

2016

Glass Ceiling for Female Professionals, Executives,  
and Managerial Employees in Japan: 30th  
Anniversary of the EEAO and Prime Minister Abe's  
Womenomics– Introduction to the Symposium  
Issue– Introduction to the Symposium Issue

Setsuo Miyazawa

UC Hastings College of the Law, [miyazawa@uchastings.edu](mailto:miyazawa@uchastings.edu)

Follow this and additional works at: [https://repository.uchastings.edu/faculty\\_scholarship](https://repository.uchastings.edu/faculty_scholarship)

---

#### Recommended Citation

Setsuo Miyazawa, *Glass Ceiling for Female Professionals, Executives, and Managerial Employees in Japan: 30th Anniversary of the EEAO and Prime Minister Abe's Womenomics– Introduction to the Symposium Issue– Introduction to the Symposium Issue*, 39 *Hastings Int'l & Comp. L. Rev.* 389 (2016).

Available at: [https://repository.uchastings.edu/faculty\\_scholarship/1532](https://repository.uchastings.edu/faculty_scholarship/1532)

# Glass Ceiling for Female Professionals, Executives, and Managerial Employees in Japan: 30th Anniversary of the EEOC and Prime Minister Abe's "Womenomics"

BY SETSUO MIYAZAWA\*

## I. UC Hastings Symposiums on Japanese Law

The University of California Hastings College of the Law ("UC Hastings") has organized a symposium on Japanese law every fall since 2012. The topic for the 2012 symposium was "Successes, Failures, and Remaining Issues of the Justice System Reform in Japan" and eight papers were published.<sup>1</sup> The topic for the 2013

---

\* Senior Professor of Law and Senior Director of the East Asian Legal Studies Program, University of California Hastings College of the Law; Professor of Law, Aoyama Gakuin University Law School. LL.B., LL.M., and S.J.D., Hokkaido University; M.A., M.Phil, and Ph.D. in sociology, Yale University. As the main planner of the symposium on which this symposium issue is based, the author is grateful to the then Chancellor and Dean Frank H. Wu, the Provost and Academic Dean Elizabeth L. Hillman, and the Associate Dean for Research Reuel Schiller of the University of California Hastings College of the Law for their support of the East Asian Studies Program and funding for this symposium. The author also wishes to express appreciation to the Japan Society of Northern California and the *Hastings International and Comparative Law Review (HICLR)* for jointly sponsoring this symposium. The author would like to further note that Hooman Yavi and other editors of the *HICLR* kindly helped the Japanese contributors to brush up their English.

1. Setsuo Miyazawa, *Successes, Failures, and Remaining Issues of the Justice System Reform in Japan: An Introduction to the Symposium Issue*, 36 HASTINGS INT'L & COMP. L. REV. 313 (2013); Shunsuke Marushima, *Historical Genealogy of Japan's Judicial Reform: Its Achievements and Challenges*, 36 HASTINGS INT'L & COMP. L. REV. 349 (2013); Daniel H. Foote, *The Trials and Tribulations of Japan's Legal Education Reforms*, 36 HASTINGS INT'L & COMP. L. REV. 369 (2013); Eric C. Sibbitt, *Adjusting Course: Proposals to Recalibrate Japan's Law Schools and Bar Exam System*, 36 HASTINGS INT'L & COMP. L. REV. 443 (2013); Takayuki Ii, *Japan's Judicial System May Change, but Its Fundamental*

symposium was “Corporate Governance in Japan” and three papers were published.<sup>2</sup> The 2014 symposium was entitled, “The Role of Law and Lawyers for Disaster Victims: A UC Hastings-Waseda Symposium on the Legal Aftermath of the Fukushima Daiichi Nuclear Power Station Disaster” and five papers were published.<sup>3</sup> The 2015 symposium was entitled, “Glass Ceiling for Female Professionals, Executives, and Managerial Employees in Japan: 30th Anniversary of the EEOA and Prime Minister Abe’s ‘Womenomics.’” This symposium issue is based on the 2015 symposium held at UC Hastings on September 18, 2015. The East Asian Legal Studies Program of UC Hastings is committed to the enrichment of research literature on East Asian law and legal institutions through its organization of seminars and the publication of papers presented at symposiums.

---

*Nature Stays Virtually the Same? Recent Japanese Reforms on the Judicial Appointment and Evaluation*, 36 HASTINGS INT’L & COMP. L. REV. 459 (2013); Mark A. Levin, *Circumstances That Would Prejudice Impartiality: The Meaning of Fairness in Japanese Jurisprudence*, 36 HASTINGS INT’L & COMP. L. REV. 475 (2013); Hiroshi Fukurai, *A Step in the Right Direction for Japan’s Judicial Reform: Impact of the Justice System Reform Council Recommendations on Criminal Justice and Citizen Participation in Criminal, Civil, and Administrative Litigation*, 36 HASTINGS INT’L & COMP. L. REV. 517 (2013); Frank K. Upham, *Japanese Legal Reform in Institutional, Ideological, and Comparative Perspective*, 36 HASTINGS INT’L & COMP. L. REV. 369 (2013).

2. David Makman, *The 2013 Symposium on Corporate Governance in Japan*, 11 HASTINGS BUS. L.J. 57 (2015); Hideki Kanda, *Corporate Governance in Japanese Law: Recent Trends and Issues*, 11 HASTINGS BUS. L.J. 69 (2015); Bruce E. Aronson, *Japanese Corporate Governance Reform: A Comparative Perspective*, 11 HASTINGS BUS. L.J. 85 (2015).

3. Setsuo Miyazawa, *The Role of Law and Lawyers for Disaster Victims: A UC Hastings-Waseda Symposium on the Legal Aftermath of the Fukushima Daiichi Nuclear Power Station Disaster – Introduction to the Symposium Issue-*, 16 ASIAN-PAC. L. & POL’Y J. 116 (2015); Eric A. Feldman, *Compensating the Victims of Japan’s 3-11 Fukushima Disaster*, 16 ASIAN-PAC. L. & POL’Y J.127 (2015); Takao Suami, *Legal Support to Fukushima Municipality: Law School, Lawyers, and Nuclear Disaster Victims*, 16 ASIAN-PAC. L. & POL’Y J.158 (2015); Kenji Fukuda, *Need for a Right-Based Approach in Government Support for the Victims of Fukushima Nuclear Accident*, 16 ASIAN-PAC. L. & POL’Y J.186 (2015); Yoshitaka Wada, *Rethinking the Meaning of Damages and Disaster – Incommensurability and Power in Disputing Process*, 16 ASIAN-PAC. L. & POL’Y J.194 (2015).

## II. The 2015 UC Hastings Symposium on Japanese Law

Japan enacted the Equal Employment Opportunity Act (EEOA) in 1985.<sup>4</sup> The act's 30th anniversary was in 2015. Despite the EEOA's enactment, Japan is ranked 101st out of 145 countries in the Global Gender Gap Report 2015 published by the World Economic Forum.<sup>5</sup> The ranking of "legislators, senior officials and managers" is worse; it is 116th. This does not mean that the Japanese government has not done anything to improve the situation. The Cabinet announced in its Second Basic Plan for Gender Equality in 2005<sup>6</sup> that it would encourage voluntary measures in both public and private sectors for proactive improvement with an expectation that women would fill at least 30% of "leadership positions" (*shidoteki chii*) by 2020. The Cabinet reiterated this policy in its Third Basic Plan for Gender Equality in 2010.<sup>7</sup> The reality was far from the expectation. For instance, in 2008, the proportion of women among career bureaucrats at the rank of section chief (*kacho*) or higher at central government ministries was only 2.2%; the proportion was merely 1.7% for those at the rank of executive positions (*shiteishoku*) in central government ministries. The private sector did not fare much better. In 2009, the proportion of women among those at the rank of section chief or higher was only 6.5%. The current ranking in the Global Gender Gap apparently indicates that the government policy set has not produced a positive impact.<sup>8</sup>

However, this situation may be changing. Prime Minister Shinzo Abe, who took the office in December 2013, has taken up the

---

4. Koyō no Bun'ya ni Okeru Danjo no Kintōna Kikai Oyobi Taigū no Kakuho-tō ni Kansuru Hōritsu [Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment], Act No. 113 of July 1, 1972 (Japan). English translation of the Act in its current form is available at a website managed by the Japanese Ministry of Justice, <http://www.japaneselawtranslation.go.jp/?re=02>.

5. *Global Gender Gap Report 2015*, WORLD ECONOMIC FORUM, <http://reports.weforum.org/global-gender-gap-report-2015/rankings/> (last visited Feb. 15, 2016).

6. Gender Equality Bureau Cabinet Office, *Dainiji Danjo Kyōdō Sankaku Kihon Keikaku* [The Second Basic Plan for Gender Equality] (2005) [http://www.gend\\_er.go.jp/about\\_danjo/basic\\_plans/2nd/pdf/2-01.pdf](http://www.gend_er.go.jp/about_danjo/basic_plans/2nd/pdf/2-01.pdf) (last visited Feb. 15, 2015).

7. Gender Equality Bureau Cabinet Office, *Daisanji Danjo Kyōdō Sankaku Kihon Keikaku* [The Third Basic Plan for Gender Equality] (2010) [http://www.gend\\_er.go.jp/english\\_contents/about\\_danjo/whitepaper/pdf/3rd\\_bpg.pdf](http://www.gend_er.go.jp/english_contents/about_danjo/whitepaper/pdf/3rd_bpg.pdf) (last visited Feb. 15, 2015).

8. After the symposium on which this symposium issue is based, the Cabinet announced its Fourth Basic Plan for Gender Equality [*Daiyonji Danjo Kyōdō Sankaku Kihon Keikaku*] in December 2015. The "30% by 2020" expectation was repeated.

promotion of gender equality as a major item in his comprehensive plan for Japan's economic recovery. He argues that increasing employment of women in general—and increasing the proportion of women among professionals, executives, and managerial employees—is essential for Japan's economic recovery. His pronouncement has been discussed widely in Japan under the nickname of “Womenomics.”<sup>9</sup> The Diet (Japanese parliament) passed a bill in August 2015 that obliges companies with 301 or more employees, along with central and local governments, to set numerical targets for the employment and promotion of women, although the law does not stipulate mandatory numerical targets or provide penalties for their failure<sup>10</sup>.

The symposium on September 18, 2015, was organized with this development as its background. Why have the EEOA and related government policies failed to produce a positive result, particularly for female professionals, executives, and managerial employees? Can we expect that “Womenomics” of Prime Minister Abe will succeed? The symposium was organized to discuss these issues.

The United States appears to be far better than Japan regarding gender equality among professionals, executives, and managerial employees. In the Global Gender Gap Report 2015, it is ranked as number one regarding “professional and technical workers” and as 12th regarding “legislators, senior officials, and managers.” However, its overall ranking is 28th, which is lower than most Western European countries. Most recently, the media has commented that some industries, particularly those in Silicon Valley, may still be dominated by male-only culture often based on old-boy networks.<sup>11</sup> Therefore, the symposium was also structured to discuss the situation in the United States and compare the two countries.

---

9. The Government of Japan, “Womenomics Is Pushing Abenomics Forward,” 2014, <http://www.japan.go.jp/tomodachi/womenomics/forward.html>.

10. Mizuho Aoki, *Diet Passes Bill Aimed at Boosting Women in the Workplace*, Japan Times, Aug. 28, 2015, <http://www.japantimes.co.jp/news/2015/08/28/national/politics-diplomacy/diet-passes-bill-aimed-boosting-women-workplace/>.

11. See Farhad Manjoo, *Ellen Pao Disrupts How Silicon Valley Does Business*, N.Y. TIMES, Mar. 28, 2015, <http://www.nytimes.com/2015/03/28/technology/ellen-pao-disrupts-how-silicon-valley-does-business.html>. See also David Streitfeld and Conor Dougherty, *After Kleiner Trial, Expect Less Shooting From the Hip in Silicon Valley*, N.Y. TIMES, Mar. 29, 2015, <http://www.nytimes.com/2015/03/29/technology/after-kleiner-trial-expect-less-shooting-from-the-hip-in-silicon-valley.html>.

The program of the symposium on September 18, 2015 consisted of the following:

-----

**1:00-1:15p.m.: Opening Remarks**

Setsuo Miyazawa, Senior Professor of Law and Senior Director of the East Asian Legal Studies Program at UC Hastings.

Richard Boswell, Professor of Law and Associate Dean for Global Programs.

Nobuhiro Watanabe, Deputy Consul General, Japanese Consulate General in San Francisco.

**1:15-2:15 p.m.: Panel 1 *Glass Ceiling – and Maternal Wall – for Women in Managerial and Professional Jobs in the U.S.: Setting a Comparative Framework***

Moderator: Keith Hand, Professor of Law and Director of the East Asian Legal Studies Program at UC Hastings.

Speaker: Joan C. Williams, Distinguished Professor of Law and UC Hastings Foundation Chair and Director of the Center for WorkLife Law at UC Hastings.

Discussant: Sarah Ingmanson, Former Executive Director, Banking Strategies, Investment Banking Division, Morgan Stanley.

Group Photo Session (Speakers, Discussants & Moderators)

**2:30-3:30 p.m.: Panel 2 *Why Female Lawyers Get Less? – Multiple Glass Ceilings for Japanese Female Lawyers***

Moderator: Miye Goishi, Clinical Professor of Law at UC Hastings.

Speaker: Kyoko Ishida, Associate Professor, Waseda University Law School.

Discussant: Tasha A. Yorozu, Founding Partner, Yorozu Law Group.

**3:45-4:45 p.m.: Panel 3 *Glass Ceiling or Iron Weight?: Challenges for Female Executives and Managerial Employees in Japan***

Moderator: Reuel Schiller, Professor of Law and Associate Dean for Research at UC Hastings.

Speaker: Hiroya Nakakubo, Professor, Hitotsubashi University Graduate School of International Corporate Strategy (ICS).

Discussant: David A. Makman, Partner, Makman & Matz, and the Chairman of the Board, the Japan Society for Northern California.

**5:00-6:00 p.m.: Panel 4 *Will Prime Minister Abe's "Womonomics" Break Glass Ceiling in Japan?***

Moderator: Setsuo Miyazawa

Speaker: Hiroko Goto, Professor, Chiba University Law School.

Discussant: Susan H. Roos, The Roos Group, LLC, and CAO of Geodesic Capital.

**6:00-6:15 p.m.: Closing Remarks (Setsuo Miyazawa)**

-----

The first presenter at the symposium was Joan C. Williams. She is a Distinguished Professor of Law, the UC Hastings Foundation Chair, and the Director of the Center for WorkLife Law at UC

Hastings. A renowned scholar in feminist legal theory, work-life balance, gender and sexuality in the law, and work conflict, with publications on lawyers' work-life balance,<sup>12</sup> she was an ideal presenter to provide a comparative perspective. Since her paper, "Glass Ceiling – and Maternal Wall – for Women in Managerial and Professional Jobs in the U.S.: Setting a Comparative Framework" is not published in this symposium issue, her abstract is reproduced below to aid readers.<sup>13</sup>

Women made rapid progress into professional and managerial positions in the United States between roughly 1970 and 1995. Then progress stalled out, and has not risen appreciably since. Forty years of social science suggest why: women not only face the "glass ceiling" but also the "maternal wall" (gender bias based on motherhood).

In a 2014 study, 96% of highly placed professional women reported having encountered the kinds of gender bias described by social scientists, who have documented several distinct patterns.

The first is that women often have to provide more evidence of competence than men in order to be seen as equally competent. The second bias pattern stems from the fact that all high-level professional and managerial jobs are seen as requiring masculine qualities—yet women are expected to be feminine. Thus many women find themselves walking a tightrope between being seen as too feminine (and so liked but not respected)—or too masculine (and so respected but not liked).

In addition to these glass ceiling patterns, many women also hit the maternal wall. Motherhood triggers strong assumptions that a woman is no longer competent and committed to her job—even if her on-the-job performance remains unchanged. Gender discrimination

---

12. Her publications include: JOAN C. WILLIAMS, UNBENDING GENDER: WHY FAMILY AND WORK CONFLICT AND WHAT TO DO ABOUT IT (2000); Joan C. Williams & Holly C. Cooper, *The Public Policy of Motherhood*, 60 J. SOC. ISSUES 849 (2004); JOAN C. WILLIAMS & CYNTHIA T. CALVERT, SOLVING THE PART-TIME PUZZLE: THE LAW FIRM'S GUIDE TO BALANCED HOURS (2004); MARTHA ERTMAN & JOAN C. WILLIAMS, RETHINKING COMMODIFICATION: CASES AND READINGS IN LAW AND CULTURE (2005); CYNTHIA T. CALVERT & JOAN C. WILLIAMS, FLEX SUCCESS: THE LAWYER'S GUIDE TO BALANCED HOURS (2011); JOAN C. WILLIAMS, RESHAPING THE WORK-FAMILY DEBATE: WHY MEN AND CLASS MATTER (2012); JOAN C. WILLIAMS, RACHEL DEMPSEY, WHAT WORKS FOR WOMEN AT WORK: FOUR PATTERNS WORKING WOMEN NEED TO KNOW (2014).

13. See also Joan C. Williams & Stephanie Bornstein, *The Evolution of 'FReD': Family Responsibilities Discrimination and Developments in the Law of Stereotyping and Implicit Bias*, 59 HASTINGS L.J. 1311 (2008).



against mothers often drives women out of their jobs, though typically employers don't know it: Mothers often tell their employers they are leaving for family reasons in order to preserve their professional relationships should they decide to return to the workforce.

If gender bias is one major reason for the stalled gender revolution, work-family conflict is the other. Highly educated women are much more likely to be stay-at-home mothers in the U.S. than in European countries with more family friendly public policies and lower work hours. A sharp rise in work hours among U.S. professionals, and a wage premium for overwork, occurred at precisely the time that women were entering the professional workforce. Work became masculinity contest in which long hours are the measure of a man. In both the U.S and Japan, women's progress has been stalled by professional and managerial jobs that define the ideal worker as someone always available for work—a workplace ideal designed for a man married to a homemaker.

Two of the three Japanese presenters are faculty members of UC Hastings' two major partners for student exchange in Tokyo. One is Associate Professor Kyoko Ishida at Waseda Law School, who is a rising scholar in professional responsibility, gender law, civil dispute resolution, and legal profession. Her paper, "Why Female Lawyers Get Less – Multiple Glass Ceilings for Japanese Female Lawyers" analyzes research findings of surveys conducted by the Japan Federation of Bar Associations (JFBA)<sup>14</sup> and a team of researchers, including Ishida and myself. These findings show that three sets of values held by male and female lawyers, by the bar community, and by society constitute multilayered ceilings to female lawyers. Ishida concludes her paper by expressing her expectation that the bar adopt a leadership role in changing those value sets.

The second is Professor Hiroya Nakakubo of the Graduate School of International Corporate Strategy of Hitotsubashi University, who is a leading scholar on labor and employment law. His paper, "Glass Ceiling or Iron Weight?: Challenges for Female Executives and Managerial Employees in Japan" discusses the EEOA and Japanese employment practices as causes of difficulties for female executives and managerial employees in Japan. His paper concludes with an expectation that Prime Minister Abe exercise political leadership. In this symposium issue, Professor Nakakubo's

---

14. The JFBA is the mandatory national bar association in Japan. Practicing attorneys licensed in Japan are required to join both the JFBA and one of the 52 local bar associations.

paper is presented first because it is more general than Professor Ishida's paper.

The last presenter is Professor Hiroko Goto of Chiba University Law School in Chiba, a city on the eastern border of Tokyo. Widely regarded as a leading scholar in criminal justice policies, she is also a board member of the Japan Association of Gender and Law and was involved in the discussion on the Basic Plan for Gender Equality in the Gender Equality Bureau of the Cabinet Office. In her paper, "Will Prime Minister Abe's "Womenomics" Break Glass Ceiling in Japan?" she argues that Prime Minister Abe's "Womenomics" is a policy for economic recovery rather than a policy for gender equality. She concludes with strong skepticism regarding his party's position on the amendment of constitutional law, which she believes shows the party's lack of understanding about human rights.

Will the conservative government's mild policy, based mainly on economic motivation, tangibly improve the situation of female professionals, executives, and managerial employees? The target year of 2020 is only four years from now.

\*\*\*