter the spa. The Sapporo District Court considered the denial of access a tort and the *onsen* owner had to pay damages due to his violation of personal rights (Art. 709, 90 Civil Code, 14 Constitution).⁴⁵

The case shows that on the one hand, it is possible to claim damages on the basis of the constitutional equality clause (in combination with the respective articles of the Civil Code). On the other hand, it also makes clear that in many cases people, and especially foreigners, have no other legislative protection against discrimination but this constitutional equality clause. At least for the *onsen* owner and some of the *onsen*’s Japanese guests, the conclusion that ‘foreigners can’t behave properly, therefore, foreigners have to be thrown out of the *onsen*’ seems to be a cogent line of argument. One can assume that at present, a stricter protection of foreigners against discrimination in the private sector (e.g. by enacting anti-discrimination laws) is not an issue that is regarded as important.

III. SECOND PILLAR: REDISTRIBUTIVE AND REGULATORY POLICIES

The second pillar of the EOP scheme contains equality-oriented policies that are both redistributive and regulatory. These include the four subgroups of tax law, social security law, policies for redistribution between privates and policies for other social benefits.

1. Tax Law and Social Security Law

Japan’s tax law provides two comparatively strongly developed and especially EOP-relevant tax groups: the income and the inheritance tax. Both aim at narrowing the gap between wealthier and poorer population groups. Furthermore, the social security system in Japan has strong regulatory and redistributive elements.

Table 4⁴⁶ (see next page) shows the Gini coefficients before and after redistribution through the tax and the social security system. It has to be mentioned that the data regarding the Gini coefficient varies significantly depending on the source (e.g. the Japanese Ministry of the Interior, the Welfare Ministry or the UN Human Development Report of 2007/08). The data of the Welfare Ministry provides the most detailed and recent information.

45 Sapporo District Court; for an English abstract, see DEBITO, supra note 44, pp. 401 et seq.

46 Source: Japanese Welfare Ministry, data available on <http://www.dbtk.mhlw.go.jp/toukei/kouhyo/data-kou6/data17/H17gai.pdf>, downloaded 1 August 2009.

Table 4⁴⁷

Gini Coefficients in Japan
(Data according to the Welfare Ministry)

<i>Year</i>	<i>Before redistribution</i>	<i>After redistribution</i>	<i>Approximation (in %)</i>	<i>Approximation through taxes</i>
1993	0.4394	0.3645	17.05%	5.00%
1996	0.4412	0.3606	18.27%	3.60%
1999	0.472	0.3814	19.19%	2.90%
2002	0.4983	0.3812	23.50%	3.40%
2005	0.5263	0.3873	26.41%	3.20%

Both the income tax law and the inheritance tax law have six different tax rates, which gradually increase from 5% up to 40% (income tax) and 10% up to 50% (inheritance tax).

In the field of social insurance, the three major social insurances – health insurance, pension insurance and unemployment insurance – show strong regulatory and redistributive elements. Membership in these insurances is obligatory.⁴⁸ Competition between insurances does not exist because the assignment to the different insurance entities is not a matter of choice but is strictly regulated in the respective administrative regulations. The conditions are not negotiable – they are defined by the Welfare Ministry (as are the prices paid to the physicians etc. by the insurances for their work). One of the most important characteristics is therefore the trust in the sense of responsibility of the governmental bureaucracy.⁴⁹ Tax law and social security law are obviously a very developed subgroup of the second EOP pillar.

2. *Redistribution Between Private Parties*

In many countries, policies for redistribution between private parties exist – payment continuation during maternity leave or illness are two common examples. In Japan, neither exists: if an employee becomes ill, has to care for a close relative or cannot work due to pregnancy or childbirth, social insurances pay grants and the employer does not have to pay anything.⁵⁰

This fact could be interpreted in many ways: For the legislators, the nation as a whole seems to be the adequate addressee of the burden, while the relation between employer and employee might – from the viewpoint of the legislator – not be ‘close’ enough to burden the employer with the expenses of the employee’s private life. On the other hand, one could also state that maybe the employers’ lobby is too strong and the legis-

47 Source: Japanese Welfare Ministry, data available on www.dbtk.mhlw.go.jp/toukei/kouhyo/data-kou6/data17/H17gai.pdf, downloaded 1 August 2009.

48 For further details, see TIDTEN, *supra* note 1, p. 73 et seqq.

49 MATSUMOTO, *Reformen der sozialen Sicherungssysteme* (2007) p. 56.

50 For further details, see TIDTEN, *supra* note 1, p. 83 et seqq.

lator does not dare to demand employers to share the load. The absence of policies for direct redistribution between private parties remains a remarkable fact, especially against the background of the immense national debt in Japan, for direct redistribution between private parties would be much cheaper for the government.

3. *Other Social Benefits*

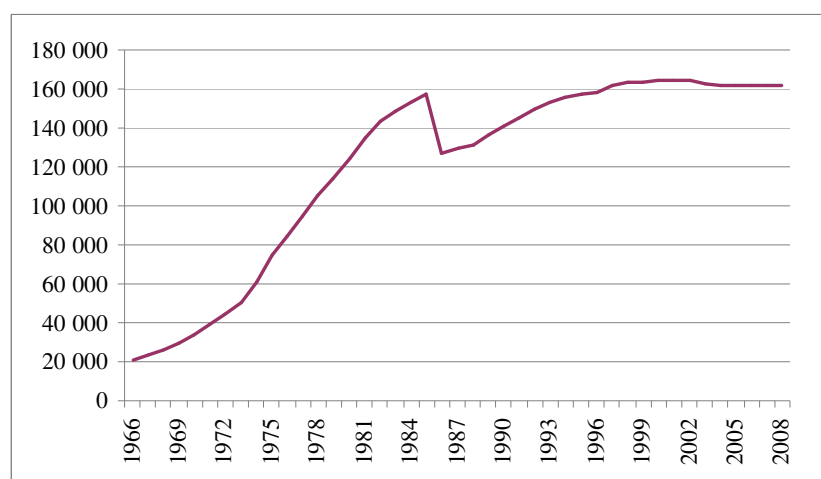
Other social benefits such as social aid and governmental student support are the fourth subgroup of the second pillar: they are both regulatory and redistributive policies.

a) *Social Aid*

Any Japanese citizen (and under certain circumstances also foreign nationals) who does not have enough money to make a living is, in principle, entitled to receive social aid. For this aid, it is irrelevant exactly why someone cannot earn a living independently. Though some smaller groups are not caught by this welfare net – for example, many homeless people or those who just do not apply for the aid because they feel embarrassed to be a burden to the society, a widespread phenomenon in Japan – social aid provides a minimum living standard for everyone.⁵¹

The aid is divided into eight subgroups (general living aid, educational aid, maternity aid, etc.). The Welfare Ministry defines the ‘standard amount’; depending on the status of the applicant – married or not, children or not, etc. – the exact amount is calculated according to fixed tables in the Welfare Ministry.⁵²

Figure 1⁵³ Standard Amount Since the 1960s



51 For further details, see TIDTEN, *supra* note 1, p. 89 et seqq.

52 See www.mhlw.go.jp/bunya/seikatsuhogo/seikatuohogo.html for further details.

53 Source: Japanese Welfare Ministry, statistics under http://www.dbtk.mhlw.go.jp/toukei/youran/indexy_k_3_1.html, seen on 1 Oct. 2010.

Figure 1⁵⁴ (previous page) shows the development of the above-mentioned standard amount from the 1960s onwards. Due to several regional factors (e.g. the general price of living costs in different areas – Tokyo is a lot more expensive than the rural areas), the amount actually received varies by up to two hundred euros. Though critics argue that the level of social aid in Japan is too low or that those who are really in need cannot receive it, the social aid system in general can be regarded as comparatively developed.⁵⁵

b) *Governmental Student Support*

Students in Japan can apply for governmental student support (similar to a scholarship). The financial support is granted if certain requirements are fulfilled: factors like the parents' income and the student's marks (roughly the upper third is eligible) are the most important ones. Depending on marks, the student has to either pay the money back with interest (which is mostly the case) or without interest.⁵⁶

The aid varies according to the conditions the respective student fulfils; the average amount received is roughly around ¥ 50,000, though this has to be regarded against the background of the high tuition fees at Japanese universities, which are usually around ¥ 820,000 for public and ¥ 1,310,000 for private universities per year. From the German point of view, the Japanese governmental student support does not seem generous: German students – who do not have to pay any tuition fees in most German states – can receive a comparable amount of federal student support no matter what their marks are, and they have to pay back only half of it.⁵⁷

It is remarkable that despite the comparably thin governmental financial support, a greater number of Japanese young men and women attend universities than their German counterparts: in 2008, 54% of Japanese men and 43.9% of women between the ages of 18 and 21 attended university,⁵⁸ while in Germany, it was only 36.9% of the men and 39.6% of the women in the same age group. Even if the German military service for men and the 13th high school year is taken into account, the difference is significant. It is true that the critics of the Japanese governmental student support system have some good points; still, one should also keep in mind that the need for such a system might be less urgent compared to countries like Germany.

54 Source: Japanese Welfare Ministry, statistics available on www.dbtk.mhlw.go.jp/toukei/youran/indexyk_3_1.html, downloaded 1 August 2009.

55 TIDTEN, supra note 1, p. 92.

56 For further details, see TIDTEN, supra note 1, p. 92 et seqq.

57 Ibid.

58 Source: Statistics from the Japanese Ministry of Education, available on www.mext.go.jp/b_menu/toukei/main_b8.htm, downloaded 1 August 2009.

IV. THIRD PILLAR: REDISTRIBUTIVE NON-REGULATORY POLICIES

The third pillar of the EOP system contains equality-oriented policies that are redistributive but not regulatory. In Japan, infrastructural programmes are the most important group of the third pillar.

Infrastructural Policies for the burakumin

The long-term infrastructural programmes for the social group of the '*burakumin*' are a very interesting EOP in Japan. To protect this group against social discrimination and discrimination in the labour market, the legislator did not choose any of the EOPs of the first or the second pillar but the non-regulatory EOPs of the third and, as shall be seen later, of the fourth pillar.

a) *Who Are the burakumin?*

The social group of *burakumin* (literally: 'village inhabitants') is a unique Japanese phenomenon. In feudal Japan, the lowest class were the *eta* (literally: 'much filth') and the *hinin* (literally: 'non-humans'). Professions that were considered 'dirty' or 'tainted' due to cultural or practical reasons – e.g. executioners, jugglers and leatherworkers – were constituents of this group. When Japan started to open the country to the Western world in the second half of the 19th century during the Meiji period, every Japanese obtained civil rights. The legal distinction between the lowest class – which comprised about 2% of the entire population⁵⁹ – and the rest of the society thus disappeared.

Yet the *shinheimin* ('new citizens'), or *burakumin* as they were later called, remained an isolated group that stayed in their ghetto-like quarters and were socially discriminated against in many ways. The family register made it possible for anyone to check the family background of someone else with just the name and the address. The name of the town and the quarter where a family lived was enough to distinguish *burakumin* from the rest of the population. While in the feudal era, the *eta* and *hinin* had their own special professions and thus in many cases a monopoly that granted them at least some economic stability, they now had to find their work on the free labour market. In many cases, this was very difficult, since the rest of the population had strong prejudices against the *burakumin*, who were said to be lazy, dirty, not educated and rowdy.⁶⁰

b) *Infrastructural Programmes*

Since the 1920s, there were loose efforts of the government to improve the infrastructure in the slum-like *buraku* living quarters. From the 1930s until the end of the war, the

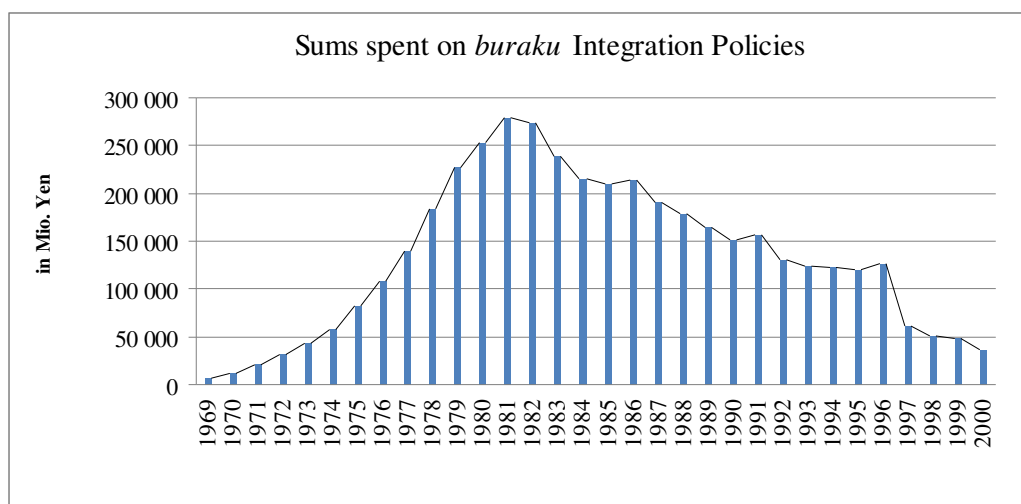
59 INSTITUTE FOR LIBERATION OF THE BURAKU AND FOR HUMAN RIGHTS, Encyclopedia on the Buraku Problem and Human Rights (Author: '部落解放・人権研究所', Japanese title: '部落問題・人権事典'), 2001, p.1242 et seqq.

60 For further details, see TIDTEN, supra note 1, p. 113.

government spent roughly ¥ 1.5 million on such smaller programmes. Large-scale infrastructural improvement for the *buraku* quarters started in 1969, when the government started its long-term *dōwa* programme. ‘*Dōwa*’ (literally: ‘integration’) was used as a new term for the *buraku* problem, since ‘*buraku*’ was already negatively connoted at that time. The programme contained a broad spectrum of various infrastructural policies on national and regional level and a string of awareness-raising and educational programmes (which will be discussed later as part of the fourth EOP pillar).

Figure 2⁶¹ shows the amount of public money spent on the *dōwa* programmes over the years. The projects rebuilt the housing infrastructure (municipalities and prefectures bought the parcels of land, renovated or rebuilt the houses and rented or sold the new buildings for less money to the inhabitants), built new parks, community centres, hospitals, schools, canalization system, roads, etc.

Figure 2⁶²



61 Source: Institute for Buraku Liberation and Human Rights (部落解放・人権研究所), *Buraku Problems and Human Rights Encyclopedia* (部落問題・人権事典), Osaka, 2001, p. 1247.

62 Source: Institute for Buraku Liberation and Human Rights (部落解放・人権研究所), *Buraku Problems and Human Rights Encyclopedia* (部落問題・人権事典), Osaka, 2001, p. 1247.

The aims of these programmes were to improve the living conditions of the *burakumin*, but also to fight the prejudices against them – *burakumin* were often considered ‘filthy’, ‘criminal’ and not educated. The renewal of their living quarters was meant to reduce the prejudices and to prove that *burakumin* lived in a ‘clean’ environment.⁶³

Programmes also included economic aid in many respects. *Burakumin* companies were granted public loans with no or only little interest, and *burakumin* enterprises received special coaching so they could reach competitive capability. *Burakumin* were further granted special premia for school or university graduations, and government and prefectural officials received special coaching so as to sensitize them to the *burakumin*’s situation (this sensitization of officials is, in the strict sense, more an EOP of the fourth EOP pillar, but should be seen in the context of the other policies of the third EOP pillar).

Though some critics argue that there has been much abuse with the money for the programmes,⁶⁴ the EOPs for the integration of the *burakumin* are an impressive example of the combination of non-regulatory EOPs of the third and fourth EOP pillars, the latter of which are to be discussed in the next section.

V. FOURTH PILLAR: NON-REGULATORY AND NON-REDISTRIBUTIVE POLICIES

The fourth EOP pillar comprises policies that are equality-oriented but neither regulatory nor redistributive. In Japan, attention should be paid to several counselling services for women in the labour market and to the educational programmes of the *dōwa* policies.

1. Counselling Services for Women

a) The Equal Employment Opportunity Law of 1985

With Japan ratifying the CEDAW Convention on the Elimination of All Forms of Discrimination Against Women in 1985, several reform projects started. One of them was the enacting of the Equal Employment Opportunity Law.⁶⁵ This law established an employers’ *doryoku gimu* (literally: ‘duty to endeavour’): Employers had to make efforts to abolish discrimination against women. Binding quotas or other ‘hard’ policies were not introduced.

One of the first effects of the Equal Employment Opportunity Law was the establishment of the above-mentioned ‘two-track career’ system, which meant that employers for the first time did not distinguish employees by their gender but by the track they had

63 For further details, see TIDTEN, *supra* note 1, p. 112 et seqq..

64 TERAZONO, *Buraku as Told by None* (author: ‘寺園敦史’, Japanese title: ‘だれも書かなかった「部落」’) 1997, S. 51 et seqq.

65 Men and women equal employment opportunity law 男女雇用機会均等法 (*Danjo koyō kikai kintō-hō*), the 1972 law no. 113.

chosen. The law also established a multi-level counselling system: Female employees who felt discriminated against could first appeal to a settlement on the company level. If such a settlement failed, the employee could appeal to the *rōdō kyoku* (labour agency), a public agency on the prefectural level. These specialized agencies were then to try to find a solution for the dispute. If the agency failed to settle the dispute, a special settlement committee could be called upon.⁶⁶

The aim of the legislator was not to overburden employers – most of the decision-makers in Japanese enterprises of the 1980s grew up before 1945 in a country with many feudal relics and where women did not even have voting rights – but to prepare the realization of the CEDAW's goals step by step.⁶⁷ Critics argued that there was no form of sanction in the law, and there was no way to coerce an unwilling employer into the counselling process. Furthermore, many complained that job advertisements were still mostly gender-specific, and that the discrimination of female workers – as long as it was not so grave that it would violate the public order of Art. 90 Civil Code (see above) – was not even unlawful, as long as the employer claimed to have made some effort to abolish it.⁶⁸

b) Reform of the Equal Employment Opportunity Law in 1997 and 2006

Twelve years later, in 1997, a first major reform of the Equal Employment Opportunity Law took place. The governmental agencies could now be appealed to unilaterally by the potentially discriminated employee – which had not been possible in the first version of the law. Furthermore, the Welfare Ministry was to publicize a 'list of shame' with the names of the companies that were not cooperative in the counselling processes. Discrimination of women in the working environment became unlawful, thus making damage claims possible (in a strict sense, this was already a regulatory policy, as mentioned above under the first EOP pillar).

Almost another ten years later, a second major reform of the Equal Employment Opportunity Law took place in 2006. The law now prohibits not just discrimination of women, but discrimination by gender in general. The rules – for example, for the protection of employees against discrimination in the fields of promotions, wages, etc. – became more detailed. Furthermore, the term 'indirect discrimination' was introduced on a regulation level. A Welfare Ministry regulation defines details, such as under which conditions a 'two-track career' system promotes indirect discrimination. State agencies now encourage companies to establish a catalogue of positive action on the company level. *Figure 3 and 4* show the answers of a survey relating to the Japanese attitude to working women and mothers and the changes since 1972:

66 SUGENO, *supra* note 17, p. 666 et seqq.

67 Araki, *doryoku gimu* (author: '荒木尚志', Japanese title: '労働法におけるハードローとソフトロー: 努力義務規定を中心に'), in soft law research (Japanese title: 'ソフトロー研究') *Untersuchungen*, Nr. 6 2006, p. 30.

68 For further details, see TIDTEN, *supra* note 1, p. 126 et seqq.

Figure 3⁶⁹

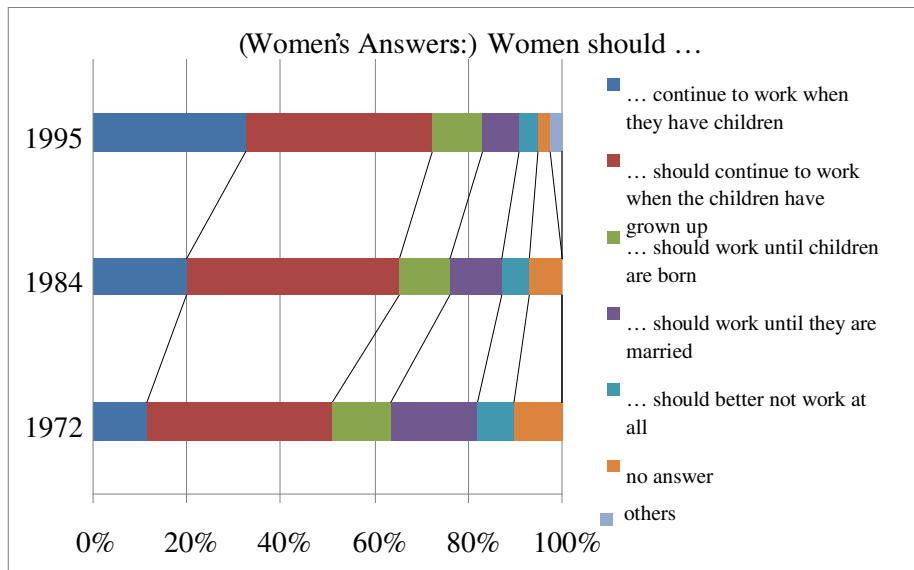
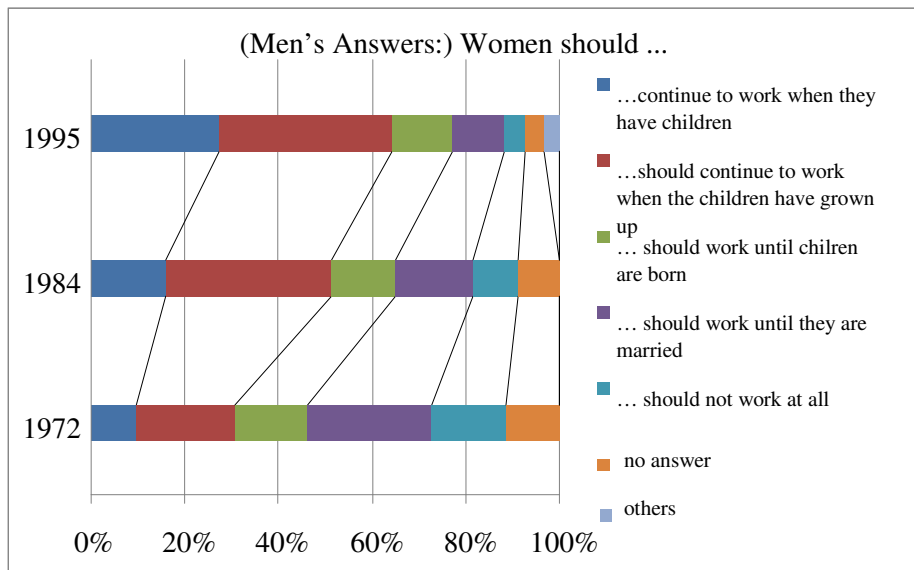


Figure 4⁷⁰



69 Source: Japanese Cabinet Office; surveys available on <http://www8.cao.go.jp/survey/>, downloaded August 1st 2009.

70 Source: Japanese Cabinet Office; surveys available on <http://www8.cao.go.jp/survey/>, downloaded August 1st 2009.

The surveys show a clear shift in the image of working women. Still, it is difficult to say how much of this shift was caused by the policies of the Equal Employment Opportunity Law. One could also argue that the shift in attitude was just a matter of time – it is hard to prove one or the other. Critics argue that even the newest version of the Equal Employment Opportunity Law was not ‘hard’ enough to really promote working women’s rights in Japan.⁷¹

What remains remarkable is the long-term approach that seems to have worked without any bigger social or economic turbulence: the gradual development of the Equal Employment Opportunity Law over more than twenty years was a smooth, coherent process. While there can surely be much arguing about the situation and problems of working women in today’s Japan, even feminists would not deny that the situation for working women has improved a lot since the 1980s. In this sense, the combination and gradual shift from fourth-pillar EOPs to first-pillar EOPs can be regarded as successful.

2. *Dōwa Education Policies*

Dōwa education policies cover two aspects: the education of *burakumin* themselves and the education of the rest of the population concerning *burakumin*. The first was already mentioned above (building of education institutions for *burakumin*, premia for graduation, etc.) and is a policy of the third EOP pillar. The latter is clearly a policy of the fourth EOP pillar.

In regions with a considerable *burakumin* population (mainly the historical older cities and settlement areas in western Japan such as Kyoto, Nara, Osaka and some areas in Shikoku and Kyushu), schoolchildren learn facts about the history of the *burakumin* so that prejudices can be dismantled.⁷² During the past decade, *dōwa* education has been replaced by a more general ‘human rights education’, which also covers other aspects of human rights.

The results of the *dōwa* education as well as of the *dōwa* integration policies as a whole are difficult to estimate. The *burakumin* discrimination is and remains a taboo topic, which makes surveys and research in this field rather difficult. Internet forums show a large number of even younger people of *burakumin* origin complaining about discrimination in their private environment, such as when they want to marry someone without a *burakumin* background. On the other hand, it is also a fact that the younger generation almost completely does not know how they could recognize someone with *burakumin* background and says that they have no prejudices against *burakumin*. In a couple of decades, *burakumin* might be a closed chapter in Japan’s long history.⁷³

71 For further details, see TIDTEN, supra note 1, p. 152.

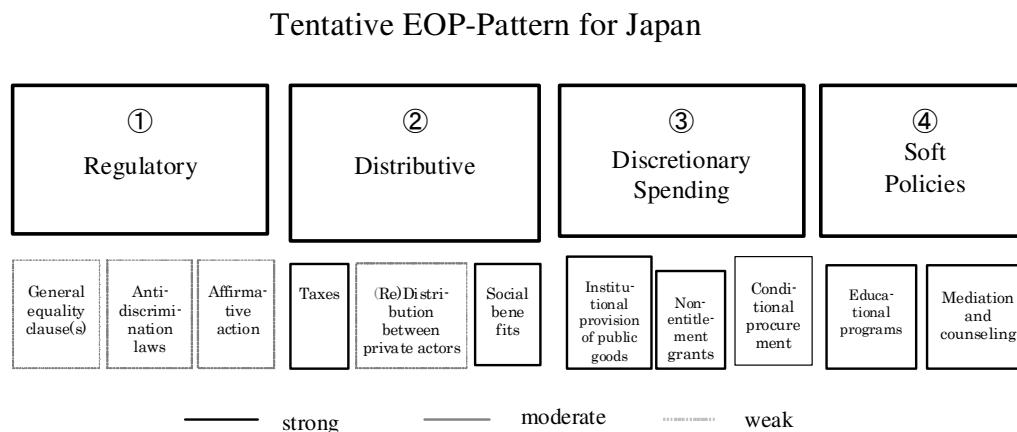
72 *Institute for Liberation of the Buraku and for Human Rights*, p.722.

73 For further details, see TIDTEN, supra note 1, p. 154.

VI. CONCLUSIONS

Japan’s EOP pattern as a whole could be described as that of a traditional welfare state (not many policies of the first pillar, but many of the second), enhanced by highly developed policies of the fourth EOP pillar. Figure 8 tries to visualize the entirety of the described EOPs in their respective pillars.

Figure 5



An analysis based on the EOP system provides many further interesting results. Systematically, certain developments of EOP into others are far more likely than others.⁷⁴ Also, the popular opinion that Japanese in general are ‘equality-minded’ and not ‘liberty-minded’ is quickly unmasked as superstition – in Japan, as in every other society, only certain aspects of equality are regarded as important and worthy of protection by laws.⁷⁵

An important – maybe the most important – characteristic of Japan’s EOP pattern is surely the decisive role of the fourth-pillar EOPs. While especially the ‘hard’ policies of the first pillar are in many cases not very developed, the ‘soft’ policies show a broad variation. Furthermore, an important distinction has to be made for the fourth pillar EOPs. The ‘soft’ policies can be the first step of a gradual introduction of ‘harder’ policies of the first pillar, as has been seen in the field of EOPs for the integration of women in the labour market. But ‘soft’ policies can also be a part of a master plan that contains no gradual changes but merely the precise combination of many non-regulatory policies of the fourth and the third pillar, as has been seen in the case of the EOPs for the social integration of the *burakumin*. The following figures show the EOP systematization for EOPs in the field of integration of women to the labour market and in the field of social

74 TIDTEN, supra note 1, p. 159.

75 TIDTEN, supra note 1, p. 166.

integration of *burakumin*, and visualize the different role the fourth-pillar EOPs play in the context.

Figure 6

	<i>Distributive EOPS</i>	<i>Non-distributive EOPS</i>
<i>Regulative EOPS</i>	<div style="display: flex; justify-content: space-around;"> <div style="border: 1px solid black; padding: 5px; width: 30%;">Social benefits</div> <div style="border: 1px solid black; padding: 5px; width: 30%;">Other (re)de-distributive regulatio</div> <div style="border: 1px solid black; padding: 5px; width: 30%;">Taxes</div> </div>	<div style="display: flex; justify-content: space-around;"> <div style="border: 1px solid black; padding: 5px; width: 30%;">General equality clause(s)</div> <div style="border: 1px solid black; padding: 5px; width: 30%;">Anti-discrimi nation laws</div> <div style="border: 1px solid black; padding: 5px; width: 30%;">Affir-mative action</div> </div>
<i>Non-regulative EOPS</i>	<div style="display: flex; justify-content: space-around;"> <div style="border: 1px solid black; padding: 5px; width: 30%;">Institu-tional provi-sion of public</div> <div style="border: 1px solid black; padding: 5px; width: 30%;">Non-entitle-ment grants</div> <div style="border: 1px solid black; padding: 5px; width: 30%;">Condi-tional procure-ment</div> </div>	<div style="display: flex; justify-content: space-around;"> <div style="border: 1px solid black; padding: 5px; width: 45%;">Educa-tional programs</div> <div style="border: 1px solid black; padding: 5px; width: 45%;">Mediation and counseling</div> </div>

Figure 7

EOP for Working Women

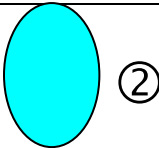
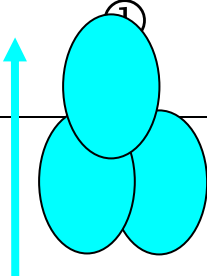
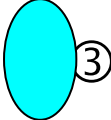
	<i>Distributive EOPS</i>	<i>Non-distributive EOPS</i>
<i>Regulative EOPS</i>		
<i>Non-regulative EOPS</i>		

Figure 8

EOP for *burakumin*

	<i>Distributive EOPS</i>	<i>Non-distributive EOPS</i>
<i>Regulative EOPS</i>	②	①
<i>Non-regulative EOPS</i>		

In addition, the ‘hard’ policies for disabled people (binding quota; see first pillar) cannot be said to be more effective concerning the aims of the legislator than the described ‘soft’ policies for women or *burakumin*. Though it would be an inappropriate simplification to say that the ‘soft’ policies described are the Japanese answer to the Western invention of ‘hard’ affirmation action, the relative ineffectiveness of the first and the (presumably) relative effectiveness of the latter in Japan remains an interesting fact, especially against the background of heavy criticism from feminists and mainly Western authors who regard the present Japanese policies in the respective fields as insufficient. Though at first glance the effect of the ‘soft’ policies may not be obvious, after an analysis of Japan’s EOP system and the long-time developments of the policies, one could join Virgil in exclaiming: *Quantum mutatus ab illo!*⁷⁶

76 ‘How changed from what he [Hector] was!’ VIRGIL, Aeneid 2, 274.

SUMMARY

This article briefly summarizes the author's dissertation thesis on 'Equality-Oriented Policies in Japan'. The thesis is part of a large-scale comparative project in which a broad variety of equality-oriented policies in different countries are analyzed and compared – ranging from anti-discrimination rules, affirmative action, redistributive policies (tax law, social security systems) to non-regulatory mechanisms like infrastructural projects or awareness-rising programmes. The thesis 'Inter Pares' was published in 2012 (in German language).

ZUSAMMENFASSUNG

Dieser Beitrag fasst die Dissertation des Autors zum Thema „Gleichheitsorientierte Politiken in Japan“ zusammen. Die Arbeit ist Teil eines umfangreichen vergleichenden Projekts, in dem eine breite Palette gleichheitsorientierter Politiken in verschiedenen Ländern – von Antidiskriminierungsregeln, sog. „affirmative action“, redistributiven Politiken (Steuerrecht, soziale Sicherungssysteme) bis hin zu non-regulativen Mechanismen wie Infrastrukturprojekten oder Programmen zum sogenannten „awareness rising“ – untersucht und verglichen wird. Die Arbeit „Inter Pares“ ist im Jahre 2012 veröffentlicht worden.