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A PATH TOWARD GENDER EQUALITY:
STATE FEMINISM IN JAPAN

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ABSTRACT

This dissertation is the first study of state feminism in a non-western nation state, focusing on the activities and roles of the Women's Bureau of the Ministry of Labor in post-World War II Japan. While state feminism theory possesses a strong capability to examine state-society relationships in terms of feminist policymaking, it tends to neglect a state's activity in improving women's status and rights in non-western nations where the feminist movements are apathetic or antagonistic to the state and where the state also creates a vertical relationship with feminist groups. To apply the state feminism theory to examine activities of a state institute for women in non-Western nations, I created new analytical factors, domestic and international master frames, which show how policymakers and activists collaborate on policymaking at a domestic level and how policymakers utilize international standards to create the domestic master frame. Using the two-level-analysis of domestic and international politics in terms of creation of master frames together with the existing institutional and mobilizing structural variables, this dissertation presents a detailed study of the activities and roles of the Japanese women's bureau as an initiator and facilitator of gender equality in the process of agenda setting for the equal opportunity laws by utilizing international influence to persuade the opposition and as an interest mediator in the process of decision-making for them. The empirical evidence presented also demonstrates that the change of roles arose from the lack of the following factors: 1) limited resources and institutional capability caused by the marginalization of the women's bureau within the government, 2) the lack of a domestic master frame on the issue of gender equality between the women's bureau and women activists, and 3) the lack of mobilizing structures that provide women's groups

the access to political decision-making to reflect their opinions. The combination of these factors hindered policymaking on gender equality and created a gradual and incremental progress toward gender equality in Japan. The way to gender equality in Japan is different from the western nations. Yet, this is a way that other non-western nations have also advanced and will follow in.

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LIST OF ABBRIVIATIONS

BWM	Bureau of Women and Minors
CEDAW	Convention on Elimination of All Forms of Discrimination against Women
CI&E	Civil Information and Education Section
CO	Cabinet Office
CSW	Commission on the Status of Women of the United Nations
DSP	Democratic Socialist Party
EEOL	Equal Employment Opportunity Law
GCTU	General Council of Trade Unions (<i>Sōhyō</i>)
ILO	International Labor Organization
JCCI	Japan Chambers of Commerce and Industry
JCL	Japan Confederation of Labor (<i>Dōmei</i>)
JFEA	Japan Federation of Employers Association
JLWV	Japanese League of Women Voters
JSP	Japan Socialist Party
LDP	Liberal Democratic Party
MOFA	Ministry of Foreign Affairs
MOL	Ministry of Labor
MOWL	Ministry of Welfare and Labor
NGO	Non-Governmental Organization
NLRWO	National League of Regional Women's Organization
NOW	National Organization of Women

OWA	Office for Women's Affairs of the Prime Minister's Office
PMO	Prime Minister's Office
SCAP	Supreme Commander of Allied Power
SWL	Subcommittee Women's Labor
TCCI	Tokyo Chamber of Commerce and Industry
UN	United Nations
WLA	Women Labor Association

CHAPTER 1 INTRODUCTION

1.1. Goals of the Study

In April 1986, the Women's Bureau of the Ministry of Labor managed to enact the first gender equality law formulated by Japanese women. The decision-making process of the Equal Employment Opportunity Law (hereafter the 1986 EEOL)¹ has been considered one of the most arduous decision-making processes in Japanese political history because the bill met with fierce opposition not only from male employers and the political elite but also from conservative and leftist Japanese women. They criticized the law because it lacked any enforcement power and generated a peculiar women's employment system that made discriminatory treatment of women more invisible, while depriving Japanese women workers of protective measures. It took more than eight years to enact the bill. However, ten years later when the Women's Bureau amended the 1986 EEOL to strengthen its enforcement provision, the women bureaucrats met less opposition from male employers and female workers as well as activists, who strongly had resisted the legislation in the 1970s and 80s. The change in the processes of decision-making for the EEOL of 1986 and 1999 poses a question of whether the state exerts influence on gender relations in society through its laws and policy. We have already known that modern democratic society impacts state policies through actions such as social movements (McAdam 1979, 1982, 1996, 1999; Tarrow 1983, 1989, 1991; 1994a, 1994b, 1994c, 1995, 1998; Tilly 1978, 1983). However, we do not know well if

¹ The title of the 1986 EEOL was *Koyō no bunnya ni okeru danjo no kintō na kikai oyobi taigū no kakuho nado joshi rōdōsha no fukusi no zōshin ni kansuru hōritsu* [A Law for the adjustment of laws relating to the Ministry of Labor to promote the assurance of equality of opportunity and treatment for men and women in employment.] (Quoted from Frank Upham, "Civil Rights Litigation and the Search for Equal Employment Opportunity," in *Law and Social Change in Postwar Japan*, Cambridge, Harvard University Press, 1987.

and how states affect gender relations in society. Does a state have feminist goals such as increase of women's rights and improvement of their status? Or is a state hiding their intention to increase national income by granting women equal opportunity that mobilizes women to employment? If the state attempted to improve the gender relations in the society, what roles would a state institute have and how would it improve gender relations? This dissertation solves these puzzles by exploring the activities of the state, in particular, the governmental institution for women, in rectifying gender inequality in the post-war Japan.

This introductory chapter has three objectives. The first is to explain why I chose activities of the women's bureau as the research targets for this dissertation. In this section, increase in the significance of women's policy agencies in democratic industrial states from international and domestic perspectives and the Japanese women's bureau are described. The second purpose is to examine the validity of a theory of state feminism, which predicts that a state institute could rectify gender discrimination and then, could improve gender relations in the society, by comparing the other theories. The third aim is to propose an analytical framework to examine whether and how the state rectifies gender inequality. The above gives a rough framework of this dissertation.

1.2. Women's Policy Agencies

The addition of women's policy agencies for promoting gender equality in democratic industrial states and their growing significance attracted me to consider whether the state can impact gender relations in a male-dominant society, particularly in Japan. The significance of the state institutions for women has increased through

national and international pressures. Domestic political leaders now are unable to ignore women's issues. Since the 1970s women's voting rate has exceeded the men's one. Gender gap has been conspicuous in the United States (Flammang 1997; Inglehart and Norris 1999) and Japan (Kubo and Gelb 1995). A number of women's groups such as the National Organization of Women in the United States (hereafter NOW) and the Beijing JAC in Japan have adopted a new women's strategy, which attempts to change policies and enact new policies to improve gender relations in society through lobbying activities by women's groups. The increasing demands from women's groups and women per se has forced domestic political leaders to take actions including establishment of a governmental agency for women's issues (Stetson, 1995).

Domestic political leaders also receive international pressure mainly emanated from the United Nations and its efforts. The Commission on the Status of Women (hereafter CSW) of the United Nations, in the 1960s coined the phrase: '*women's policy machinery for the advancement of women*' in order to promote institutionalization of an agency, which aims at improving women's status by identifying the needs of women in various situations. The United Nations has become more ambitious about improving women's status since the International Women's Decade (1975-1985) began. The establishment of 'women's policy machinery' for women's issues by each member state was confirmed in 'the Nairobi Forward-Looking strategies for the Advancement of Women' issued at the third international women's conference in 1985. Moreover, the UN's Convention for the Elimination of Discrimination Against Women (hereafter CEDAW) requires signatory states to file periodic reports with the oversight committee on the "legislative, judicial, administrative, or other measures which they have adopted to

give effect to the provisions of the convention” (Article 18). Each government, which signed the CEDAW in 1985, has submitted reports of activities of the ‘women’s policy machinery’ and women’s policies to the CSW every two years. Thus, international influence can promote establishment of the national policy agency for women, while the agency can utilize this international influence to implement women’s policy as a tool, which gives its policies international legitimacy.

1.2.1. Women Policy Agencies in Japan

The Women’s Bureau in the Ministry of Labor was the main women’s policy agency in Japan during the period 1947-2000², which had been in charge of improving Japanese women’s legal status. This Japanese women’s policy machinery has a unique history that no other agency in the world holds. It was established within the Ministry of Labor under the American military occupation as one of the measures to democratize the prewar Japan political system even before the United Nations’ initiative to institute it in government. The bureau was called: ‘the Women and Minor’s Bureau (*Fujin Shōnen kyoku*)’ from 1947 to 1984, ‘the Women’s Bureau (*Fujin kyoku*)’ between 1984 and 1997, and ‘the Women’s Bureau (*Josei kyoku*)’ between 1997 and 2001. The initial members were not bureaucrats, but feminist activists from the pre-war period, who were appointed by consensus between the American Occupation forces and Japanese government. Three years after the establishment, the first woman bureaucrats entered the bureau. In 1975, when the first woman bureaucrat had assumed the directorship and the International Decade for women started, its policy focus turned from providing special protection to women to guaranteeing equality for women. The bureau then became the

² In 2001, official duties concerning women’s issues were transferred to the Bureau of Gender Equality in the Cabinet Office because of the merger of the ministries.

major women's policy agency aiming at promoting gender equality in the Japanese society, although its policies have never been completely oriented toward gender equality. In 1984, the bureau removed the term of 'Minors' from its name and concentrated its policy target on women and women workers in Japan. In 1997, the Japanese name of the Women's Bureau (*Fujinkyoku*) was renamed to *Joseikyoku* because the term of *fujin* refers to a woman having a broom (fulltime housewife). The name was used until 2000 when the Ministry of Labor was merged with the Ministry of Welfare. Now, the bureau is known as the Equal Employment, Children and Families Bureau of the Ministry of Welfare and Labor, which revised their duties to improving working conditions for women and men workers with compatibility between working and family responsibilities (MOWL 2001). Instead, the Office of Gender Equality (*Danjo kyōdō sankaku shitsu*) was established within the Cabinet Office (*Naikaku-fu*) and has been in charge of furthering women's status (CO 2001). In this dissertation, I use the term, 'the Women's Bureau' for the agencies for women of the Ministry of Labor in order to avoid confusion among the several names.

Alienation of female bureaucrats in the "hostile, male culture" has been ubiquitous in democratic industrial states in spite of an increasing number of women bureaucrats (Flammang 1997, 207). Masculinity might characterize Japanese bureaucracy more than in any other democratic industrial states.³ The Women's Bureau is not exceptional. It belonged to the Ministry of Labor, which was marginalized within the government. Among the bureaus of the Ministry of Labor, the Women's Bureau was marginalized and was provided the smallest budget and personnel. In spite of its

³ John C. Campbell indicates that bureaucracy in Japan has maintained not only a historical tradition of superiority but also a male-dominant norm more persistently than any other democratic states (Campbell, 114, 1989).

marginalization and vulnerability within the bureaucracy, its jurisdiction expanded from protection of women workers to improvement of Japanese women's status, which could not be implemented without intervention of policies in other bureaus and ministries. Hence, the institutional power of the Women's Bureau had been limited in terms of policymaking. Yet, the Women's bureau of the Ministry of Labor cannot be characterized as victims of the masculinity of Japanese bureaucracy. This bureau, since its inception, has involved a quantitative as well as qualitative⁴ predominance of women. Moreover, while climbing the bureaucratic ladder from rank-file positions inside and outside of the Women's Bureau, the elite women here acquired bureaucratic skills and networks, which are necessary to negotiate with male counterparts.⁵ Thus, this weak institutional power together with individual aspiration and capability provided strong incentives to enact a gender equal law to the Women's Bureau, but produced two pieces of legislation: the Equal Employment Opportunity Law in 1986 (hereafter the 1986 EEOL) and its amendment in 1999 (the 1999 EEOL), which are losing strong enforcement power.

1.2.2. Equal Employment Opportunity Law of 1986 and 1999

The 1986 EEOL went through one of the most arduous decision-making processes and became a controversial law in the latter half of the twentieth century in Japan. For women bureaucrats, enactment of a gender equality law was "an earnest

⁴ Since the establishment of the Ministry of Labor in 1947 women occupied all directorships of the Women and Minor's Bureau (during 1947 and 1985) and the Women's Bureau (during 1985 and 2001) and the Equal Employment, Children and Families Bureau except during February 1990 and March 1991 when a male bureaucrat was assigned the directorship. Women bureaucrats also occupied the other section leaders' positions except the general affairs section that had always been occupied by male bureaucrats.

⁵ Because women bureaucrats in the Women's Bureau pass the national examination and climb a bureaucratic ladder, there is no possibility for feminist activists to be hired as a high-ranking officer like 'femocrats' in Australia, who are activists of the feminist movement and are appointed as officials of the women's bureau.

wish since the establishment of the Women's Bureau" (Shinoda 1986, 98). The Women's Bureau initially intended to prohibit all sex discrimination against women (Ibid.). The political decision-making started with the establishment of the Subcommittee on Women's Employment of the Women and Minor's Issues Advisory Council under supervision of the Women's Bureau in the spring of 1978. However, the discussions in the subcommittee made very slow progress. Ratification of the CEDAW gave the Women's Bureau a chance to facilitate the decision-making process for the equal opportunity employment law to meet the requirements of the treaty. Yet, the discussion at the advisory council soon reached a stalemate because of a clash between female representatives of labor unions, who desired to preserve protective measures for women, and male representatives of employers' side, who demanded removal of the protective measures in exchange for equal treatment. Consequently, the subcommittee could not bring the negotiations to a successful conclusion and left it to the Women's Bureau. The women bureaucrats resolved the clash interests by making compromises with the subcommittee members and the male political and business elites. The EEOL was finally enacted in 1986, but lacked teeth, that is, enforcement power. It could have included penalties for discriminating against women based on their sex, but it rested largely on the goodwill of employers. Failure to enact a more effective law resulted in a large amount of criticism against not only the 1986 EEOL per se but also the Women's Bureau from not only workingwomen but also academia and the mass media (Mikanagi 1998, 1999; Tanaka 1994, 1995; Ueno 1994).

The 1986 EEOL had only limited effects upon gender discrimination in employment and might have created more difficult conditions for Japanese women

(Brown 1988; Lam 1993; Mikanagi 1998, 1999). The criticism raised significant questions of whether the activities of the Women's Bureau had been beneficial to Japanese women, whether women's policy machinery can work for betterment of gender relations in society, and whether top-down decision-making by the women's policy agency caused the sloppy legislation. However, the 1986 EEOL produced unexpected effect on gender relations in Japanese society.

1.2.3. Effects of the 1986 EEOL

Some scholars argue that the 1986 EEOL, while being criticized as symbolic legislation, aroused greater consciousness of gender inequality in society and ultimately, changed social values toward gender relations, and raised political and economic participation of women in Japan (Gelb 2000; Lam 1992; Molony 1995). Statistical data and public opinion data also imply that the 1986 EEOL affected a change of gender relations from 'dimorphism' to 'bimorphism'. Before the late 1980s, Japanese gender relations were characterized by 'dimorphism' that means extreme gender inequality based on division of labor between the two sexes determined by cultural forces and roles of propriety derived from physiological difference (Lebra 1976, 270-284). Based on the ideology, the majority of the Japanese people had held the gender consciousness that women should be at home and be in charge of affairs of household, while men should be breadwinners. However, after the late 1980s, the individual gender perception was transformed toward bimorphism that refers to the gender relation in which women and men play the same roles (Lebra 1976, 285-90). The most salient characteristic of the transformation of the discourse of equality was that this change did not entail dynamic

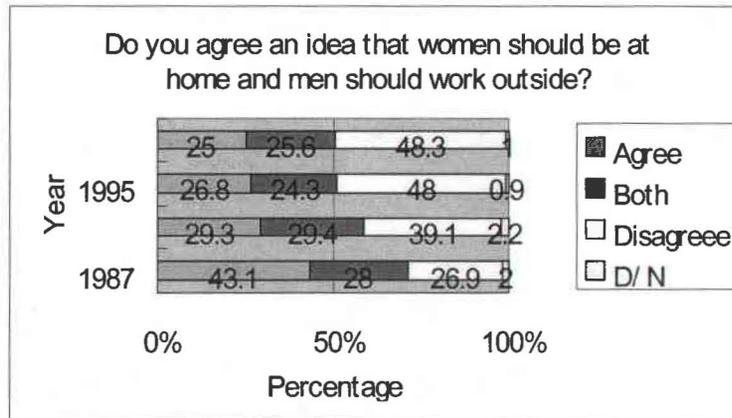
movements that usually accompany such transformation.⁶

The silent transformation of the discourse of equality among the Japanese people in the late 1980s can be found in the public opinion data in Japan as TABLE 1 shows. According to the report of the Bureau of Gender Equality, the people who agreed with the idea of division of labor between women at home and men at work decreased from 43.1 percent in 1987 to 29.3 percent in 1990, 26.8 percent in 1995 and 25.0 percent in 2000 (PMO 2001).⁷ On the other hand, the proportion of the Japanese who disagreed with the idea increased from 26.9 percent in 1987 to 39.1 percent in 1990, 48.0 percent in 1995 and 48.3 percent in 2000 (Ibid.). The most salient characteristic of the transformation of gender consciousness is that changes from 1987 to 1990 are larger than the changes from 1990 to 2000. The proportion of the Japanese people who held the idea of the division of labor based on the sexes decreased 4.3 percent for the ten years from 1990 to 2000, but decreased 13.8 percent in only three years from 1987 to 1990. Similarly, the ratio of the Japanese people who did not hold that idea increased 9.2 percent for the ten years from 1990 to 2000, but increased 12.2 percent for the three years from 1987 to 1990. Thus, while gender consciousness has changed gradually, the transformation during 1987 and 1990 was greater than in the later decade.

⁶ The Japanese feminism in the 1980's has been called as Academic Feminism, which refers to increasing popularity of women's studies in academia and exposure of the feminist scholars in the mass media (Buckley 1994).

⁷ I wanted to compare the data before 1987, but could not find the data because the government did not carry out the public opinion research before 1987.

FIGURE 1: Change of Gender Consciousness during 1987-2000



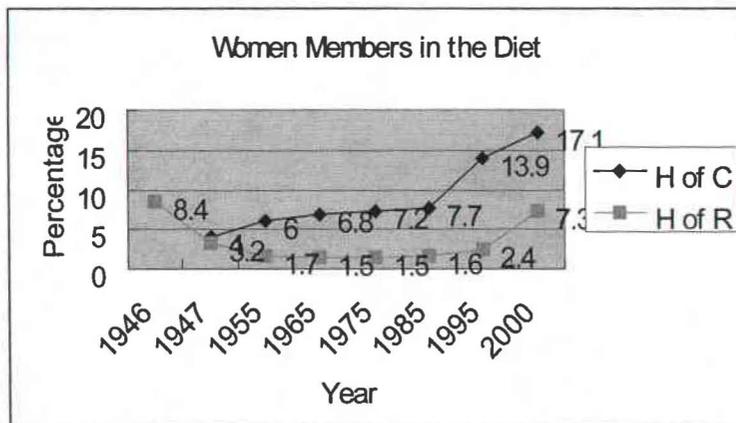
Source: PMO, *Danjo Kyōdō Sankaku Shakai ni Kasuru Yoron Chōsa* (Survey of Public Opinion on Gender Equality Society, 2001).

Moreover, Japanese men who considered that women would better continue working after marriage and childbirth increased from 9.7 percent in 1973 to 15.7 percent in 1987 and 27.2 percent in 2000. Also, Japanese women who had the same opinion increased from 11.5 percent in 1973 to 20.1 percent in 1987 and 32.5 percent in 2000 (PMO 2000). The growth rates during 1987 and 2000 are slightly bigger than those during 1973 and 1987. Thus, the public opinion data demonstrate that in the late 1980s gender consciousness was transformed from bimorphism to dimorphism more significantly than in the later decade in Japan.

The conversion of gender consciousness in Japan from dimorphism to bimorphism seemed to stimulate an increase of women in political and economic activities in the late 1980s and early 1990s. Although the number of women members in the House of Representatives did not increase during thirty years from 1955 (8 women, 1.7%) and 1985 (8 women, 1.6 %), it increased to 24 women (2.4 %) in 1995 and 35 women (7.3 %) in 2000 as the FIGURE 2 shows (PMO 2002). The reasons for the increase of women members in the House of Representatives in 1946 and after 1995 were the result of the institutional changes in the Japanese electoral system to the so-called

women-friendly systems. However, the institutional changes in electoral rules cannot explain why women members of the HR had not increased for thirty years, and rapidly increased to about 7 to 12 women in 1990 without any institutional change in the electoral system. Moreover, the female members of the House of Councilors also increased from 7.7 percent in 1985 to 13.9 percent in 1995 and 17.1 percent in 2000 (PMO 2002). Although some scholars assert that the recruitment of women candidates as a stalking horse by the JSP increased the female members of the H of C, the argument explains only the reason for the increase of women candidates but it fails to explain the increase of women winners.

FIGURE 2: Proportion of Women Members in the Diet during 1946-2001



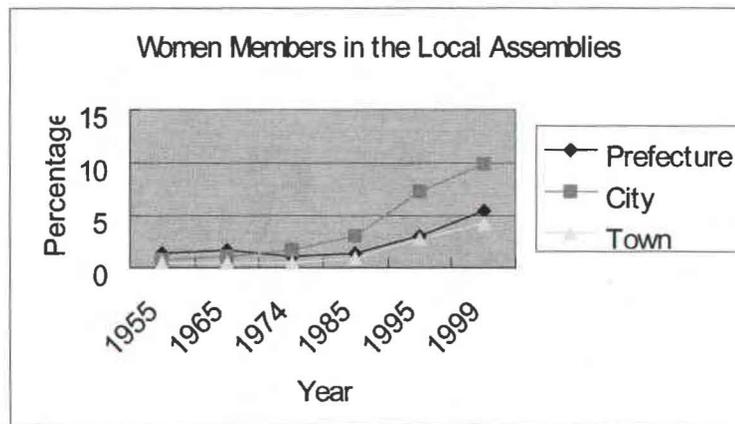
Source: PMO, *Josei no Seisaku kettei Sankaku Jōkyō Shirabe* (Survey of Women's Participation in Decision Making), 2002.

In the local assemblies, the increase of women's representation also has been obvious. During 1955-1985, the proportion of women members in the local assemblies had been only around 1 percent except the big city assemblies such as Tokyo and Osaka. However, after 1985 the number of women elected has been increasing considerably as Figure 3 demonstrates, although after 1985 there has been no institutional change in the electoral system at the local level (PMO 2002).

TABLE 1: Women Members in the Local Assemblies during 1955-1999

	1955	1965	1974	1985	1995	1999
Prefecture	1.3	1.6	1	1.3	3.1	5.5
City	0.7	1.1	1.6	3	7.3	9.8
Town	0.4	0.5	0.4	0.9	2.7	4.2

FIGURE 3: Women Members in the Local Assemblies during 1955-1999



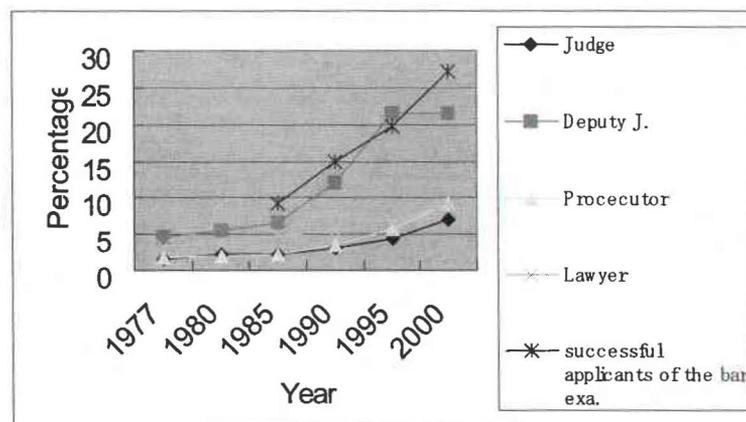
Source: PMO, *Josei no Seisaku kettei Sankaku Jōkyō Shirabe* (Survey of Women's Participation in Decision Making), 2002.

The number of women in the judicial branch also increased after 1985, as FIGURE 3 and TABLE 2 demonstrate. In particular, the increasing rate of female deputy judges during 1977 and 1985 was stable, but the rate during 1985 and 1995 was significantly increased from 6.6 percent (45 women) in 1985 to 21.4 percent (139 women) in 1995 (PMO 2002). Because the silent transformation of gender relations in the judicial branch occurred in the late 1980s for the first time, it is reasonable to assume that there exists a time lag between the increase of women in the lower positions and that in the higher positions.

TABLE 2: Women in the Judicial Branch during 1977-2000

	1977	1980	1985	1990	1995	2000
Judge	1.5	2.2	2.2	3	4.4	7
	31	43	49	68	97	156
Deputy J.	4.5	5.4	6.6	12	21.4	21.4
	27	33	44	73	139	172
Prosecutor	1.7	1.9	2.1	3.5	5.7	9.2
	21	24	26	42	81	153
Lawyer	3.1	3.8	4.8	5.5	6.6	8.9
	323	445	618	766	996	1530
Successful Applicants of the Bar Exam.			9.3	14.8	19.8	27.2
			45	74	146	270

FIGURE 4: Women in the Judicial Branch during 1977-2000



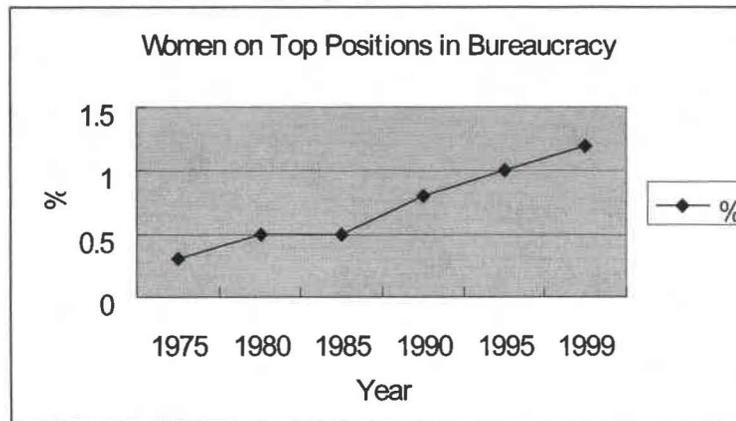
Source: PMO, *Josei no Seisaku kettei Sankaku Jōkyō Shirabe* (Survey of Women's Participation in Decision Making), 2002.

Women in top ranking positions in bureaucracy also have been increasing--from 0.3 percent (20 women) in 1975 to 1.2 percent (114 women) in 1999, though the proportion has been still limited (PMO 2002). Again, the proportion of women on top ranking positions in bureaucracy also increased after 1985 as the TABLE 3 shows.

TABLE 3: Women on Top Ranking Positions in Bureaucracy during 1975-1999

	%	Number
1975	0.3	20
1980	0.5	42
1985	0.5	40
1990	0.8	67
1995	1	90
1999	1.2	114

FIGURE 5: Women on Top Positions in Bureaucracy during 1975-1999



Source: PMO, *Josei no Seisaku kettei Sankaku Jōkyō Shirabe* (Survey of Women's Participation in Decision Making), 2002.

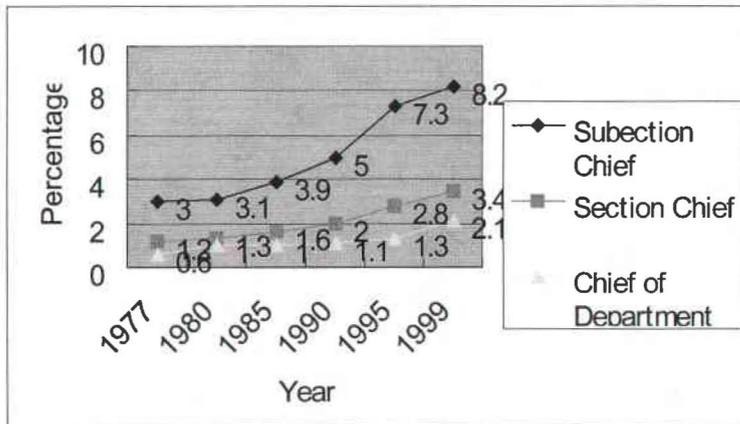
Japanese young women who passed the high-ranking public service examination and were hired by ministries also increased from 4.2 percent (28 women) in 1980 to 8.6 percent (83 women) in 1990, 15.5 percent (87 women) in 2000 (PMO 2000).

In business circles, the same type of increase of women has been found in the lowest positions, although there seems to exist a time lag between the increase of women in lower positions and that in higher positions (PMO 2002).

TABLE 4: Women on Management Positions during 1977-1999

	1977	1980	1985	1990	1995	1999
Subection Chief	3	3.1	3.9	5	7.3	8.2
Section Chief	1.2	1.3	1.6	2	2.8	3.4
Chief of Department	0.6	1	1	1.1	1.3	2.1

FIGURE 6: Women in Management Positions during 1977-1999



Source: PMO, *Josei no Seisaku kettei Sankaku Jōkyō Shirabe* (Survey of Women's Participation in Decision Making), 2002.

Although political economic representation of Japanese women still lags behind from those of other industrial democratic states, the increasing rate of women in politics and business in the late 1980s was significant.⁸

There are a large number of explanations for the transformation of gender relations in the late 1980s and the early 1990s. One of the explanations is the economic recession in Japan -- arguing that the lower income of the breadwinners, who need more cash income, forced the individual gender consciousness to change from dimorphism to bimorphism. However, such a transformation of gender relations was not found in the so-called 'oil shock' economic recession in the 1970s. The recession caused a

⁸ Japan was ranking 86th among 179 countries in terms of the proportion of women at the lower house in 2001 (Inter-Parliamentary Union, 2002 #112)

heightened unemployment rate and resulted in excluding women from workplaces. Therefore, the economic recession in Japan cannot explain the reasons for the transformation of gender consciousness and relations in the late 1980s and the early 1990.

Another explanation might be derived from the social movement theory, which argues that only social movement impacts on gender relations in society. However, because the Japanese feminist groups have been regionalized and single-issued oriented, they had not yet developed the power to impact social values. Moreover, there has existed no huge social incident that promoted such a total transformation in the late 1980s and early 1990s.

Another reason for the transformation could stem from the development of communications and transportation technology, which could have influenced individuals' gender consciousness. Exposure to women's activities in other democratic industrial states through the mass media or personal experiences abroad could have a strong impact on the changing consciousness. However, unless Japanese people had been in sympathy with gender equality, such an exposure could not have given any impact on individual consciousness, and then the transformation does not follow.

So far, there has been no explanation that satisfies for understanding the reasons for the increase of Japanese women in politics and business after 1986 when the EEOL was enacted. Nobody also finds apparent and direct connection between the 1986 EEOL and the increase of Japanese women in politics and business. However, as Alice Lam and Barbara Molony argue, the 1986 EEOL seems to have an announcement effect, which spread the government's intention to attempt promotion of an idea of equal opportunity to the society (Gelb 2000; Lam 1992; Molony 1995). Then, the positive

attitude of the government toward equal opportunity legitimized the idea of bimorphism and brought about the partial transformation of gender consciousness toward gender equality in the society. The argument of the announcement effect of the EEOL implies that the transformation of gender consciousness stemmed from not the society but the state. Nonetheless, a number of literatures has ignored or belittled the state's activity as a barrier to advancement of women's status. In this next section, I explore how existing literature examines the relationship between state and gender relations in Japan.

1.3. Previous Studies of Gender Politics in Japan

During the 1970s and the early 80s, a study of activity of the state in Japan toward rectifying gender inequality has not attracted much attention from political scientists, while there have been some studies of Japanese women and politics that aimed at exploring reasons for the lower rate of women's political participation in decision-making processes in Japan than any other industrial and democratic nations. After the enactment of the EEOL in 1986, their attention turned to its policy analysis and policy effects on women's employment in Japan. Until then, political scientists in the United States, not in Japan, mainly produced monographs and books over gender politics in Japan. Japanese female political scientists emerged in the late 1990s and carried out structural and institutional analyses of the Japanese political system in terms of gender inequality. Yet, there have been only a few studies of women's policy agency focusing on decision-making for gender equality laws and policies.

The study of women's reluctance to participate in political sphere in the 1970s examined female individuals' consciousness. Socialization theories⁹, which focus on

⁹ The study of Law Students' political orientation conducted by Yasumasa Kuroda (1965) is a pioneering study, which applies socialization theory to Japanese politics.

the process by which individuals acquire beliefs about politics, have also been applied to the persistence of gender inequality in the Japanese society and Japanese women's reluctance for political participation. Susan Pharr (1983, 175), using social learning theory, attributes women's lower participation in politics to lack of "the role redefinition associated with new roles of women as political activists." Moreover, the women's reluctance for formal politics has appealed to political scientists, but their focus has been drawn to grass-roots political activists (Buckley 1994; LeBlanc 1999; Tanaka 1994, 1995; Yamaguchi 1992). The socialization theory is of great use of analyzing the change of gender consciousness at an individual level, but neglects persistence of gender inequality at the society and state levels, and difficulty in changing the gender perception at these levels.

Political culture theory involves abilities to expose cultural barriers or catalysts for changing gender relations in society and increasing political participation by women. Based on an assumption that the pace of the change also depends upon women's values and beliefs based on their country's cultural context, the political culture approach allows us to elucidate reasons why the belief that "politics is a man's job and a man's world" is still wide spread (Aronowitz 1992).¹⁰ Eileen Hargadine (1980) examines Japanese women's political participation with emphasis on the necessity of deeper examination of Japanese culture. According to her, conflict between the traditional roles of women as good wives as well as mothers and the new roles as professionals impedes Japanese women from participating in not only the political field but also the socioeconomic field

¹⁰ I interviewed a male secretary of Yamazaki Taku, a most prominent and powerful politician in Japan at the Yamazaki's Diet office on August 2nd, 1997. I asked him why Japanese women were underrepresented in the Diet, he said, "Politics is men's job, and women's job is childbearing and taking care of their family at home. That is why there are so few women in the Diet."

(Hargadine 1980, 300-11). Young-Tae Shin (1992, 215) also points out not only male-superiority but also ambiguity in Japanese political culture have hampered women from politics, for male-superiority excludes women from recruitment and ambiguity makes the political decision-making for recruitment opaque.

During the 'Madonna Boom' in the late 1980s when more Japanese women entered politics, an increasing number of scholars in social science were attracted to examine what kinds of Japanese political women entered the political sphere and what motivated them to participate in politics (Hastings 1996; Iwai 1993; Iwao 1993; Kubo and Gelb 1994; Ling 1992; Sato 1995). These studies focus on micro-level phenomena and tend to be descriptive, but rarely discuss structural and institutional constraints on women's participation in society. Structural and institutional analyses of gender inequality in Japanese politics have just begun in the late 1990s. Several comments on the structural and institutional constraints have been published in PS in 2001 (Aiuchi 2001; Eto 2001, Iwamoto 2001; Mikanagi 2001, Ogai 2001). However, studies of only structural and institutional restraints can hardly explain the reasons for unequal gender relations in Japan because these analyses have ignored how the values and beliefs of women and men in society have influenced the construction of the structural and institutional restraints.

The enactment of the 1986 EEOL attracted much attention from American political scientists and turned their attention to policy analysis, which focuses on the examination of how the law affected social change in Japan. Some political scientists argue that the efforts of the Japanese government to improve gender inequality would never have the effect of changing individuals' perception of gender because such state's

intervention would be minimum in order to prevent social turmoil (Pharr 1990; Upham 1987). The other group of studies indicates that legislation in Japan, including the gender equality laws, created a vulnerable position for women in Japan rather than a secure position (Brown 1988; Buckley 1994; Cannings 1994; Cook 1980; Edwards 1994; Knapp 1995; Macki 1995; Parkinson 1989; Suzuki 1996; Upham 1987). On the other hand, current studies of Japanese women and politics show that even symbolic legislation such as the Equal Employment Opportunity Law in 1986 can arouse a greater consciousness of gender inequality in society and ultimately, change social values on gender relations, and raise the political and economic participation of women in Japan (Gelb 2000; Lam 1992; Molony 1995).

A Japanese female political scientist, Mikanagi Yumiko, shed a new light on the study of the policymaking activity for gender equality at the state level. Considering structural constraints in relation to the male-dominant culture in Japanese politics, she attributes the defective legislation to the patriarchal institutions of Japanese bureaucracy. She asserts that the patriarchal political policymaking institutions such as the structure of bureaucracy together with the neo-liberal ideology of the ruling political party caused the enactment of the defective equal employment law (Mikanagi 1999). Moreover, she argues that political elites accepted to set the equal opportunity law as a political agenda because of external pressure from global feminism.

Her analysis elucidates the male-dominant decision-making process in politics, in which strong capitalists' interests were bound up with the patriarchal ideology in politics. However, her study overlooked not only women's activities that attempted to enact a gender equality law but also women's opposition toward legislation on gender

equality. Consequently, women in her study are delineated as only recipients. Likewise, the state in her study is considered as a monolithic entity with patriarchal ideology. Thus, not only women but also the state are rigidly structured and include no deviation. According to this argument, the structured patriarchal state could not resist external pressure that forced it to implement the 1986 EEOL without enforcement power. Yet, the fact was that the Japanese government was not obliged to ratify the U.N. treaty—the United States did not—but voluntarily ratified it because of massive demand from Japanese women politicians, activists and bureaucrats. Her analysis demonstrates the limitations of analyzing the state's activity in a policymaking process through the functional-structure perspective.

So far, there has been no satisfactory explanation for understanding whether and how the state attempted to change gender relations in the society, while enacting a defective law. Alice Lam suggests that the defective law was created because of a lack of strong political pressure from Japanese women's groups and women per se to "campaign for more active state intervention in both the economic and social spheres" (Lam 1993, 220). Her suggestion expresses the necessity for a new study including cultural and structural analyses, which will examine the interaction between a state and society. In other words, it is necessary for us to have other theories and approaches that enable us to examine how state influences construct gender relations in society.

1.4. Two Conflicting Theories of Feminism

In this section, I explore ability of the various feminist theories to examine the transformation of gender relations in a society and the activity of a state in rectifying gender inequality. Feminist theories provide us various lenses to see the activity to

promote gender equality in a state and transformation of gender relations in society. The theories have a large number of bases from which to explain the origins of inequality between the two sexes and remedies for it, while sharing the common assumption that the inequality is unjust and should be eliminated. Each feminist theory provides different explanations of how unequal gender relations are constructed and how inequality could be rectified. This section also examines how each feminist theory regards the state and categorizes them into two groups: society-centered and state-centered theory. The majority of feminist theories had tended to focus on a variety of activity in the society, while being indifferent to activities of the state and state institutes until the late 1980s. On the other hand, witnessing both the establishment of policy agencies for women originated from women's movements in society and endeavors of the agencies for improvement of women's status in the 1980s, feminist political scientists in Scandinavia and Australia turned their eyes to the state activity and its institutions. By deriving an idea of the transformation of gender relations in society from their experiences and observations, these scholars invented a new feminist theory, state feminism. In the last section, I account for the significance of the state-centered feminist theory for analyzing gender transformation in the Japanese case.

1.4.1. Feminist Theories: Causes and Remedies

This section compares five feminist theories, Marxist, Radical, Socialist, Liberal and State feminism, in terms of remedies for inequality and definitions of a state and, then clarifies the reason for selecting State Feminism as a theoretical framework for this dissertation. Marxist feminist theory elaborates dual oppression, which women suffer from family and society and attributes gender inequality to the capitalist economic system

by borrowing Frederic Engel's idea and studies of anthropology.¹¹ It argues that the dependent status of women will be eliminated by women's advance to wage labor, the destruction of capitalism, and ultimately by the socialist revolution.¹² Michelle Barrett (1987) and Mary McIntosh (1978) explore how the state sustains women's oppression and subordination within capitalism, while indicating that the state only indirectly oppresses women because such oppression results from capitalist society that fundamentally shapes social, economic and political relations and its class composed of male capitalists.

Radical feminism rejects the Marxist argument of women's oppression by their class and instead, attempts to construct a grand theory of patriarchy as a model of women's political oppression by acknowledging that woman's oppression results from their womanhood (Firestone 1970; Millet 1971).¹³ The countermeasures against the patriarchal society are to organize small women's groups and consciousness-raising groups to overcome the sense of inferiority to men and to develop their own solidarity as an oppressed group (Ferguson 1984; Ketchum and Pierce 1979). For radical feminist

¹¹ Oakley (1972) insists on the economic origins of sexual inequality by survey of the Pigmies society in which the gender-variable does not play a significant role in determining the roles of individuals or the status of persons. J. Z. Giele and A. C. Smock discover close relationship between women's economic contribution and their social status in agricultural societies. In the Philippines and Cambodia where women's labor power is crucial throughout rice growing season, women's public status is relatively high. In contrast, in other peasant societies where women's participation in the mode of production is limited or insignificant, women tend to hold lower social status, and they rarely participate in public affairs (Giele and Smock, 5).

¹² Margaret Benston was one of the first to pay attention to the analysis of housework academically and states that "... in society in which money determines value... women, who do this valueless work, can hardly be expected to be worth as much as men, who work for money" (Benston, 1969: 16). Accordingly, Marxist feminists tend to ignore women's physiological differences.

¹³ Kate Millet (1971) writes in her famous book, *Sexual Politics*, that the term 'politics' refers to power-structured relationships, arrangements in which one group of persons is controlled by another (23). She shows that something which is conventionally considered to be the ultimately private and personal act is more properly seen as part of a set of structured power relations, and therefore, as political. Shulamith Firestone's *Dialectic of Sex* (1970) argues that the women's oppression lies in biological difference between the two sexes. The female reproductive function is the reason for the gender division of labor upon which patriarchy and its ruling ideology, sexism, are constructed.

theorists, the state is only an aggregation of male intention, perspective, and power (MacKinnon 1982a, 1982b, 1989). Therefore, improvement of gender inequality can begin only from society not from a state mainly staffed by men and systematically representing the collective interests of men (Ferguson 1984). In particular, women in the bureaucracy have already become too inculcated with masculine ideas, rules, and styles to carry out real change (Elshtain 1983, 1990; Ferguson 1984; MacKinnon 1989; Mikanagi 1999).

Socialist feminism attributes unequal gender relations to a combination of the patriarchal social system as radical feminist theory argues and the capitalist economic system as Marxist feminist theory asserts. Acknowledging differences of the two sexes, socialist feminists assert that equality could be obtained if female values and perspectives produced from women's experiences were valued as a model for society (Hartsock 1983, 1985, 1992).¹⁴ For socialist feminist theorists, the state ignores this woman's standpoint because it is patriarchal as well as capitalist. Eisenstein (1981) invented the term: 'a capitalist patriarchal state,' in which male dominance is formalized by the modern capitalist state, which maintains and reproduces patriarchy.

Liberal feminist theory rests upon the assumption that women's and men's

¹⁴ Nancy Hartsock (1983) evolves her own Standpoint Theory in her provocative book, *Money, Sex, and Power*. According to her, a feminist standpoint will enable women to better understand the reasons for perpetuation of patriarchal institutions and ideologies through women's perspective," which itself "requires the articulation of an epistemology that grows from women's life-activity" (152). She also criticized mainstream political science theories of power for being male biased and for conceptualizing as domination through the standpoint theory. The mothering can be used to understand gender and to build alternative on social theory centered around the female values like care. The mothering theory seems to originate from Carol Gilligan's psychoanalytic theory of gender and morality, which argues that women have a different moral imperative from men (Gilligan, 1982). Subsequently, Nancy Chodorow has developed a theory of the way mothering is reproduced. Though childbearing activities, girls identify with their maternal role, whereas boys develop their identities in contradistinction to their mothers. Thus, mothering inculcates and predisposes their daughters to be mothers. Ruddick (1989, 1996) also advanced a theory of maternal thinking that views motherhood as "practice grounded in thought" and argued that pregnancy and mothering produces maternal thinking that is unique to women, is associated with the work of mothering, and is a way in which women can act to undermine and change the patriarchal constructs with men.

essentials are similar and belittle the differences between the sexes (Rossi 1970). On this assumption, liberal feminists argue that women as a group suffer from discrimination on the basis of sex without regard to their individual wishes, interests, abilities or merits in contemporary society. The argument leads to a further claim based on liberalism that if individual ability of women were evaluated equally with men, participation of women in the existing male-dominated public spheres would be realized. Then, the acquisition of legal equality and equal opportunity and increase of women's participation in politics could eliminate gender unequal relations. In order to realize these objectives, the main strategy of liberal feminism is to appeal for the elimination of gender inequality through legal and legislative actions. Moreover, the liberal feminism emphasizes significance of descriptive representation (rise of women in politics) coined by Hanna F. Pitkin and leads researchers to analyze whether descriptive representation brings about substantive representation (development of woman-friendly policies) (Burrell 1997; Oldusma 2002; Tremblay and Pelletier 2000; Young 2000). Yet, other feminist theorists (Elshtain 1983; Ferguson 1984; McKinnon 1989) criticize this optimism by arguing that no matter how many laws and policies are implemented or how many women hold public office and enter the bureaucracy, the hierarchal relation between male prerogative and female subordination would not be changed.

State feminist theory, while receiving strong influences of liberal feminist theory, mainly attributes gender inequality to the state's activities and institutions, acknowledges that inequality also has been deeply rooted in society. For state feminism women's participation in the public sphere is significant but not enough for the transformation of gender relations in society. The most important aspect of state feminism is

institutionalization of feminist interests in society within public institutions by establishing a policy agency for women staffed by feminist activists or at least those who share feminist interests, employing the activists as administrators and bureaucrats in positions of power, or increasing the number of women politicians advocating gender equality policies. State feminist theory also argues that such institutionalization of feminist interests within an agency brings about a spinning off of feminist interests to other administrators and bureaucrats, and consequently, the policies and laws having feminist interests will promote transformation of gender relations toward equality. Although state feminism could be called as 'feminism from above' as Hernes (1987) identifies, it also emphasizes the significance of providing access of a political decision-making process to women's groups and collaboration on formulation of women's policy with them.

1.4.2. Comparison of the Five Feminist Theories

These five theories share the idea that gender discrimination should be eliminated, while the reasons and remedies for it vary from each other. The divergence of the reasons and remedies of gender inequality helps us categorize these feminist theories into two groups: society centered and state centered theory. The society centered group attributes gender inequality to some reasons in a society and searches for a remedy in society, while the state centered theory considers the state and its institutions as problematic and seeks to find a solution within the state. By comparing the two groups of feminist theories, the next section clarifies the reasons for selecting state feminism as the theoretical framework for this dissertation.

The society-centered feminist theory consists of Marxist, radical, and socialist

feminism, which attribute gender inequality to capitalist or patriarchal society or both. One of the characteristics of the society-centered feminist theory is to presume a one-sided relationship from society to state. The other characteristic is that these theories consider a state as a monolithic entity having patriarchal ideology or supporting capitalist society, and as an evil for women's life. These theories, sharing a negative view of state's activity and institutions for rectification of gender inequality, claim a necessity for society-based movements and reject the idea of collaboration with the state.

Liberal feminism also belongs to the society-centered feminist theory, although it tends to be misunderstood and classed with the state-centered theory because its remedy is to encourage women to participate in state activity. Yet, liberal feminist theory also emphasizes significance of a women's movement in a society, which promotes women's participation in public spheres through elections and appointments based on an assumption of liberal feminist theory, which envisages that the cooptation of women in public spheres automatically promotes gender equality from above. This optimistic view of the transformation of gender relations toward equality seems to be derived from the liberal belief that the state is a neutral arbiter capable of responding to any group that develops political resources. Its belief also leads liberal feminism to be indifferent in state's activity. Thus, the society-centered feminist theories envisage a one-sided relationship from society to state.

1.4.3. Significance of State Feminism

Only State Feminism among the five feminist theories belongs to the state-centered feminist theory. The theory assumes neither the unilateral state-society relationship nor an authoritarian transformation of gender relations from above, although

the term “state feminism” tends to lead us to a hasty conclusion. While focusing on a state’s activities, state feminism presupposes conflicts between feminist interests and male interests within the state in the processes of formulating, deciding and implementing policies and laws reflecting feminist interests. Therefore, it is important for rectification of gender inequality to obtain support from society to win the battles within the state. This diversity of interests in a state and society clarifies the other different “functionalism” between the society-centered and state-centered theories as mentioned below.

Mike Savage and Anne Witz (1992) argue that “a number of these (feminist theories) have tended towards an overly functionalist rendering of the state-society relation” (15). This functionalist tendency of the feminist theories causes them to view a state as a monolithic entity and neglect the diversity of state activities in terms of women’s policy (Pingle and Watson, 1992; Savage and Witz 1992). Instead of this structured definition of state, state feminists, borrowing Foucault’s definitions of power and state, invent a new definition of state. Based on relational analyses of power by Foucault, state feminism theory treats power as “exercised rather than possessed” by individuals or groups and state as “an overall effect of relations” that “cannot be assumed to act coherently as the agent of particular groups” (Watson, 187, 1992). The Foucauldian inspired framework of state leads to the construction of a new definition of state, that is, as the site of competing discourses, practices and struggles between feminist goals and male interests (Franzway, Court & Connell 1989; Pringle & Watson 1992; Savage and Witz 1992; Watson 1990, 1992). Therefore, state feminist theory considers a society and state as sites in which the various competing interests and powers are

constructed, deconstructed, and reconstructed.

Sociologists of study of social movement also paid attention to views of the state. Nickie Charles (2000) rejects to view the state as an isolated bureaucracy from society or a responsive entity to voters and pressure groups. Rather, she proposes to see the state as both responsive and oppressive. Using the multi-facet definition of the state, she concludes that policy has been both the result and cause of broader transformations and influence from material relations based on capitalist demands and consciousness stemmed from movements.

The concept of state as a site leads us to reconsider a concept of bureaucracy. The Weberian concept of bureaucracy, also presumes a monolithic organization having instrumental rationality to implement policies, rather than focuses on its policymaking roles (Weber 1978). Yet, Weber's theoretical framework fails in elucidating how bureaucrats obtain autonomous power in a policy-making process and what kinds of interests they pursue. The other concept of bureaucracy as an autonomous actor emerged in the field of political economy in the 1970s. This argument is that bureaucracy can intervene in the economy in order to maximize economic development rather than just to maintain order and minimizing social disturbance (Zysman 1983). Using this concept, the other public choice theory presupposes that bureaucrats pursue this goal in order to maximize their utility (Tullock 1965). Yet, these studies say little about diversity of interests within the state and how the variety of interest becomes a policy.

So far, the comparison of the five feminist theories shows that state feminism provides us a new lens through which to see activities of the state in terms of gender

equality and interaction between state and society. By deconstructing the monolithic definition of state, we can understand why the state implement a variety of women's policies from protective measures to gender-neutral measures and why both gender unequal and equal policies and laws are implemented simultaneously within a state. Moreover, since the theory of state feminism never assumed that only the inclusion of women in male-dominant institutions could create gender equality in society, it does promote a study of certain institutions for women that have involved feminist ideology and have connected feminist groups in society, not a simple study of women in government. Furthermore, state feminist theory leads us to observe that there have existed women bureaucrats and bureaus, which have maintained feminist ideas, rules, and styles and have attempted social change in terms of gender equality. Thus, the society-centered theory claims that only social movements from bottom up can realize the transformation of gender consciousness, while the state-centered theory enables us to examine not only a state's activities from the top down to achieve social change and also society's activities from the bottom up by co-opting the political decision-making processes to reflect their demands on the policies.

1.4.4. Validity of State Feminism

The comparison of the two conflicting theoretical frameworks of feminism shows that state feminist theory can be the more appropriate application for a case study of the silent gender transformation, lacking a strong women's movement, while the society-centered framework is impressive, intelligible, and persuasive in cases like the United States where the feminist movement has been effective and the women's policy machinery has low influence on society (Mazur 1995, 282-83). In particular, in the

study of gender relations in Japan, state feminism provides me a new viewpoint for examining how a variety of interests inside and outside the state clashed in the decision-making processes for gender equality and how a state institute enact a gender equality law under this situation. The validity of the state feminism theory to apply the case of Japan is derived from the following three reasons.

First, state feminism is appropriate to analyze the transformation of gender relations in a strong-state society as exemplified by Japan. How a state agency intervenes in women's lives depends upon the state's political culture, for instance, what kinds of state-society relationship the state has (Pringle 1992; Sawyer 1990; Stetson 1995). On one extreme, in a weak-state society, the state has relatively low capabilities to "penetrate society and regulate social relationships", while a strong state is on the high "end of a spectrum of" powers (Migdal 1988, 4-5). The strong state tradition with highly centralized state apparatus, reinforced by parliamentary politics and a relatively powerful bureaucracy, has made it difficult for disadvantaged groups including women that are not closely aligned with the major political parties to influence policy formation structures. Moreover, the strong-state tendency has hindered the development of voluntary activities and the creation of influential feminist movements in Japanese society (LeBlanc 1999). Furthermore, a left-wing political party, which tends to propose women-friendly policies, had never held influential policymaking power in Japanese politics until 1993 when leftist political parties and defectors from the Liberal Democratic Party destroyed the one-party dominance of the Liberal Democrat Party, the so-called 1955 political system. Because Japanese social organizations in the strong-state society have made minor impact on the transformation of gender relations,

the activity of the women's policy agency has been more crucial in improving gender relations than any other institution in Japanese society. Likewise, the strong-state political culture has been a major factor in the slow gradual development of the gender equality policy in Japan. Therefore, it is necessary to examine whether and how the women's policy agency in government impacts on the transformation of gender relations.

Second, the state feminism theory helps us analyze a particular type of Japanese gender politics, which is different from other women's policy agencies, for which feminist activists have worked. The Japanese women bureaucrats in the Women's Bureau are not 'femocrats' as in Australia, who came from the feminist groups, and are not politically appointed bureaucrats of the Women's Bureau in the United States. They are genuine bureaucrats and have possessed the certain policymaking power of Japanese bureaucrats.¹⁵ On the other hand, the bureaucratization, not femocratization, of the women's policy agency also sets limitations on the Japanese female officers. The bureaucratization caused the strategy of 'femocracy' to be less apparent in the Japanese situation, but the bureaucratization constructs a particular type of state feminist strategy. Scrutiny of the activities of the Women's Bureau reveals how the women bureaucrats connected gender equality policy with the de-gender policy of other ministries such as a foreign policy to persuade their male elite counterparts to implement the policy, which was unfavorable for women and why they failed in gaining supports of the women's groups.

¹⁵ Japanologists in political science suggest that institutional power of bureaucracy dominates Japanese politics and creates the strong-state society (Johnson, 1982 #116)(Johnson, 1986 #117)(Krauss, 1989 #118)(Pempel, 1974 #114) (Pempel, 1977 #30)(Pempel, 1978 #29)(Pempel, 1982 #28)(Pempel, 1992 #115)(Van Wolferen, 1989 #119). The domination of bureaucracy of politics is derived from two factors: the strong power of bureaucracy in policymaking and implementation of legislation through '*gyousei shidou*' (administrative guidance) (Krauss, 1989 #118)(Mackie, 1995 #120).

Third, state feminism also shows the obstacles and the driving forces of the transformation of gender relations in Japan. One of the activities of the women's bureau is to mediate the clash of various interests among working women, male employers, labor unions, male political elites, conservative women, leftist women, and so on. By analyzing how the women's bureau mediated the conflict of these interests, we learn the controversial points which hinder gender relations in their move toward gender equality. Moreover, the comparison of the activities of the Women's Bureau between the 1986 and 1999 EEOL shows how the controversial points of the 1986 EEOL had disappeared. In the case of the 1986 EEOL, removal of protective measures for women workers in return for a guarantee of equal opportunity touched off women's opposition, because such a policy conflicted with the idea of equality possessed by a majority of the Japanese women in the 1970s and 1980s. After the enactment of the EEOL, the meaning of equality changed from that with protective measures for womanhood such as menstruation leave and prohibition of night work to that with protective measures for only motherhood such as maternity leave and childcare leave. Consequently, men's participation in affairs of the household together with women's participation in the working place became one of the significant policies of the women's policy agency. In other words, the social discourse of equality was transformed to more gender equality. Thus, state feminism reveals cultural and social barriers to improving gender equality in society.

The last and most important reason is that state feminism has the critical power to analyze whether and how activities of the women's bureau helped furthering the women's status and bettering the women's life or just mobilizing the women to the

governmental campaign or movement. State feminism does not attempt to praise activities of the state to improve the women's status. It assumes that the state's activities can rectify gender inequality in society together with social groups, and then, provides us a lens to scrutinize structural and institutional limitations of the governmental offices for women to rectify gender inequality in society by focusing on its activities. Moreover, state feminism does not premise that any cooperation of women's groups with the state's activity can improve gender relations. The Japanese feminist movement had a bitter experience in which prominent leaders of women's movement in the pre-war period collaborated with the militant government during World War II and encouraged Japanese women to be mobilized in the war efforts, although their intention was to demonstrate women's abilities to the male elites in order to obtain women's suffrage (Fijieda 1995; Ichikawa 1974; Kobayashi 1998; Suzuki 1989). This kind of cooperation of women's groups with the government cannot be called a feminist movement because it does not entail any social change. State feminist theory presupposes co-optation in the government's decision-making process of women's groups not simply cooperation with government's activities.

The state centered approach can be found in studies of Japanese politics. This statist model emphasizes the dominant power of bureaucracy over policymaking. This model is fully developed in the field of industrial policies to explain the state's roles in rapid economic growth and emphasizes the technocratic superiority of Japanese economic bureaucrats in making effective industrial policies (Johnson 1982; Zysman 1983; Okimoto 1989). However, this study is not the women bureaucrats' version of that state centered approach because the policy agency in Japan had never had strong

influence over the business circles to make them comply with the bureaucrats' instructions. Rather, the study finds the conditions that served to favor policymaking of the women bureaucrats and the policy agency.

Thus far, state feminism provides a new framework to analyze both limitation that caused the Women's Bureau to enact the defective gender equality laws in employment in 1986 and the driving force that enabled the women bureaucrats to set the agenda in the male-dominant bureaucracy. From these reasons, the theoretical framework of state feminism is of great use of examining the Japanese type of gender politics and of showing the limitations of the women's policy agency, and to propose its reform. Thus, this dissertation examines how and why the women's policy machinery has been able to change gender relations in a male-dominant society like Japan, focusing on the activities and abilities of the women bureaucrats there.

1.5. New Analytical Framework of State Feminism in Japan

Using the State Feminist theoretical framework, this dissertation analyzes how the state institute enacted the equal employment opportunity laws under the severe situations and why the defective laws could influence the transformation of gender relations in Japan. While using the state feminist theoretical framework, this approach is different from other state feminist studies in Australia and the United States. In this section, I will explain the existing empirical research on State Feminism. Then, the analytical framework of this dissertation will be given in detail.

1.5.1. Empirical Research on State Feminism: Bringing 'state' to Gender Politics

Since the 1980s, female political scientists in Europe and Australia have paid attention to policymaking activity of a state institute to examine how a state affects

gender relations in the society by utilizing the theoretical framework of state feminism. There are two types of empirical research on State Feminism up to 2002: 1) welfare state type and 2) femocrat type (Stetson, 1995). Empirical research on state feminism in Scandinavia originated from an organizational study of welfare state and focused on its governmental institutions charged with improving gender equality in society (Hernes 1987). For instance, the theoretical framework of state feminism has been used in studies of women's policy agencies such as the Equality Ombudsman in Sweden (Eduards 1989; Elman 1993; Elman & Eduards 1991), the Equal Status Council in Norway (Bystydzienski 1995; Halsaa 1989; Skjeie 1991), the Department for the Coordination of Equality Policy in Netherlands (DeVries 1981; Dijkstra & Sweibel 1982; Outshoorn 1986, 1992, 1994; Prins 1987; Sweibel 1988, Sweibel & Outshoorn 1990), the Demark Equal Status Council in Demark (Borchorst 1994a, 1994b Borchorst and Siim 1987; Dahlerup 1993; Siim 1991, 1993). In spite of diversity of structures and objectives of these institutions, these studies demonstrate not only the agencies' contribution to the transformation of gender relations in these societies but also their limitations that stemmed from the agency's restricted mandate and gender neutrality as a basic concept of equal opportunity policy.

Since the late 1980s, Australian female scholars have examined activities of feminists working for women's policy machinery in Australian politics. These feminist bureaucrats, who have administered the women's bureau and have attempted further social change through state's policies, are called 'femocrats' (Franzway 1989; Gunew 1993; Sawer 1990, 1995; Watson 1992; Yeatman 1990). These Australian scholars witnessed that femocrats' activities made a strong impact on "policy reforms, changes

within the bureaucracy, legislative changes and in the growth of women's services in the non-government sector" (Watson 199, 1992). The femocrats created a distinct women's policy structure, in which the women's agency can intervene effectively in policy initiatives and fulfill a watchdog function in monitoring policy implementation at the local and national level. The structural network for formulation and implementation of women's policy encourages the other departments within national and local governments to establish women's policy unions. Consequently, the network is called 'a model of a wheel', in which the women's agency at the national level is the hub, and the units are the spokes (Ibid.). Thus far, the studies of State Feminism in Australia demonstrate the center-periphery model that created a strong coordinating body with access to all cabinet submissions, examining policy at its point origin for its impact on women.

Not only the Australian feminists scholars but also feminist political scientists in Europe and the United States have shared a similar assumption about the state. Joni Lovenduski (1986) asserts in her book, *Women and European Politics: contemporary Feminism and Public Policy*, that a state "is nothing more or less than the set of institutions through which political processes of policy-making and policy implementation and adjustment take place—a set of power relations" (247). American political scientists also pay attention to the multifaceted nature of state, but not by utilizing Foucault's power theory. Theda Skocpol proposes a state-centered approach that viewed state "as nothing but an arena in which conflicts over basic social and economic interest are fought out" and as a place that policy goals are originated and promoted through the control of resource (Skocpol, 25, 1979). Using the state-centered approach, these American scholars the 1980s and early 1990s pointed out significant

influence of feminist groups in protective legislation for women in the political decision-making (Sarvasy 1992; Skocpol 1992). Yet, the majority of the studies of welfare policy disregard the significance of state institutions in transforming gender relations in society (Diamond 1983; Gordon 1990; Skocpol 1995).

Since the latter half of the 1990s, women political scientists in the United States have turned their eyes to the comparative study of state feminism to analyze state policymaking that has an impact on society in terms of gender relations (Stetson, 1995). In the edited book, *Comparative State Feminism*, Dorothy M. Stetson and Amy Mazur compared women's policy machinery in fourteen countries in Europe and North America to find the prerequisites of effective state feminism. According to their comparative study, either structural institutionalization of demands for equality within a strong-state political culture or success of a feminist movement within a weak-state political culture could produce an active women's policy machinery (Stetson and Mazur 272-290, 1995). The contributors of the book, *Comparative State Feminism*, organized the Research Network on Gender, Politics, and State (hereafter RNGS) to further the comparative study of state feminism and policymaking processes of women's issues in European and North American nations (Stetson 2001). Their collaborative work produced two books, *State Feminism, Women's Movements, and Job Training Policy in the Global Economy: Making Democracies Work* (2001) and *Abortion Politics, Women's Movements, and Democratic State* (2001). Thus far, these studies of welfare state, femocrats, and state's institutes for women suggest that scrutiny of the activities of the women bureaucrats in the state agency for women will clarify not only limitations but also driving forces that the agency faced in the political decision-making process for gender equality laws and

that caused the gradual transformation of gender relations in Japan.

1.5.2. Concepts used in this Dissertation

This section explains the framework, in which a state's agency for women and its activities are examined through resource, political opportunity, and framing of a concept of equality. This study focuses upon how the women's bureau in Japan sought the transformation of gender relations in Japan without strong supports from the women's movement and what limitations they had in the political decision-making processes for the equal employment opportunity laws.

Based on the state feminist theories, some terms used in this dissertation are defined more clearly. As already mentioned, '**state**' refers to a site, which involves a variety of internally differentiated structures and their conflicting interests. Bureaucracy is one of the components of the state. In this dissertation, bureaucracy is not a monolithic entity but a site in which various interests clash. Then, the study of State Feminism in Japan examines to what extent and how one of the bureaucratic institutes within the state influences gender equality policy.

To define '**feminism**' is also important for me because a variety of the definitions sometimes bring about a chaos in which feminism attacks the other feminism because of its opportunist tendency toward cooptation onto male dominant system. In the broad definition, feminism is defined as "all ideologies, activities, and policies whose goal it is to remove discrimination against women and to break down male domination of society" (Lovenduski & Randall 1993, 2). On the other hand, the narrow definition of feminism is ideologies and activities which destroys a male-dominant power structure in a society and proposes a new "shape and nature of power" (MacKinnon 6, 1989). In

this narrow definition of feminism, the state's activities are never included in an action of feminism because the state is defined as a entity supporting oppression to women. This dissertation adopts the first and wider definition of feminism in order to increase the operational ability of the term of feminism in this dissertation.

'**Women's policy**' tends to confuse us because women's interests are too wide to converge in the one term. Helga M. Hernes differentiates equality policy from women's policy in order to clarify this term. According to her, equality policy attempts to give women access to decision-making roles in different spheres; it concerns the redistribution of status and social power, while women's policy aims at improving the quality of women and children's life through a system of transfers and services (Hernes, 1987). However, because the state feminist theory prescribes implementation of the two policies at the same time to rectify gender inequality in society, this dissertation broadly defines women's policy as policy which aims at furthering women's status and securing women's rights. Also, this study of State Feminism in Japan shows that whether equality policy has any relation with the women's policy Hernes defined depends upon how the concept of equality is defined.

The obscure term '**equality**' has generated a variety of definition and caused intense debates on equality-versus-difference among feminists in the United States over discussions of objectives and strategies of the feminist movement (MacKinnon 1989; Scott 1988). There has been also much debate on equality-versus-difference in Japan among Japanese feminists and between women bureaucrats and feminists in the political decision-making processes for the equal employment laws. The debate on equality-versus-difference is one of the keys to understanding the reasons for two

significant problems at the societal and state levels, namely, why the transformation of gender relations in Japan has been gradual and the women's bureau failed in enacting a strong EEOL. In order to examine these phenomena, it is necessary for us to clarify a variety of definitions of the term of equality. This dissertation categorizes these definitions of equality into three discourses: 1) equality discourse; 2) difference (equality based on physiological specificity); and 3) gender equality discourse.

Equality discourse rests upon the argument that gender differences between the two sexes are not relevant to political or social arrangements (Scott 1988). This equality discourse is deeply related to an idea of gender neutrality that forces women to have a same standard and to be the same as men. Based on this equality discourse, equality policy was formulated to give women access to decision-making roles in different spheres, concerns the redistribution of status and social power without any consideration on the physiological differences (Borchorst 1995).

Difference discourse, valuing specificity of women's physiological differences with the men, is built upon the argument that equality can be realized if special protections for all women are provided. This difference discourse criticizes the equality discourse and gender neutrality as ignoring the differences and pressing women to act the same as men. During the 1960s to 1980s in the United States, the conflicting debate on equality-versus-difference frustrated a number of feminist scholars (Finley 1986; Scott 1988; Stetson 1995; Sylvia 1984). The equality-versus-difference debate puts us on the horns of a dilemma. On one hand, "ignoring difference in the case of the subordinated group leaves in place a faulty neutrality"; on the other hand, "focusing on difference can underscore the stigma of deviance" (Scott 44, 1988). Reviewing the Sears case of

litigation on discriminatory treatment against women workers, Joan W. Scott insists on “refusal of its consequent dichotomous construction of political choices between equality and difference” and finding the other alternative valuing difference (Ibid.).

As an alternative of the dichotomous choice, this dissertation chooses the term **gender equality**. Gender equality refers to equality without division of labor based on the two sexes but with consideration on such physiological difference as maternity. For instance, unlike the equality discourse, pregnancy is not defined as disability but as something which should be protected as a women’s right. The gender equality discourse based on a claim that the two sexes share the same roles demands policymakers of gender equality policy to consider not only limited protection for pregnancy but also of expanding child- and elder-care leaves to male workers. Among the three discourses, the equality discourse underlies the majority of equal opportunity laws in schools, employment, the courts, and the legislature, but the difference discourse has still been tenacious among feminist activists in Japan.

1.5.3. Analytical Framework: Resource, Political Opportunity, and Framing

This dissertation assumes that a combination of an organizational study of a state institute and a study of policymaking process can explore how the state brought about the gradual transformation of gender relations in Japan. In the study of the policymaking process, I create three hypotheses—1) recourse and capability, 2) framing, and 3) mobilizing structure, by borrowing three analytical perspectives (political opportunity, framing, and resource mobilizing structure) from social movement study to analyze how the women’s bureau set the equal opportunity laws (the 1986 and 1999 EEOL) as the political agenda, formulated the content, and enacted them in spite of oppositions from

not only political and business male elites but also female activists. At the beginning, the dissertation examines organizational characteristics of the state agency for women through historical analysis. Then, the background of the emergence of the 1986 EEOL and the activities of the women's bureau in the political decision-making processes for the 1986 and 1999 EEOL were examined based on these three hypotheses.

The study of social movement organizations analyzes the rise of the social movements through three factors: 1) resources which allow the social movement group to mobilize the people, 2) political opportunities which make feasible the social movement organization's development and their activity, and 3) framing processes which spur collective action by sharing common ideas (McAdam, McCarthy and Zald 1996). These three factors also reveal how the women's bureau enacted the equal opportunity law in employment under the harsh environment.

The resource factor includes legitimacy, personnel expenses and budgets of the women's bureau that produce policymaking power of the women's bureau. Structure (marginalized or centered position within the government) of the women's bureau belongs to the resource factor because of the extent the women's agency can influence gender equality law is a significant resource for the policymaking activity. Also, support from the women's groups and coverage by media on gender equal issues belong to resources.

Political opportunity refers to a chance to stimulate political changes and assists the women's bureau to set a new agenda for gender equality. For instance, an international conference can provide domestic actors with outside opportunities that help them circumvent the limits imposed on the women's bureau by the domestic context.

Political opportunity at the domestic level might be a series of victories of women plaintiffs in litigation on gender inequality in employment. These political opportunities significantly change the domestic political context and help the women's bureau in the political decision-making processes.

The study of framing processes originated from the interpretive study of social movements that views movements not only as carriers of existing ideas and meanings, but as signifying agents actively engaged in producing and maintaining meaning for their constituents (Goffman 1974; Noonan 1995; Snow et. al. 1986).¹⁶ Frame also refers to the mechanism "through which individuals may understand what happens around them, identify sources of their problems, and devise methods for addressing their grievance" (Noonan 83, 1995). In the study of the state feminism, frame means a scheme of argument among policymakers and activists over how a problem should be defined and how it should be solved. The policymaking process is an aggregation of framing processes in which the actors debate which frame should be applied (Anderson 1994; Kingdon 1995; Stetson 2001; Stone 1997). Recently, the scholars of the RINGS of state feminism began to indicate significance of frame and framing process to analyze how the women's bureau produced a shared frame of policy in order to collaborate with women's groups on policymaking and enact a more desirable law (Stetson 2001). In this policymaking process for the 1986 EEOL, the women's bureau failed in creating the shared frame for the gender equal policy. The women's bureau defined equality based on the equality discourse, while the majority of women's groups and women leaders of the labor unions defined it based on the difference discourse that demands special

¹⁶ The term of 'frame' was first introduced by Goffman (1974: 21) and made popular by Snow and his collaborators (1986).

protection to women workers. The gap in framing the term of equality caused the lack of policy alliance between the women bureaucrats and women's groups and resulted in enactment of the defective EEOL in 1986. The failure generated reframing of the term of equality based on the gender equality discourse and brought about the smoother decision-making process and the stronger law in 1999. By using the analytical framework, the dissertation explores what the women bureaucrats sought and how they did.

1.5.4. Three Hypotheses and Japanese State Feminism

I create three hypotheses including international influence to analyze activity of the state institute for women: 1) if a state institutionalized a women's agency having feminist ideas and sufficient resources and institutional capacity for enactment of a gender equality law; 2) if the state agency for women created a master frame in domestic or utilized an international master frame, which the women's bureau can share with women's groups; and 3) if the state agency for women provided women's groups access to a political decision-making process for a new gender equality law (creating mobilizing structure), the state could intervene in gender relations in the society through their policy. The first hypothesis is similar to the 'independent variables of organization' created by Dorothy Stetson and Amy Mazur (1995) in their book, *Comparative State Feminism*. Which an organizational form a state institute for women has is also influenced by the pattern of politics surrounding the establishment of the women's policy machinery. Therefore, the examination of the first hypothesis entails a historical review of the establishment.

I created the second hypothesis to examine how the state agency for women

cooperates with women's groups without a nation-wide liberal feminist group. More important, the hypothesis implies that the international master frame created by international organizations and accepted by a majority of nations in the world could help the women's bureau create the domestic master frame of a new policy that it can share with women's groups. Also, the hypothesis implies that if women's policy machinery created and acquired neither domestic master frame nor international master frame in a domestic political decision-making process for a new gender equality law or policy, the machinery and its activity cannot be categorized as state feminism. Thus, this hypothesis examines whether or not the machinery attempts to mobilize women for the sake of interests of the state, capitalists, and those who detest improvement of women's rights.

The third hypothesis is also comparable to the independent variables of movement type and conception of state in the Stetson and Mazur's hypotheses. To the extent that the women's agency incorporates women's groups in the decision-making process depends on how the women's group considers a state—benign or evil, and whether the women's group seeks to enter policymaking. To test these hypotheses, this dissertation has examined the activities of the women's bureau of the Ministry of Labor and cooperation with women's groups in decision-making process for the two equal employment opportunity laws of 1986 and 1999.

The activities of the state agency for women in Japan in the decision-making processes for the 1986 and 1999 EEOLs have been examined by using the three hypotheses. A study of activity in a decision-making process has been important for my study of state feminism. In this dissertation, scrutiny of the activities of the participants

in the process has informed me of the reasons for the ineffectiveness of the gender equality laws in employment. Thus, the examination of the activities of the women's bureau and its linkage with women's groups expands our interest from the topic of state feminism to the issue of civil society.

Central to this dissertation's claim is that state feminism existed in Japanese politics after WWII because the women officers of the Women's Bureau were outsiders within the state, who challenged the patriarchal social system that the conservatives attempted to maintain in order to protect their own interests. Yet, Japanese state feminism retained a large number of limitations. The bureau had been marginalized within the government, having broad but impossible responsibility. The marginalization and the broad jurisdiction lost the bureau's policymaking power. Moreover, this agency tended to be isolated from other women's groups in Japan and failed in creating a new policymaking process in which women's groups participate and express their demands directly. The lack of policy alliance with women's groups produced an ineffective framing process in which the bureau and feminist activists shared an idea of equality. Yet, the bureau obtained international master frame, which allowed it to set gender equality as a political agenda in cooperation with the women's groups. Because of a failure in producing the domestic framing process and the lack of enough resources and capability, the women's bureau became only an interest mediator, not a facilitator. On the other hand, in the 1999 EEOL, the women's bureau of the MOL and the labor unions were more successful in creating the shared frame of equality, which caused the smoother policymaking process and resulted in enacting the more powerful law. Nevertheless, the law has still lost strong enforcement power to punish alleged companies and has ignored

invisible discrimination in Japanese employment system because of the institutional limitations of the Women's Bureau. The limitations of state feminism in Japan caused effectiveness of the 1986 EEOL and the incremental, gradual and silent transformation of gender relations in Japan.

1.6. Organization of the Dissertation

This dissertation scrutinizes activities of the Women's Bureau since its establishment, focusing on the processes of political decision-making of the 1986 and 1999 EEOL, to show why the path toward gender equality in Japan has been slow and sinuous. Hence, the scope of this dissertation is from establishment of the women's agency in 1947 to its dissolution in 2000 but focuses on the policymaking of the women's bureau concerning the two EEOL in 1986 and 1999. This dissertation analyzes activities of the women's bureau for Japan chronologically. The long history from 1947 to 2000 is divided into three periods.

The first period starts when decision-making for establishment of the women's bureau began in 1946 and ends in 1974, one year before the International Women's Year of the United Nations started. History of the women's policy machinery and the legal conditions of Japanese women in this period are examined in the second chapter. Through the examination, the chapter attempts to comprehend what resources the women's bureau obtained. These resources constitute characteristics of the bureau: marginalization (ignored by their peers) and yieldingness (had to compromise to maintain their status). In the third chapter, the employment system in Japan and the activities of the women's bureau before the International Women's Year of 1975 are scrutinized to understand the environmental variables of social, economic, and political climates in the

setting prior to the enactment of the gender equality law in employment. Japan's rapid economic growth and the development of service industries created the discriminatory employment system against women workers, who were forced to quit their jobs at marriage, childbirth, or childrearing. A series of legal cases by women victims created the social demand to enact a gender equality law, while the discriminatory practices attracted less attention in public because of a widespread myth of the full-time housewife rooted in the dimorphic gender consciousness of Japanese society. Yet, the women's bureau had no legal measures to cope with the problems.

The second period is between 1975 when the women's bureau started its struggle for agenda setting to 1986 when the 1986 EEOL was enacted. In the fourth chapter, how the women's bureau set a gender equality law in employment as a political agenda for the Japanese government to obtain legal weapons is examined. This chapter also explores how gender inequality in employment gained elite and public attention as a political agenda and whether the activities of various actors and groups caused issues to gain greater attention are examined. Were there external or internal influences that forced women bureaucrats to set the agenda? How did they create a women's policy alliance in the policymaking process? Examination of the women bureaucrats' (of the Women's Bureau) activities will demonstrate the significance of the external factor, which provides the Women's Bureau the power to set the agenda by giving it political legitimacy, and of the women's policy alliance, which provided them strong support from behind, at the beginning of the political decision-making process of the gender equality law in the patriarchal nature of politics and society in Japan.

The fifth chapter focuses on the process of decision-making for the 1986 EEOL

during 1978 to 1986. The section examines to what extent the women's bureau influenced the decision-making process for the 1986 EEOL and what roles it played in policymaking and decision-making for the law. Moreover, how international influence and women's groups in Japan made an impact on the decision-making process will be explored. The scrutiny will reveal the women bureaucrats played roles in controlling the flow of the bill, mediating and persuading the participants in the discussion, who persistently were stuck on one ideology by using the international influence of the Convention on Elimination of All Forms of Discrimination against Women. Moreover, how such compromises were reflected in the bill will also be scrutinized.

The third period began just after the enactment of the 1986 EEOL and ends with the dissolution of the women's bureau because of the reorganization of the ministry system. The sixth chapter, focusing on a process of issue emergence for the 1999 EEOL, examines its implementation and evaluates its effectiveness, which led to the 1999 EEOL becoming part of the political agenda. Why was the 1986 EEOL ineffective in rectifying gender inequality in employment? Why was the political decision-making process for the 1999 EEOL smoother than for the 1986? This chapter will demonstrate both the weak power of the women's bureau in implementing the gender equality policies and the relatively strong leading power in agenda setting and policymaking process.

In the concluding chapter, I examine the activities of the women's bureau in order, clarify the characteristics of the women's bureau's activity and answer why the path toward gender equality in Japan was gradual and sinuous, by using the three hypotheses. This dissertation depends on interviews mainly conducted in the autumn of 2001 in Japan in order to find out what roles Japanese women played and what tactics

they took to legalize the EEOL. Although the 1986 EEOL might have induced the silent gender transformation in Japan, the legislation met with many severe criticisms from women's groups, workingwomen, and academia because it did too little and was too slow. To discover the complexity of the effects of the women's policy machinery, I tried to broaden the scope of interviewees including ex- and active women bureaucrats and women activists in a small working women's network and women's groups, which have often taken a critical attitude toward women bureaucrats and their policies. Their critical opinions always moved me from the bureaucrat side to the midpoint. Through the examination of the activities of the women's policy machinery in Japan, this dissertation will accomplish three things, 1) analyzing how the women's policy agency promotes the legalization of gender equality at the state level, (a organizational study of women's policy machinery), 2) examining how various interests of women and men clashed and how the women's policy agency reached compromises among them (a study of political decision-making), and 3) scrutinizing how gender equality in Japan has been progressed (a historical study of gender equality).

CHAPTER 2

ESTABLISHMENT OF A WOMEN'S BUREAU IN JAPAN

We were able to obtain these many rights for women because of external pressure caused by the defeat in World War II. If the Japanese military government had been preserved, Japanese women would have been unable to obtain them.

Kato Shizue, A Woman Advisor for GHQ

This chapter examines the process of establishing the Japanese women's bureau. This chapter examines the process of establishing the Japanese women's bureau. The scrutiny of the process of the establishment during 1945 to 1947 reveals how strong initiative of the American Occupation Forces produced institutional resources for rectification of gender discrimination in the Japanese society. Moreover, this chapter examines how the American Occupation Forces established the women's bureau within the Japanese government in spite of strong opposition from Japanese male political elites by focusing on political opportunities and framing of equality between the American female officers and the Japanese women activists.

The Bureau of Women and Minors (hereafter the BWM) of the Ministry of Labor had a relatively longer history and a background different from the agencies for women in any other countries. When the bureau was established in 1947, Japan was in the peculiar situation of being occupied by American military forces. Under the circumstance, the Japanese government reluctantly implemented a large number of gender equality policies, which the American occupation forces formulated in spite of the opposition of Japanese male political elites. This fact demonstrates that the women's bureau in Japan was not one which stemmed from political necessity for the Japanese government faced with an upsurge of feminist activities, but one which the foreign power forced it to establish. The unusual process of the decision-making in establishing the

Japanese women's bureau gave the bureau following distinctive features: 1) marginalization of the women's bureau within the Japanese government, 2) broader responsibility for the women's bureau in both improvement of working conditions for women and furthering of women's status in society, 3) feminization of the state institute but isolation from Japanese women's groups, and 4) focusing on the tasks of survey, research, and education of women's issues rather than rectifying gender inequality in employment and society. Thus, this unique background caused the creation of a relatively powerless women's agency and created a Japanese type of state feminism. This study of the decision-making process in the establishment of the women's bureau in Japan includes the following questions: what reforms the American Occupation forces carried out; who opposed and supported the establishment and why. To answer these questions, the chapter is divided into three sections: 1) to investigate legal reform in Japan in terms of women's rights, 2) to scrutinize the decision-making process of the establishment of the women's policy agency, and 3) organization and policies implemented by the bureau before 1975. Thus, the chapter demonstrates that how resources for the policymaking for the 1986 EEOL were produced and how the political compromises of the American occupation forces with the Japanese male political elites institutionalized a relatively weak women's policy agency in government.

2.1. Legal Reforms by the American Occupation Forces

Improvement of Japanese women's legal status, compared to the pre-war period, required the establishment of the women's bureau within the government just after World War II. The pre-war legal system in Japan, including the Criminal Code (1880), the Meiji Constitution (1889), the Imperial Rescript on Education (1890), and the Meiji Civil

Code (1898), considered a woman as a dependent entity and placed them in a subordinated position in the feudal family (*ie*) system (Kaneko 1995; Ochiai 1997, 1998; Nolte and Hastings 1994). Consequently, women were granted very few political, economic, and social rights.¹ In the pre-war period, the women's policy of the Japanese government aimed at confining women to the idea of 'good wives and wise mothers,' who contribute to increase of the state's power from both maternal works and housework (Nolte and Hasting 1994). Young women, who had to work in factories for financial reasons of related to their family, were protected by the Factory Law, which was intended to provide maternity care for the future mothers (Molony 1993). Structurally, there was no integrated agency for women. The Home Ministry and the Welfare Ministry had been in charge of implementing not only hygiene measures for pregnant women but also improvements in working conditions for women (Nolte and Hasting 1994). Thus, in pre-war Japan, there existed no method, no idea or institution for improvement of gender equality in the society.

2.1.2. Democratization of Japan and Women's Policies

Just after World War II, the American Occupation forces took initiatives to create an institution and structure for state feminism.² For SCAP, improvement of Japanese

¹ Japanese women also struggled to obtain these rights in the pre-war period. In particular, in the 1910s and 20s, Hiratuska Raichō formed the New Women's Association (the first organization of female citizens to be established on a national-wide) with Ichikawa Fusae in 1920. The group demanded women's right to political participation by revising Article 5 of the Security Policy Law and sent the petition to the Diet. In 1922, the petition was approved and Article 5 was revised. Consequently, women were allowed to organize and participate in political meetings. In 1924, Ichikawa Fusae established the League for the Realization of Women Suffrage (later renamed to the Women's Suffrage League). In 1932, the group involved 1,762 women members. The association collected fifty-six thousand signatures for women's suffrage and sent to the House of Representatives. However, the outbreak of the Manchuria Incident prevented from the acquisition of women suffrage. To see in detail, Takamura Ituse (1972), *Josei no Rekisi Part II*, Tokyo: Kodansha.

² The State Department had begun preparation for an occupation plan of Japan since 1942 and the serious debates on political reformation of Japan started in summer of 1943 (Kondo 1978; Ward 1987). A large number of discussions led the conclusion of the necessity of 'democratization and demilitarization of Japan'

women's social status was one of the measures used to democratize Japanese political, economic, and social systems. This was deemed necessary because the pre-war militant political system was attributed to the patriarchal Japanese social system, in which women's legal status had been subordinated to the male head in their kinship family (Kaneko 1995; Mackie 1995; Pharr 1986; Uemura 1990). On October 11 1945, almost one month later of the formal surrender of Japan, Douglas MacArthur handed over to Japanese Prime Minister, Shidehara Ki'jūrō 'the Five Reform Plan for Democratization of Japan,' which put women's emancipation in the first place.³ The reform plan stated that SCAP regarded the emancipation of Japanese women as the core of the occupation policy of Japan (Uemura 1990).⁴

One day before MacArthur delivered the Five Reform to the Japanese government, the Japanese cabinet also decided to enfranchise Japanese women by amendment of the pre-war electoral law, which had prohibited Japanese women from running and voting at elections (Kaneko 1995).⁵ The amendment was enacted the next month and granted women's suffrage to Japanese women for the first time in Japanese

(Steiner 1987; Ward 1987). One of the measures was enlargement of human rights and strength of individual status by carrying out reforms of the Japanese legal system (Steiner 1987; Ward 1987). However, during the discussion, the top male leaders in the American government and academia had never mentioned necessity of 'women's emancipation' (Pharr 1987). Thus, no one in the United States before the end of World War II prepared for implementation of policies for women's emancipation. Therefore, Douglas MacArthur and his officers of SCAP, who had worked for formulation and implementation of the New Deal Policy, initiated gender equality policy under the occupation.

³ The plan included 1) women's emancipation; 2) solidarity of workers; 3) liberation of education; 4) elimination of totalitarianism; and 5) democratization of economy.

⁴ In the letter, which Ethel Weed wrote to M. Beard on October 19, 1949, she stated that because Douglas MacArthur revealed to his subordinates in the airplane to Japan on August 30 1945 that because women's participation in politics in the United States brought about stability in American politics, women's emancipation in Japan would be the core of the occupation policy of Japan (Uemura 1990).

⁵ To see in detail. Horikiri Zenjirō (1977). "*Fujin sanseiken wa Makkāsa kara no okurimono dewa nai*" [Women's suffrage was not given by MacArthur]. Edited by Fujin sansei jusshuūnen kinen gyōji jikkō iinkai kiroku [The Record of the Acting Committee for the Commemorative Event of the Tenth Anniversary of Women's Suffrage]. In *Seiji* [Politics], vol 2 of *Nihon fujin mondai shiryō shusei* [Compiled materials on Japanese women's issues]. Tokyo: Domesu shuppan.

political history. On April 10 1946, the election in conformity with the new electoral law was held and produced thirty-nine women members of the House of Representatives. Seemingly, the grant of the women's suffrage had no opposition from both the Occupation forces and the Japanese government. The unexpectedly smooth decision by the Japanese government on women's suffrage seems to result from the pre-war suffrage activity carried out by Japanese women activists including Ichikawa Fusae and her colleagues, who succeeded in passing the women suffrage bill through the pre-war House of Representatives, but failed in obtaining approval of the House of Peers.

2.1.3. Democratization and Women's Groups

The democratization policy of the American occupation forces stimulated Japanese women into founding women's groups, although any legal changes had not been informed yet. Ichikawa Fusae organized the Women's Committee on Postwar Countermeasures (*Sengo taisaku fujin iinkai*) on 25 August 1945 and began to demand women's suffrage again (Takamura 1972; Kaneko 1995). A majority of the members engaged in the pre-war suffrage movements with Ichikawa Fusae. This group was reorganized to the New Japanese Women's League (*Shin nihon fujin domei*), which aimed at revision and repeal of the unequal laws and policies, lobbying the government and other political institutions, and education of women's rights (Ibid.). The most salient characteristic of this group is to advocate its nonpartisan stance.

The other group having multi-partisan, the Advisory Committee for Women, was formed by cooperation between a Lieutenant of the CI&E, Ethel B. Weed and Kato Shizue and other prominent pre-war women activists in March 1946. Ethel Weed was charged of creating relationship with Japanese women leaders and encouraging them to

organize women's groups (Pharr 1987). She tried to find the pre-war activists, who had not supported or opposed the war efforts of the pre-war government and were scattered all over Japan. The first woman who she found on November 2 1945 was Kato Shizue, who played the most significant role in establishing the women's bureau in the Japanese government (Ibid.). Then, Weed encouraged her to organize the Advisory Committee for Women (hereafter ADW), the predecessor of the Democratic Club for Women. The Advisory Committee for Women consisted of women members of the socialist Party, communist Party, and liberal political parties adopted the council system administered by eight prominent Japanese women activists including Kato Shizue (Ohara 2000). The strong of the ACW with the female officer of SCAP promoted to collaborate with each other on establishing the women's bureau in 1947. The rapid establishment of the two major groups just after the end of the war stemmed from a network of the pre-war women's movement (Kaneko 1995). While most women suffering hardship of the life could not afford to participate in the women's groups in this period, the elite women's movement played leading roles in representing Japanese women's voices to the American occupation forces and the Japanese government.

2.1.4. New Japanese Constitution and Japanese Elites' Reluctance

The next step in democratizing Japan through legal reform was to enact a new democratic constitution, which created "more liberally and more peacefully inclined forms of government" as the Atlantic Charter indicated and secures women's legal status (Ward 18, 1987).⁶ The new democratic constitution was particularly considered as an "induced revolution," which forced the Japanese government to totally change essentials

⁶ Douglas MacArthur recalled that the enactment of the new constitution was "probably the single most important accomplishment of the occupation" (MacArther 436, 1964).

of the Meiji-constitution under the occupation (McNelly 76, 1987). However, from the outset, SCAP never intended to force on the Japanese government the American-made constitution, but had to induce it to formulate a bill for the new democratic constitution. Japanese bureaucrats, scholars, left- and right-wing politicians began to formulate the various drafts that involved characteristics in common with the pre-war constitution.⁷ At the beginning of February 1946, a newspaper reporter of Mainichi Shinbum disclosed one of the drafts, so-called the Matsumoto proposal, formulated by a government committee. The proposal disappointed the leaders of SCAP because it involved nothing new from the pre-war constitution. SCAP designated the Public Administration Division of the Occupation to write a proposal for the new democratic constitution in eight days. Because of the limited personnel and time (only twenty one members⁸ and eight days) SCAP left policy preference to small groups at a low level, while giving rough ideas to the officers⁹ (Pharr 1987). The articles on women's legal status were assigned to a twenty-two year-old American woman, Beate Shirota, who grew up in Japan, was familiar with the Japanese women's low status in society, and had the ability

⁷ There were number of studies of the reluctance of the Japanese government in the process of the decision-making of the new democratic constitution. Tanaka Hideo (1986) declines a discourse of undemocratic nature of the Japanese conservatives. He indicates that a main reason for the conservative draft of a new constitution is derived from the academic tradition of Japanese law study that bureaucrats, politicians, and scholars in Japan at that time had learned and which trained them. The clash between the two legal cultures caused the difference. He also reveals that the Japanese government misunderstood the Potsdam Declaration and considered that "...Since the Allies were saying they would leave [constitutional reform] to Japan, we thought we could handle the matter as we pleased. We even thought it might be all right to leave it as it was" (Matsumoto 1960).

⁸ In the Public Administration Division of Government Section, there were four lawyers including General Whitney, a former university professor specializing in Chinese legal history, a sociologist with prewar teaching experience in Japan, a former congressman, two specialists in public administration, and three women, including Beata Shirota, who had lived for ten years in Japan and was fluent in Japanese. Several of the drafters had formally studied the Japanese language, and a fairly competent team of translators assisted them. Colonel Charles L. Kades, a New Deal lawyer briefed in Occupation policies before going to Japan, was chairman of the steering committee, which gave final approval to the drafts (McNelly 81).

⁹ Douglas MacArthur gave three instructions to the draft members: 1) the emperor is at the head of the state, 2) war as a sovereign right is abolished and is renounced by Japan "even for preserving its own security, and 3) feudal system is abolished (McNelly 79).

to use the Japanese language fluently (Ibid.).¹⁰

Shirota's proposals surprised even the top male leaders of SCAP. Particularly, she included many welfare measure clauses for Japanese women in the draft of the new constitution. After the debate whether the constitution should contain the clauses of social welfare, SCAP omitted some clauses such as a provision for the care of nursing mothers in spite of her two male colleagues' support (SCAP 1946a). Nevertheless, Article 24 concerning women's rights in the family system that emerged from Shirota's draft "goes well beyond anything found in most constitutions of the world today" (Pharr 231, 1987). The Shirota's proposal also frightened the Japanese government and political elite when it became public on February 13. Japanese authorities began "a persistent effort to dilute, omit, or change the intent of SCAP's women's rights provision" (Pharr, 1986 231).¹¹ In particular, the male political elites attacked Article 24, the provision for equality between the two sexes in family life, for they considered that such equality threatened the destruction of Japanese family values that supported male domination and female subordination (SCAP 1946b). Similarly, they tried to change the content of Article 14, which secures equality between the two sexes, by emphasizing the inferiority of women in terms of physical and moral capabilities (SCAP 1946c). However, because the proposal drafted by Shirota had already obtained the top American male leaders' supports, the Japanese government under the occupation had to accept the

¹⁰ Beata Shirota was born in 1923 and came to Japan 1929 with her parents. Until 1939 when she left Japan to study at Mills College, she had been in Japan for ten years and became familiar with Japanese women's life, in which Japanese women were unable to choose their groom and had to marry with the man, whom their parents chose for her. Moreover, Shirota was encouraged at the Mills College to have a working career besides marriage (Shirota, 1993).

¹¹ On March 4 the Japanese government submitted the first government bill, which was based on the outline of the SCAP's proposal but removed gender equality on divorce and inheritance and in return added an idea of preservation of the traditional family system (McNelly 83, Ibid.,).

final draft written by the American military members without major revision.¹² The Japanese Diet, including women members¹³ who lobbied to gain support for the Shirota's proposal and passed the proposal for the constitution despite strong resistance from the male members.¹⁴ The new democratic Constitution went into force on 3 May 1947, providing Japanese women *de jure* equality.

The following three provisions¹⁵ confirm the legal guarantee of women's equal rights to men. Article 14 secures equal rights to the two sexes as follows:

Article 14 (1) All 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.

Two provisions of Article 24, resisted by the Japanese elite, reject the patriarchal family system and grants equality within the family. Article 24 stipulates:

- 1) Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis.
- 2) With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce, and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes.

¹² During the translation of the proposal, the Japanese authority was opposed to the clauses of women's rights as strongly as they were in favor of the clause of Japanese Emperor. However, according to Shirota, Colonel Charles L. Kades, Deputy Chief of the Government Section, said to the Japanese, "Ms. Shirota has her heart set on the women's rights. Why don't we pass them?" Consequently, the discussion was ended in five or ten minutes (Shirota 7, 1993). SCAP also finished the discussion with the Japanese authorities within only two days, and induced them to introduce the American-made bill without major revision to the cabinet for its deliberation (McNelly 83, 1987).

¹³ Just after the first postwar election that was held on April 10, 1946 and thirty-nine women were elected to the Diet. A group was quickly organized made up of the women Diet members. The group functioned in strong support of the proposed constitution. Meanwhile, virtually all major women's organizations, from the Japanese League of Women Voters to the Women's Democratic Club that had been formed in March 1946 and to the women's sections of the political parties and union, supported the proposal.

¹⁴ The discussion of the draft of the new constitution was introduced to the new House of Representatives (hereafter H of R) elected in April 1946. Then, the male members of the H of R also criticized the article 14 and 24. Their argument was the constitution should be revised to stress the essential differences between the sexes, rather than their equality because the two sexes were fundamentally unequal (Pharr 1987). The resistant by the Japanese political elites failed in adding any revisions aiming at maintaining the patriarchal family system.

¹⁵ These provisions were quoted from Kinjo Kiyoko, "Legal Challenges to the Status Quo" in eds. Kumiko Fujimura-Fanselow and Atsuko Kameda, *Japanese Women*, New York: The Feminist Press, 1995.

Thus, a low ranking female officer's enthusiastic activities, which attempted to include the equal right clauses in the new Japanese constitution, together with her male colleagues' support resulted in the enactment of the new democratic constitution in Japan. Women's emancipation in the post-war Japan originated from her efforts. However, the new constitution clarifying the notion of equality in Japanese society left the means of realizing *de facto* equality vague.

2.1.5. Protection and Equality in The Labor Standards Law

The Labor Standards Law was also enacted in 1947 to enable workers to live with "minimum standards of wholesome and cultured living" according to Article 25, 27, and 28 of the 1947 Constitution (Sakamoto, 59, 1973). Article 4 of the Labor Standards Law prohibits differential treatment between women and men with respect to wages (Sakamoto 1973; Brown 1988; Kinjo 1995). Most importantly, the 1947 Labor Standards Law (No. 49 of 1947) had protective provisions for working women. Article 6 clarified that a democratic state should care for women and minors by providing special protections for them. The following protections were enumerated:

- 1) Women over eighteen years who work in 8 hours per day could not be made to do overtime work more than 2 hours of overtime per day, 6 hours per week, and 150 hours per year (Article 61).
- 2) Women could not be made to work on holidays.
- 3) Women could not be made to do late-night work between the hours of 10 pm and 5 am (Article 62).¹⁶
- 4) Women could not be made to do dangerous or harmful work (Article 63).
- 5) Women could not be made to do underground work (Article 64).
- 6) Women could not be made to work the six weeks before or six weeks after childbirth (Article 65).
- 7) Employers could not force a woman to work during menstruation, if it presented a hardship for her to do so and if she requested menstrual leave (Article 67).

Menstrual leave was a unique protection form for women because no any other

¹⁶ However, the law involved exceptional provisions such as workers for agriculture and medical institutions, management workers, policewomen (until 10 hours), firefighters (10 hours), and so on. To see in detail, Satamoto Fukuko, *Fujin no Kenri*.

countries granted women such a protection. Business circles and women's groups sharply clashed over how much protection would be needed (Molony 1993). From the employer side, menstruation leave imposes too great a financial burden to a company (Ibid.). In 1946, the Labor Legal Council appointed by the government opposed the menstruation leave because, in the councils' view difficulties in working during menstruation should be considered as a sickness and women having such difficulties should take ordinary leave (Ibid.). However, bureaucrat Tanino Setsu and labor activist Akamatsu Tsuneko convinced American Occupation Officer Golda Stander to require menstruation leave in the law (Nishi 1985). Having Golda Stander's strong support, menstruation leave and other general protective measures beyond maternal protection such as maternity leave and childrearing leave were placed the law (Molony 1993). On the one hand, women labor activists hailed menstruation leave as their victory in the women's labor movement; on the other hand, the Japanese male political and business elites regarded the Labor Standards Law aimed to protect motherhood (*bosei hogo*) as implying women are weak and that mothers are in need of protection of state instead of being individual "citizens," who are independent (Mackie 1995; Sakamoto 1973). Consequently, the ambiguous prohibition of sex discrimination and the strong protective provisions of the Labor Standards Law of 1947 allowed employers in Japan to interpret the provisions to their convenience.

2.2. Institutionalization of Women's Bureau in Government

After the legal reform, SCAP decided to set up the Bureau of Women and Minors (hereafter BWM), a policy agency for women in Japan to oversee how the Japanese government provided *de facto* equality to women. The bureau was established

as one of the five bureaus of a new Ministry of Labor on September 1, 1947. Concerning the establishment of the women's bureau in government, there existed a number of disputes between male leaders and female low-ranking officers of SCAP, among Japanese women leaders, and between SCAP and the Japanese government. This study of the decision-making process provides keys to understanding the significance of the following four characteristics of the Japanese women's agency: 1) why it was placed in the Ministry of Labor, 2) why it has responsibility for furthering women's status in society, which is beyond the official duty of the ministry, 3) why it was feminized in spite of the male-dominant bureaucracy, and 4) why it focuses on policies for improving Japanese women workers' life rather than furthering women's status in spite of its official duty. By scrutinizing the disputes step by step, this section clarifies these puzzles. Examination of the way the agency for Japanese women was established informs us not only of the structural and institutional characteristics of the Japanese women's bureau but also of the efforts of the low-ranking American women officers and the Japanese women leaders to form the women's bureau in the Japanese government.

2.2.1. Alliance of a Low Ranking Woman Officer with Japanese Women Leaders

From the early stage of the occupation, top male leaders of SCAP seemed to recognize the necessity of establishing a women's bureau in the Japanese government, while expecting fierce opposition from the Japanese male elites. Before starting the discussion of the establishment within the occupation forces, SCAP invited Japanese women leaders into the political decision-making process. On January 9, 1946, K. R. Dyke, a director of the Civil Information and Education Section (hereafter CI&E) invited the members of the Advisory Committee For Women and obtained their support for the

establishment of a state institution for women (Yamazaki 1986; Uemura 1990). From that time, SCAP considered the policy of establishment of the women's bureau as a Japanese women's demand and carried out it to meet the needs of Japanese women.

At this point, the top leaders of SCAP seem to consider that the American type women's agency aimed at improving working conditions for women would be sufficient for Japan (SCAP c). However, in May of that year, some officers in the low and middle positions of the CI&E under the leadership of a Women's Army Corps lieutenant, Ethel Weed, submitted to their director a memo, which proposed the establishment a women's bureau in the Home Ministry (Ibid). This memo involved two significant points concerning the establishment of a women's bureau in government: 1) the new women's bureau should be a powerful agency under the strong ministry like the Home Ministry in order to avoid the situation of pre-war Japan in which untrained male officers in several powerless agencies dealt ineffectively with women's issues; and 2) the new agency for women should obtain broad responsibility for furthering women's status including the problems of housewives, workingwomen and professional women (Ibid.). Although the proposal was unfeasible because SCAP had already decided to dissolve the Home Ministry, the memo showed a clear intention to establish a powerful independent state institute for furthering women's status staffed by women.¹⁷

The male leaders of SCAP had ignored the memo written by the officers of CI&E until August (SCAP 1946). Apart from the memo, Kato Shizue and other female diet members of the Socialist Party, while lobbying in the diet to establish the new bureau for women after the first election in April, submitted to SCAP the more radical proposal

¹⁷ Susan J. Pharr (1987, 236) interprets the intention of the memo that "... SCAP should join hands with Japanese women leaders in their struggle with 'petty government officials' to forward the cause of women in the new Japan."

in August of 1946 (Ibid). The proposal involved the establishment of a powerful ministry for women in the government (Ibid). The submission of the radical proposal seems to have been a coordinative activity with Ethel Weed, who proposed the establishment of the new women's bureau in the Home Ministry, to pull SCAP's decision over of limbo (Pharr 1987).

The reaction to the radical proposal appeared to surface quickly. On August 17, 1946, after the consultation with Colonel Charles L. Kades, Alfred R. Hussey, Jr., Special Assistant to the Chief of Government Section clarified his intention to refuse the proposal in his memo (SCAP d). According to the memo, the arrangement of the women's bureau in the Home Ministry or a quasi-independent Cabinet Board of Women's Affairs was inappropriate because 1) such a powerful agency for women "tends to encourage separation of interests" between the two sexes; 2) would create "needles complications"; and 3) would trigger "serious resentment and reaction" from the Japanese government (Ibid). Finally, SCAP made a formal decision to place a women's bureau within the new ministry of labor according to a report written by a high-level U.S. advisory group, which had visited Japan to investigate Japan's labor problems since early summer of 1946 and included one female labor specialist, Helen Mears (SCAP 1946 e).¹⁸ However, because the report had never mentioned the office duty the new women's bureau would assign, SCAP left the decision of the official duties of the new women's bureau in hands of the women lower-ranking officers in the CI&E (Pharr 1987). Thus, while the American female low-ranking officer and Japanese women leaders failed in establishing a strong

¹⁸ Helen Mears also proposed an establishment of a women' bureau within SCAP on June 24 1946. However, the section leader on Labor, T. Cohen argued that women's issues should not be concentrated on the bureau because women's issues were not so important as other economic and political matters and women's issues might not have anything in common with men's issues (Uemura 10-11, 1990).

bureau in the most important ministry or an powerful independent ministry to oversee efforts of other ministries to further women's status in society, they succeeded in assigning the broad responsibility to the new bureau in the Ministry of Labor. However, that the women's bureau was placed in the Ministry of Labor charged with mainly dealing with problems of workers indicates that there was possibility of neglecting the responsibility in furthering women's status in society. Susan Pharr (1987, 236) expressed the risk that it was as if "the mouse directs the elephant".

However, only female member of the governmental committee of the new Ministry of Labor opposed the plan to assign the broad responsibility to the bureau. In January 1947, Tanino Setsu¹⁹ published her proposal in the Women Democratic Newspaper that limited the duties of the new bureau for women to jobs of research and survey of women's issues. She argues that because of 1) impossibility of depriving official duties from other ministries, 2) not so enough jobs of the new agency for workingwomen as a bureau, and 3) lack of ability to policymaking of the bureau, the new agency for women should be in charge of only research and planning of women's issue (SCAP e). Ethel Weed mediated the disagreement between Tanino Setsu and Kato Shizue and her fellows and gave the broader official duty to the new bureau for women (SCAP f). Thus, Ethel Weed took strong initiative in establishing the Japanese women's bureau in the Labor Ministry having broad responsibility, while involving Japanese women leaders' opinions in policymaking (Uemura 1990).

The policy alliance of the female officer in SCAP with Japanese women leaders had not always been formed as Susan Pharr (1987) argues. Particularly, the relationship

¹⁹ Tanino Setsu was the first female assistant factory inspector in the pre-war period and became a first section leader of Women's Labor and later the third Director of the Women's Bureau of the Ministry of Labor (Nagy 1991).

of the American women officers with the Japanese women leaders seems to be vertical. The Japanese women were able to perform what they wanted as far as the American women officers agreed on or instructed to do. For instance, Golda Standers in the Labor Section of SCAP strongly insisted on adding the term of 'minors' in the title because she had taken great interest in children's and minors' labor as a specialist of child labor in the pre-war America, while Japanese women were reluctant to this name because the co-existence of the terms of 'women' and 'minors' in a title implied that women were considered to belong to a same category as children and to not to be matured person (Tanino 1985). Japanese women bureaucrats in the Bureau of Women and Minors had to have the title for almost forty years until 1984 when the title was changed to 'the Women's Bureau.'

2.2.2. Resistance of the Japanese Government

SCAP met resistance of the Japanese government when it attempted to create not only a new bureau for women but also a new Ministry of Labor. In the pre-war Japan, the Ministry of Welfare had been charged with responsibility for dealing with labor problems. SCAP began negotiation with the officers of the ministry of welfare over the establishment of the Labor Ministry since late spring of 1946. The Japanese cabinet decided to establish the Ministry of Labor at the meeting on May 28 1946 (MOL 1969). However, the further negotiation had not been progressed because of reluctance of the Japanese government. In February 1947, the Yoshida Cabinet submitted to SCAP a proposal for establishment of a new ministry of labor, which excluded a provision for a women's bureau and any job assignment of dealing with women's problems (SCAP

1947).²⁰ Since then, the Japanese government submitted many proposals that omitted the provisions or evaded to mention about the establishment or the broad responsibility (Pharr 1987).²¹ During the long process, the low rank officers tired them out by repeatedly suggesting establishment of the women's bureau having the broad responsibility (Ibid.) Ethel Weed took part in any stages of discussion between SCAP and the Japanese government over the issues and encouraged the Japanese women leaders to carry out their lobby activities inside and outside of the Diet.

Emergence of a Socialist government led by Katayama Tetsu enabled to establish the women's bureau in the Ministry of Labor in May 1947 (Rōdōshō 1969). The Preparatory Committee for Establishment of the Ministry of Labor was formed just after the forming the Katayama cabinet (Ibid). Only one woman, Tanino Setsu, was appointed to the member and assigned to prepare the establishment of the women's bureau. The decision at the meeting was not smooth and easy. In this meeting, the dissenting opinions focused on the issue of the broad responsibility the women's bureau would assume (MOL 1969). The majority of the members argued that either the Ministry of Welfare or the Ministry of Education should deal with problems of the women's issues, while some male members strongly pushed the other members to reach a consensus that Japanese women's economic independence led to their independence in the society (Ibid.). Finally, the Committee decided to establish the women's bureau with the responsibility in improving working conditions for women and minors in employment and furthering women's status in society as SCAP proposed (Sumiya 1978; Tanino

²⁰ In April 1947, the cabinet led by Prime Minister Yoshida Shigeru established a committee for the establishment of the MOL including only one female member, Tanino Setsu (Sumiya 1978).

²¹ In April 1947, the Ministry of Welfare submitted to SCAP a proposal, which attempted to establish a section for women and minors in the Labor Standards Inspection Office and to assign it to supervise labor conditions for women and minors (Uemura 1990).

1985). Although the BWM, having limited jurisdiction of the MOL, could not intervene women's policies of the other ministries, the BWM assumed the broad responsibility without any remedy of the defect.

On September 1, 1947, the Bureau of the Women and Minors was formed in the newly established ministry of labor together with enacting the Labor Standards Law, which stipulates a principle of equal work and equal wage between the two sexes including provisions for protective measures for women.²² The BWM faced difficulties from the start. The most acute problem was how to find an appropriate director and staffs for the BWM. An informal network between low-ranking American women officers and Japanese women leaders wanted to make sure that a woman was picked to head the bureau (Pharr 1987). However, in 1947, there was no female upper class bureaucrat in the executive branch of the Japanese government. It was not until in 1950 that the Japanese women were allowed to take the Upper Class Civil Servant Examination.²³ Consequently, SCAP, not the Japanese government, appointed Yamakawa Kikue²⁴, a pre-war socialist activist, as the first director of the BWM on the recommendation of Kato Shizue, a female member of the House of Representative belonging to the Socialist Party (Kato 1985).²⁵ Other staffs were women from among

²² The idea of protective measures for workingwomen was believed to be acceptable for not only the Japanese but also an American in the 1940s. There has existed a letter from M. Beard, a feminist historian in the 1930s and 40s, to Ethel Weed, which suggested that it was necessary for Japanese women not only obtain gender equality but also acquire protective measures for women from difficulties generated by competition with men (Uemura 1990). In addition, Japanese women wanted to legalize protective measures for women, which the pre-war government hardly admitted.

²³ One of the first women bureaucrats was Moriyama Mayumi, the fifth director of the BWM.

²⁴ Yamakawa Kikue (1890-1980) founded the Red Wave Society (*Sekirankai*), the first socialist women's organization and held a socialist view of women, who were oppressed by the private property system in the pre-war period (Kaneko 1995). However, because of her strong refusal to support the governmental organizations for women during wartime, Ethel Weed picked her first as the first Japanese woman, with whom she consulted over women's policies just after WWII.

²⁵ There was dispute on the appointment of the directorship of the BWM. On August 9 1947, Kato Shizue together with Akamatsu Tsuneko recommended Yamamoto Sugi, while New Japan Women's Union led by

lower ranked bureaucrats, who had worked for the pre-war agencies that dealt with working women in Japan, and some Japanese officers in SCAP, who worked for Ethel Weed as secretaries. Therefore, at the outset of the BWM, the director was a femocrat, who used to be a feminist activist but now worked for a governmental agency to improve women's status. The appointment of the pre-war socialist activist to a head of the bureau also demonstrates the feminist nature of the women's bureau in the early period. However, the newborn agency for women's position was very fragile; it could have been dissolved at anytime. The newborn women's bureau in Japan was left in an adverse situation, the Japanese male-dominated Japanese bureaucracy attempted to dissolve the bureau several times over the next five years.

2.3. Organization and Policies of The Bureau of Women and Minors

From its, the BWM involved the following distinctive features, 1) marginalization within the government, 2) broad official responsibility, 3) feminization of a state institution, in spite of masculine Japanese bureaucracy and 4) focusing on the tasks of survey, research, and education activities. These distinct features derived from the compromises between SCAP and the Japanese government in the decision-making process for the women's bureau. In this section, these distinct features are examined with the goal of comprehending structural and institutional characteristics of the BWM.

2.3.1. Internal Turmoil and Marginalization

The reluctance of the Japanese government in establishing the new agency for women caused marginalization of the bureau within the Japanese government and

Ichikawa Fusae started lobbying actively for Tanino Setsu as the director to Minister Yonekubo, a future minister of labor. On August 19, Kato Shizue asked Ethel Weed to support Yamakawa Kikue to be the director after having withdrawn the recommendation for Yamamoto Sugi (Yamazaki 1990). Tanino Setsu, the deputy inspector for labor in the pre-war, became the leader of the Women Labor section (Ibid).

produced a long and strenuous struggle in the internal politics to maintain the bureau both in terms of budget and staff. Japanese officials in the ministries of Labor and Finance questioned the necessity of keeping the bureau in the Labor Ministry at each annual budget round (Yamakawa 1982). In winter of 1949, the women's bureau faced its greatest crisis; the Ministry of Labor attempted to dissolve the women's bureau as a one measure to cut its budget (Uemura 1990). In February 1950, women's groups and the women diet members of the Socialist Party began to lobby to maintain the women's bureau by contacting the persons concerned including Ethel Weed (SCAP 1949a). She suggested the Japanese women leaders that the significance of the women's bureau should be emphasized and its works for women from a women's standpoint (SCAP 1949b). On March 1 1950, Ethel Weed also suggested to Kondo Tsuruyo, a diet member of the Liberal Party, that the women's bureau was necessary to implement women's policies from a women's angle (SCAP 1949c). Thus, although Ethel Weed did nothing overt, her 'behind the scenes' advise proved invaluable.

Some male officers in the Minister of Labor also advised Tanino Setsu to quickly carry out some public measures to help formulate public opinion in favor of maintaining the women's bureau. The second Yoshida cabinet was about to decide on the dissolution of the women's bureau (Uemura 1990). With the consent of Ethel Weed, Director Yamakawa Kikue and Section Leader Tanino Setsu urged Japanese women's groups to lobby actively and also asked the affiliated deliberative council to send a proposal of the continuation of the women's bureau to the Minister of Labor, Prime Minister, other ministers, and SCAP (Ibid). On 9 March 1950, the Minister of Labor informed Tanino Setsu that the dissolution proposal was dead (SCAP 1949e). Thus, the cooperation

between women officers in SCAP and Japanese women leaders successfully prevented the dissolution or downsizing of the women's bureau. Until the occupation ended, the low ranking women officers used SCAP's influence to defend the bureau from its critics. However, when the third director, Fujita Taki assumed the directorship in 1951 after the withdrawal of the American occupation forces, the BWM faced the other crisis of its dissolution again because of administrative reform. This time, the women leader members of various groups stood up and took actions to preserve the BWM in cooperation with the women bureaucrats there. Women leaders of labor unions (*Souhyo, National Railway, Domei and other small unions*), women's groups (*Shin nihon yukensha domei, Daigaku fujin kyokai*), and the political parties formed 'the Committee against the Dissolution of the BWM' and the prominent women activists including Hiratsuka Raicho, Kamichika Ituko and other twenty-three women established the League of Preservation and Expansion of the BWM' (Ohara 2000). As a result of the resistance, the government abandoned the plan of the dissolution of the BWM, although the director submitted the vice minister of Labor a report, which explained why the MOL must preserve the bureau for the next three years (Fujita 1985). The Japanese women bureaucrats' struggles to preserve the bureau was continued until international influence changed the Japanese government's policy on women's affairs. It was not until the International Women's Year in 1975 that the bureaucratic arrangement of the BWM was solidified and it acquired significance in Japanese politics. Thus, while having fear of the dissolution and being marginalized within the MOL, the women's bureau had operated with limited jurisdiction of the MOL but having broad responsibility for dealing with the problems of not only improving working conditions for women and minor

workers but also furthering the interest of all women.

2.3.2. Feminization and Isolation of the BWM

Marginalization of female bureaucrats in the “hostile, male culture” seems to have been comprehensive in spite of the increasing number of women in government (Flammang 207, 1997). John C. Campbell also indicates that bureaucracy in Japan has maintained a male-dominant norm more persistently than any other democratic states (Campbell 1989). A majority of the bureaucrats are male graduates of the law department of the University of Tokyo, the best university in Japan. It has played a distinctive role in supplying elite civil servants. In spite of the gender and university imbalance among successful applicants, the examination system is considered to be objective because it gives all university graduates the opportunity to take the Upper Level Public Civil Servant Examination. Yet, the selection system is not objective, but extremely subjective. Each ministry picks from among the successful applicants, i.e. those who score well, and interviews them, to judge whether the person is organizationally minded, ambitious, and willing to work hard. Women successful applicants seem to be screened in the selection process because the number of women bureaucrats has been stable while the number of the women successful applicants has been increasing (Ueno 2001).²⁶ As John Campbell indicates, women have been continuously marginalized in the bureaucracy since the first time they were allowed to enter.

In contrast to the masculine nature of the rest of Japan’s bureaucracy, the BWM

²⁶ Ueno argues that an invisible gender control has been made in the selection process by indicating that there has been no increase of women career bureaucrats in the economic recession, although more competent women graduates took the entrance examination for the career bureaucrats (42, 2001). In response to Ueno, Osawa Mari told that it was an open secret while no ministry admitted it (Ibid.).

had been the only agency governed by women bureaucrats. From the beginning, three out of four seats in the Women's Work (*fujin rodo ka*), Minors' Work (*seishoune rodo ka*), Women (*fujin ka*) Sections and the directorship of the BWM had been reserved for women bureaucrats (Miraikan 2000; Pharr 1987). The first four directors during 1947-1974 came from members of the women's groups, academia, and lower class bureaucracy, while the directors after 1974 have been appointed from a pool of women bureaucrats who passed the Upper Class Civil Servant Examination and were selected by the MOL. Moriyama Mayumi, the first women upper class bureaucrats, told me during the interview with her that she applied to the Ministry of Labor because only the ministry having the BWM seemed to accept her (Moriyama 2000). During 1947-2000, the sole exception was during July 1990 to October 1991, when Takahashi Sakutaro, a male bureaucrat became a director of the Women's bureau (Kubo and Gelb 1994). The BWM became institutional space from which women bureaucrats could be promoted to higher position in the masculine bureaucracy and could be appointed to advanced jobs such as ambassadorship or ministership in Japanese politics.

However, as the BWM was institutionalized within the rigid bureaucracy system, the relationship between the BWM and the Japanese women's groups, which the American female officers had formed under the occupation, was curtailed. The isolation of the BWM later produced a wide gap in the discourses of equality between the women bureaucrats and women activities in the 1970s.

Why did the women's bureau become isolated from women's groups? There were three other reasons. First, the necessity of the policy alliance with the women's group disappeared because the BWM had not possessed resources to implement a new

policy and law, which necessitated the collaboration with the women's groups. The Japanese government changed women's policy as SCAP changed the occupation policy. Just after the establishment of the Bureau of Women and Minors in the Labor Ministry in 1947, SCAP changed its occupation policy from a New Dealer-type such as democratization and demilitarization of Japan to conservative type: the rehabilitation of Japanese economy because of antagonism against communist and socialist ideology emerging.²⁷ The top leaders of SCAP no longer considered the New Dealer type of gender equal policy a most significant social policy in Japan. This reversal of policy in the occupation allowed conservative politicians to dominant Japan. When Yamakawa Kikue was appointed to the first directorship of the BWM, the socialist party formed the government led by Katayama Tetsu. However, after the resignation of Katayama, all of prime ministers were the leaders of the conservative parties. Under the conservative governments, the national policy was changed from democratization of Japan to rehabilitation of its economy as SCAP instructed (Pempel 1987; Sakamoto 1987; Ward 1987). Consequently, the policy of emancipation of Japanese women due to democratization of the Japanese society became less significant for not only the American occupation forces but also the Japanese government, while the policy of betterment of workers' life including workers' wives to revitalize Japanese economy became more significant. To implement the policy of improvement of women's and women workers' life, the BWM had concentrated on jobs of research and survey, which the women bureaucrats engaged in by visiting factories or farming and fishing villages (Inoue 2000).

²⁷ A large number of studies have already analyzed reasons for the 'reverse course of the occupation policy' and argue that it resulted from internal politics in the United States including emergence of the Republican administration in the United American, regional politics in East Asia such as the establishment of the communist regime in China and the outbreak of the Korean War, and international politics symbolized by the Cold War between the United States and the Soviet Union.

Relating to the first reason, the BWM also devoted itself with education of the idea of equality between the two sexes, which ordinary Japanese women had never heard before WWII. The Japanese society including a majority of Japanese women, still took for granted a patriarchal ideology, in which a husband was a breadwinner and women devoted themselves to the wife-mother role unless they had an economic need to work. In contrast to the patriarchal ideology, the American women officers had adopted the more gender equal ideology, which means that adult women have a variety of roles as a wife, mother, citizen, and worker in the society, and formulated the women's policies for improvement of Japanese women's status based on the ideology. The BWM, acknowledging this wide gap, started advocating the new idea of gender relation to the public through research, survey, and educational measures. These backstage activities indirectly helped women's groups' activities but made the BWM invisible for Japanese women and lost the necessity of the alliance with the women's groups.

Third, Japanese women's groups had been leaning to the left, as the labor policy carried by SCAP increased the power of the left-wing political parties by facilitating unionization of Japanese workers. Consequently, the women's groups, which had supported activities of the state institute for women, tended to distance themselves from the women's bureau. To make matters worse, the women's groups broke into small groups according to their party affiliation because the Japan Communist Party and the Japan Socialist Party started antagonizing each one other. Thus, the Bureau of Women and Minors in the Ministry of Labor lost its strong support from Japanese women's groups, which had wanted to assign broad responsibility to the bureau. There was no criticism against the women's agency, which neglected its responsibility for furthering the

women's status in society. The concentration on research, survey and enlightenment might have resulted in avoiding criticism of BWM from the conservative elites in politics and enabled the bureau to survive the adverse situations in which the bureau had been placed.

3.3.2. Devotion to Research, Survey, and Education

The BWM's activity was concentrated on education of the Japanese public through publishing surveys of the discriminatory practices carried out by Japanese companies based on information collected by the bureau. The Women Section was one of the sections (Women Workers Section and Minor Workers Section) in the Bureau of Women and Minors. The Women's Section was mainly charged with all tasks not bearing on the special problems of workingwomen. Because the circumstance caused by the defeat in the war, the Women Section had to deal with a large number of problems in the women's lives. In particular, the section focused on betterment of the living standard of vulnerable women, who had not enjoyed legal protection, such as prostitutes, farmers' and fishers' wives and housewives having a side job at home. During 1950-75, the Women's Section drew up sixty-seven reports. Out of the sixty-seven, only nine reports were concerned with the problems of all Japanese women: such as women's status (1950; 1958; 1973), feudalism in the society (1951), women's consciousness (1952), cooperative activities (1958), divorce (1961), voluntary activities and women's consciousness (1963), and women's living life (1966) (*Josei Rodō Kyōkai* 2000). The bureau also made a huge contribution in criminalizing prostitution in Japan by carrying out a number of surveys and publishing the reports (Kawashima 2000). However, the Women's Section paid only little attention to the improvement of women's social status

and gender equality in society until the UN's International Women's Year of 1975.

The devotion to the betterment of women's lives could be found in the Women's Week's slogans created by the section. The Women Section has held an event of the 'Women's Week' on the second week in every April in commemoration of the first Japanese election in 1946. Every time, the section creates a slogan of the Women's Week in order to publicize activities concerning the tasks in the Bureau of Women and Minors (Josei Rōdō Kyōkai 2000). Most of the slogans during 1949-1974 were concerned with how women developed their abilities or how women utilized their skill in the society (Ibid). There were only four out of twenty six slogans concerning women's social status, and the three were adopted in the early period (1949, 1950, 1952, 1972) (Ibid). The Bureau of Women and Minors had focused on the tasks of research, survey, and education activity not on policymaking during 1947-1975.

The Women's Work Section also devoted itself to the jobs of survey, research, and education activities for improvement of working women's conditions. Since the Welfare Ministry issued an order for women 'go back into the home' to open up jobs for the men repatriated in 1945, women workers were put in subordinated positions in employment, these women workers suffered much gender crimation by Japanese companies (Molony 1993). However, the BWM had been relatively ineffective in remedying these practices of Japanese companies. The BWM announced in 1947 that it was illegal for companies to pay less salary to women because of their inefficiency, incompetence, shorter time working, and dependents care. Subsequently, the statement of BWM in 1950 warned Japanese corporations that it was also illegal for companies to pay a monthly salary to men but a daily salary to women, as a way of differentiating

between the two sexes (Sakamoto 1973). Nevertheless, the BWM failed to stop the discriminatory treatment because it had no legal enforcement power to punish these companies.

Yet, most of their attention had been focused on wage differentials prohibited by the LSL. While the bureau published twelve information booklets concerning the wage differential cases during 1951-1975, it published only four information booklets on discriminatory retirement system during the same period (Women Labor Association 2000, 107-8.). Until the middle of the 70s, the bureau had never conducted any survey or research of the other discriminatory practices by employers. To the contrary, a number of surveys and researches on protective measures for women carried out by companies were done (Ibid., 101-103). This remarkable indifference to discriminatory treatment seems to result from the fact that the BWM had no legal power to deal with the problems of discriminatory treatments.

2.4. Conclusion

This chapter has revealed how the compromise of the American Occupation Forces with the Japanese male political elites produced the limited resources for the policymaking of gender equality law in the 1970s and 80s, while this study of the process of the establishment of the women's bureau has informed how political opportunities, resources, and the shared framing promoted to the establishment of the women's bureau within the Ministry of Labor in spite of fierce opposition from the Japanese male elites.

The most significant political opportunity for the founding the women's bureau is derived from the occupation policy of SCAP to demilitarize Japan through democratization. The emancipation of women is one of the democratization policies

implemented by SCAP that consisted of the liberal new-dealers in the early occupation period. Moreover, the women's policies during the occupation were carried out in an unusual situation. American military forces had possessed absolute power of formulation and implementation of the occupation policy in Japan. In particular, SCAP obtained the total authority over the Japanese government and the people, cut off their communication and transportation to outside of Japan, and censored their behaviors (Ward 1987). In the experimental situation, the gender equality policy carried out by SCAP generated more progressive policies for Japanese women than those for American women in the 1940s.

The other important political opportunity for the establishment of the women's bureau is the emergence of the first Socialist government in Japan in 1947. Katayama Tetsu was appointed to Prime Minister just after the Japan Socialist Party won the first election of the House of Representatives under the new constitution. Because of its political orientation and its sensitivity to labor problems, the socialist government decided to establish the women's bureau within the Ministry of Labor immediately after its inauguration, although the conservative government led by Yoshida Shigeru before the Katayama Cabinet strongly opposed the establishment. This Socialist government was the short-lived cabinet which lasted only two hundred ninety two days during May 22 1947 to March 9 1948. If the socialist government had not emerged, the establishment of the women's bureau would have been later than 1947. Unless the women's bureau had been formed before the reversed course of the occupation policy, SCAP would not have made efforts to establish it.

This study of the decision-making process demonstrates that the Japanese

women's bureau was bound a variety of limitations, which caused it to be relatively powerless. The establishment of the women's bureau within the Ministry of Labor marginalized it within the government. On the other hand, the marginalization allowed the bureau to be feminized. However, the rigid bureaucratic system in Japan curtailed relationships between the BWM and the women's groups, which used to collaborate each other on formulating the women's policies. Institutionally, the Japanese women's agency had a huge advantage. The efforts of the American female officers together with the Japanese women leaders formally granted to the BWM the official duties of not only improving working women's conditions but also furthering of women's status to the bureau. However, in spite of the institutional advantage, the BWM concentrated on the tasks of survey and research of the women's life and education activity of women's rights and was ineffective in resolving the problems of *de facto* gender inequality in employment and society. For the BWM, the next step was to obtain the legal power to prevent discriminatory treatment in employment.

CHAPTER 3

INEFFECTIVE ACTIVITY PRIOR THE INTERNATIONAL WOMEN'S YEAR

Having looked at the history of the Bureau of Women and Minors (hereafter BWM) in the Ministry of Labor (hereafter MOL), the focus now turns to the activities of the women's bureau that dealt with discriminatory treatment against Japanese women workers before the International Women's Year of 1975. This chapter explores the environmental variables of economic and social climates in the setting prior to the enactment of the gender equality law in employment in Japan and how the economic and social climates affected the activities of policymaking of the agency.

Before the International Women's Year (hereafter IWY) of 1975, Japanese society had been relatively indifferent to gender inequality and discrimination in employment and had not input the demand for elimination of the discriminatory practices. The BWM also had focused on only the betterment of women's welfare and workingwomen's life in spite of having broad jurisdiction. How did the indifference in gender discrimination among the Japanese public, women leaders of the women's groups and labor unions affect the policymaking activities of the BWM? In the meanwhile, certain factors motivated the BWM to enact of a new gender equal law by the BWM. The main political opportunity was a series of litigations by the women victims, whom the BWM was ineffective to help escape from the wretched conditions. Thus, this chapter explores how the economic, social, and political environments affected the policymaking activities of the BWM that had held the four limitations and whether the environments helped the bureau obtain political opportunity and create mobilizing structure and framing process.

3.1 Women's Conditions in Employment before IYW

It is true that no woman in the world completely enjoys complete equal treatment with her male counterparts in employment. Gender discrimination against women workers is universal, while the discriminatory treatment of Japanese women workers has been more obvious than that in other highly industrial democratic countries (Lam 1992). After World War II, the legal reforms initiated by the American occupation forces liberated the pre-war unskilled blue-collar workingwomen, who were bound by the patriarchal family system that had been sustained by the pre-war Constitution and Civil Code. The 1947 Labor Standards Law also provided Japanese working women not only equality in wages between the two sexes (Article 4) but also protective measures in the areas of working hours, night work, underground work, menstruation leave, maternity leave, holidays and restriction on dangerous works (Kinjo 1995). This section examines the absence of *de facto* equality of women workers and the peculiar employment systems utilized by Japanese companies, in order to understand the women's bureau struggle for legalization of gender equality in employment. The discriminatory practices of Japanese companies demonstrate the ineffectiveness of the women's bureau in the Japanese government and its struggle to obtain power to improve gender relations in employment.

3.1.2. Rapid Economic Growth and Increase of Women Workers

During 1947 to 1979, Japan experienced a huge transformation in its economy. The dramatic recovery of the Japanese economy from the defeat of World War II brought about rapid industrialization and the development of a service-oriented economy (The Japan Institute of Labour 1988). The transformation of the Japanese economy created a

large number of jobs in tertiary industries such as service sectors and white-collar jobs which opened more job opportunities for women than the light and heavy industries as TAABLE 5 shows (Kawashima 1995; Lam 1992; Shinotsuka 1994; Tanaka 1995; The Japan Institute of Labour 1981; Ueno 1994).¹

TABLE 5: Distribution of the Japanese Women Workers by Industrial Sectors (1920-1990)

	Primary %	Secondary %	Tertiary %	Total # (million)
1920	67.5	17.7	14.8	
1950	61.2	13.2	25.6	13.9
1960	43.1	20.2	36.7	17.1
1970	26.2	26	47.8	20.4
1975	18.4	25.7	55.7	19.6
1980	13.2	28.3	58.4	21.4
1985	10.6	28.3	60.8	23
1990	8.5	27.3	63.8	25.4

Source: *Kokusei Chōsa* (Population Census) for 1920-75. *Rōdōryoku Chōsa* (Survey of Labor Force) for 1980-90, Statistics Bureau, Management and Co-ordination Agency.

The economic growth created a new life style in Japanese society and had deep impacts on women's life including higher education rates, declining birth rates, a longer life span, mechanization of housework, development of childcare, and increasing living costs. The new life style also pushed Japanese women into the labor market (Kawashima 1995; Ueno 1994; Upham 1987).² Furthermore, the high economic growth

¹ It is generally believed in the United States that growth of the service economy promotes women's participation in employment (Fuchs 1968; Abramovitz 1972; Stanback, *et al.* 1981).

² The change of life cycle of Japanese women promoted middle-aged and elderly women's social participation outside the home. In the pre-war period, Japanese women had only 7.6 years after finishing childrearing, while in the 1970s they had 43.8 years because of the fewer children they bear (from 5.12 before WWII to 2.82 in 1977) and their extended average life span (from 58.3 in 1940 to 78.89 in 1979 (The Japan Labour Institute 5, 1981). In 1955, 47.4 % of the girls completing compulsory education (mid-high school) went on to senior high school, 2.6 % of them to 2-year junior college, and 2.4 % of them

generated acute labor shortages of not only unskilled but also skilled workers. These factors brought about two consequences: an increase in housewives' participation in the labor force as part-timers in the 1960s and the recruiting of female four-year graduates in the middle of the 1970s and the 1980s (Lam 1992).³

The number of women employees increased from 5.31 million in 1955 to 11.67 million in 1975 and 13.54 million in 1980 (The Japan Institute of Labour 7, 1981).⁴ The ratio of women employees to all women workers including self-employed and family workers, also surged from 31.2 % in 1955 and 63.2 % in 1980 (Ibid. 7). Among women workers, the increase of married women workers was apparent. It increased from 38.6 percent in 1965 to 51.3 percent in 1975 (Ibid. 13). However, these married women in Japan were the employees, who quit their jobs at marriage, childbirth, or childrearing and returned to work after finishing their childrearing. Particularly, the reemployed married women were part-timers, having lesser wages than full-timers. The increase of married part-timers could be found in a so-called 'M-shape employment pattern, in which women worked only a few years before getting married and afterward came back to the labor market after finishing their childrearing (Ibid. 7). Why did the Japanese employment system have the M-shape employment cycle?

3.1.3. Discriminatory Employment System in Japan

In the 1970s, the discriminatory treatment, which Japanese female workers suffered, was prohibited by legislation in the advanced industrial countries but had

to 4-year university, while 93.9 % in 1975 of them to senior high school, 21.0% of them to 2-year college, and 12.3 % of them to 4-year college (Ibid., 6).

³ Prominent electronic companies such as Matsushita, Toshiba, Fujitsu, and NEC began to recruit female four-year graduates. Fujitsu recruited "100 female university graduates in 1980" and "230 in 1985" (Lam 72, 1992).

⁴ The number of women workers continued increasing even after Japan's economy entered a stable growth era in 1974, when the demand for labor slackened in general (The Japan Institute of Labour 6, 1981).

continued in Japan. The Bureau of Women and Minors in the Ministry of Labor also acknowledged that many companies carried out discriminatory treatment against women workers in recruitment, job assignments, training, promotion and retirement (MOL 1981). The survey conducted by the BWM found that 73 percent of the firms restricted their recruitment of graduates to men only, 83 percent of the firms had positions that were not open to women and 43 percent gave women no opportunity of promotion. Until 1986 when the Equal Employment Opportunity Law was enacted, Japanese women workers had no legal protection against this discriminatory treatment in employment (Lam 1992). Also, Japanese companies rationalized the discriminatory treatment by the shorter working-term for women than men under the seniority (*nenkō*) system.

The fourth director of the women's bureau in Japan (1965-1974), Takahashi Nobuko, indicates that women workers in Japan not only had to cope with problems common to women workers in all industrialized countries, but they were also confronted with some 'unique problems' which stem from the special features of the Japanese employment system, in particular, the practice of lifetime commitment and the *nenkō* wage and promotion system (Takahashi 1983, 4). The seniority employment system together with the lifetime working practice caused an increase in personnel expenses of the employers and encouraged them to create gender discriminatory employment systems against women workers to cut the costs. The discriminatory treatments were practiced in all stages of employment, including hiring, job assignment, promotion, and retirement.

The discriminative hiring system allowed companies not to hire well-educated women or those over a certain age. Because Article 4 of the Labor Standards Law prohibits differential wages between the two sexes, Japanese employers before the EEOL

attempted to avoid paying women workers the same salary as male workers by refusing female four-year university graduates. Even in the mid-1980s, 70 to 80 percent of Japanese companies refused to hire female graduates (Upham 127, 1987). These Japanese companies hired women workers, who quit their jobs at their marriage, childbirth, or childrearing, only as temporary or part-time workers “with lower wages and less employment security” (Upham 126, 1987). In spite of the label of ‘temporary’ or ‘part-time,’ these women workers often worked as long as the regular workers did.

The job assignment system allocated only supplementary jobs to women and made women remain in the lowest status (*hirashain*) regardless of their education level, competence, and seniority. Particularly, in the training of workers in Japan, job rotation, which reshuffled the employees regularly, played an important role as ‘on-the-job-training (OJT)’ rather than off-the-job training (Japan Institute of Employment and Vocational Research 1988). The workers accumulate experience in many jobs over many years within the company, thereby developing a high-level of job ability. The managerial and supervisory positions had been reserved for only full-time male permanent employees, who built up the OJT (Upham 1987). According to the 1981 survey conducted by the MOL, 45 percent of companies polled responded that they did not promote women as high as supervisory [*kakarichō*] positions, and only 39 percent of those responding actually had employed a woman as a supervisor or above. A full 71 percent of respondents indicated that they treated women differently (MOL 1981). The re-entered women workers were also never assigned management jobs because they had to “start from the bottom of job hierarchy” (Lam 18, 1992).

The forced early retirement system forced women to quit their job at marriage or

at a certain age around thirty. The first company, which attempted to institutionalize the early retirement system, was Tokyo Electric Power Co. in 1959. In exchange for a demand of the labor union to extend the retirement age for male workers, the company “proposed the early retirement system, which forced married women workers to resign in six months and other women workers to quit their jobs at their marriage” (Sakamoto 128, 1973). Also, some companies set up different job training and tenure-based wage scales for Japanese women than for men (Brown 1988). Using such gender-based discriminatory practices, these companies managed to replace highly paid women workers with younger women to reduce personnel expenses. As a result, the famous “M-shape” employment system was created in the 1960s because women workers had to quit their job at their marriage, childbirth or childrearing and then returned after the their children were raised (Japan Institute of Employment 1981).⁵

3.1.4. Series of Litigation by Women Workers

It is generally assumed that litigation is no so significant to produce social change as the United States and other western democratic countries. Yet, litigation is significant to open the public’s eyes to social injustice such as issues of minority groups in Japan (*burakumin*, *ainu*, and *zainichi kankokujin*) and challenge the government’s policies toward them in Japan (Upham 1987). In the issue of gender inequality in employment, litigation worked to bring the reality in which women workers suffered from gender inequality on surface, arouse the public attention through reports of the mass media, and thereby helped the BWM give the issues to priority.

⁵ According to the graph created by the Director-General Office, if only unmarried women workers were focused on, the M-shape existed in 1985 but disappeared in 1999. The non-M-shape in 1999 demonstrates that prohibition of the early retirement system by the EEOL allowed the unmarried women to continue working but the marriage or childbirth retirement system has still remained as unwritten customs.

It was difficult for women victims to bring cases of the gender discriminatory treatment to them to court. Although the new constitution (Article 14) guarantees equal status between the two sexes before the law, the constitutional guarantees is applicable only to state action, and the discriminatory treatment had to be attacked through other laws. Moreover, the 1947 Labor Standards Law never prohibited Japanese employers practicing any gender-based discriminatory practices in employment except wage differentials because the various protective provisions for women workers in the LSL are considered to conflict with granting equal treatment in employment (Lam 1992a, 1992b; Upham 1987).⁶ The combination of the lack of prohibition of discrimination against women and the arbitrary interpretation of the protective provisions by companies produced the Japanese type of unequal management for workingwomen (Lam 1992a, 1992b; Matsumoto 1981; Shinotsuka 1994).

The women, who suffered from the institutionalized gender-based discrimination in employment, had no remedy but some sued the companies for illegal practices (Cook and Hayashi 1980; Lam 1992; Michida 1984). The series of cases can be divided into two categories (Upham 1987). The first group of litigation was cases of “overt and explicit discrimination in wage, retirement, and reduction-in force policies” in the 1960s and the 1970s (Ibid. 129). These discriminatory treatments disappeared by the late 1970s because of court decisions, most of which were in favor of women plaintiffs (Asakura 1991; Cook and Hayashi 1980; Lam 1992b; Upham 1987). The second group of litigation was legal actions on invisible and indirect discrimination such as promotion, job rotation, and tracking, which are more difficult to prove and still remain in the

⁶ Article 3 of the Labor Standards Law prohibits discrimination in working conditions based on creed, nationality, and special status, but excluded sex (Lam 1992).

Japanese employment system, even now (Ibid).

The first court decision, which attracted great attention from the mass media, was the Sumitomo Cement Case. A plaintiff, Suzuki Setsuko, was forced to sign her name on a written pledge, which obliged her to resign at her marriage, when she entered the company.⁷ When she refused to resign at her marriage, she was fired on March 17 1964. In 1966, the Tokyo District Court ruled that the marriage or early retirement system was illegal because it violated Article 90 of the Civil Code, which aims at maintaining public order and morals (the Sumitomo Cement Co. case) (Akamatsu 1990; Asakura 1991; Brown 1988; Kinjo 1995; Upham 1987).⁸ A consequence of the court decision was that the number of women's working years had been extended. However, the wage gap between the two sexes did not shrink. The first judicial decision in this area was the case of women working for Akita Cooperative Bank. The Akita District Court in 1975 also ruled the sex discrimination system of wage was illegal. Following the court decision, cases of dismissal of women workers because of their married status or age (over 30), were also ruled illegal in the late 1960s and 1970s (*Onoda Cement* in

⁷ In the 1960s, Sumitomo Cement had employed a gender discriminatory employment system. The system included five principles, 1) only high school graduates would be hired, and women with less or more education would not be considered; 2) all new women employees would enter at the lowest rank of regular employee; 3) they would be limited to support jobs not requiring a high degree of judgment and suitable to workers with relatively little experience or skill, such as typists or switchboard operators; 4) they would retain the rank and job until retirement and would not be allowed to transfer jobs or locations; and 5) all women would be required to sign an agreement to retire upon marriage or the attainment of 30 years of age (Rōshū 17, 1407).

⁸ The argument of the defendant, the Sumitomo Cement Co., was the following: Because she had adopted the policy of equal compensation, she obtained the same salary and the step promotion as men did despite the fact that her contribution to the company was much less than the male counterparts. Moreover, because unmarried women were freer from domestic worries, they were more productive than married women. There were increasing demands from defendant's male employees to rectify the imbalanced situation, in which long-term female workers obtain higher salary but less responsibility than male employees. For these reasons, the defendant decided to employ the wage differential system and the marriage retirement system (Rōshū 1411-1412, 17). The court concluded that "any alleged inefficiency of women resulted from the company's own personnel practices rather than any intrinsic qualities of women and that the defendant could deal individually with any post-marriage productivity declines if, in fact, any existed" (Upham 133, 1987).

1968, *Cobal* case in 1975) (Akamatsu 1990; Asakura 1991; Kuroiwa 1996). In the 1960s and 70s, Japanese courts made decisions in more than twenty cases in favor of women plaintiffs (Upham 1987). The mass media also played an important role in disseminating information to the society on the sex-discriminatory practices of corporations (Buckley 1994).⁹ The series of legal cases shifted, in the early 1970s, the attitudes of labor unions and women's groups from supporting the discriminatory treatments as "a natural part of Japanese society" to criticizing them as gender discrimination (Upham 134, 1987). The BWM also began to utilize "administrative measures to gain compliance with the *Sumitomo Cement* doctrine" after the court decision of the Sumitomo Cement case (Ibid. 138).

However, Japan's judicial system did not work efficiently as a vehicle for reform or compensation for indirect discrimination (Brown 1988; Buckley 1994). Gender-based retrenchment and discriminatory promotion cases during the same period had been decided in favor of the companies (Suzuka City case, Furukawa Mining case and so on) (Akamatsu 1990; Upham 1987). Also, some companies had adopted more invisible practices of discriminatory promotion, in which women are promoted at a slower rate than men and are discouraged from work after their marriage, childbirth, or childrearing (Ibid). Furthermore, the complicated procedures in the judicial system in Japan strongly daunted the women workers, who were considering bringing their discriminatory treatment cases to the courts (Lam 1992). In the case of Tokyo Heavy Metals, it took "more than ten years" before the court ruled the discrimination as illegal and to order compensation despite failing in ordering their promotion (Buckley, 82, 1994).

⁹ It was the same time that women voters came to outnumber men at the polls.

Under the Japanese judicial system, even if a women plaintiff won a case, she could receive only tort damages and back pay, but never obtain a judicial order for equal hiring or promotion (Asakura 2001; Uplam 1987). Thus, discriminatory treatment in employment became more invisible as well as indirect in Japanese companies and difficult to stop by judicial orders.

3.2. Public's Indifference to Gender Inequality in Employment before the EEOL

A majority of studies of the decision-making process leading to the 1986 Equal Employment Opportunity Law attributed the peculiar discriminatory employment system in Japan to only the employers carrying out discriminatory employment practices (Lam 1993; Mikaragi 1999; Upham 1987). However, they tended to overlook that women's groups and labor unions rarely acted against the companies' discriminatory practices toward women workers, and the mass media seldom paid attention to gender inequality in employment.¹⁰ The indifferent attitude of the public prevented the BWM not only from formulating legislative bills against discriminatory treatment but also from establishing policy alliances between the BWM and the women's groups. The main reason for the women's groups' indifference to gender inequality in employment stemmed from their dimorphic gender consciousness, which valued a woman's roles of 'mother and wife,' and gave strong self-identity as mother and wife to Japanese women.

3.2.1. Myth of Full-Time Housewife

The myth of 'full-time housewife' was not unique in post-war Japan. In the pre-war period, a famous debate among two prominent Japanese women over women's

¹⁰ In the 1960s and 70s, a large number of women university student participated in students movement, which opposed extension of the U.S.-Japan Security Treaty and preservation of the U.S. military bases in Japan. To see in detail, Patricia G. Steinhoff, "Three Women Who Loved the Left: Radical Woman Leaders in the Japanese Red Army Movement" in ed. Anne E. Imamura, *Reimagining Japanese Women*, CA: University Of California Press, 1996.

roles occurred. While Yosano Akiko (1918) argues for the significance of economic independence for women and avoidance of dependency, while Hirayama Raicho (1918) insisted on certain protection for motherhood rather than seeking financial independence.¹¹ In the 1950, the debate over 'housewife' reoccurred between pro-motherhood and pro-work women. However, it was not until the 1960's that rapid economic growth made the ideal of the full-time housewife more possible for many Japanese women (Liddle and Nakajima 2000). Japanese mass media in the 1960s spread "images of happy full-time mothers living in modern 'Westernized' domestic bliss" (Buckley 154, 1995). Even in 1981, according to a survey, 69 percent of housewives believe that women's happiness is in marriage, and 68 percent of them agreed that women's role is to take care of the family, while the husband works outside (Asahi Shimbun, 28 September, 1981).¹² A 1974 Survey of the Prime Ministers' Office also indicates that "Japanese women so strongly identify themselves as wives and mothers that this confined them to their family" (*Kokusai fujin nen Ōsaka no Kai* 1985, 9). Thus, the myth of the full-time housewife became more popular "during the mid-1950s through the early 1970s" (Saso 1990, 99).

In the same period, the demand for married women as labor increased and the part-timer employment appeared because of a shortage in the younger labor force. The 1968 Report published by the Prime Minister's Office emphasized the necessity of

¹¹ To see in detail, N. Kouchi (1984), *Shiryō: Boseihogo ronso*, Tokyo: Domesu. T. Maruoka (1976), *Byodo to hoto to*, in N. Suzuki ed. *Shiryō: Sengo bōsei no kōho*, Tokyo: Domesu. Kuni Nakatori (1979), *Bōseiron no keifu*, in N. Suzuki ed. *Shiryō: Sengo bōsei no kōho*, Tokyo: Domesu. L. R. Rodd (1991), "Yosano Akiko and the Taisho debate over the 'new woman'" in G.L. Bernstein ed. *Recreating Japanese women, 1600-1945*, Berkeley, CA. University of California Press. K. Sakurai (1987) *Bōsei hōgo uhndoshi*, Tokyo: Domesu.

¹² Public attitudes toward working women in Japan have followed the same pattern as those in the United States. See statistical analysis in Japan Economic Institute Report no. 28A, July 29, 1983, p.2.

utilizing married women. Since the year 1960, the number of women part-time workers has increased in parallel with the high economic growth. To the contrary, the number of mothers of small children remaining in the workplace gradually dropped during that period, climbing rapidly only since the mid-1970s (Molony 1993, 142). The women workers, who had continued full-time work for more than ten years, were only 8 percent of the whole Japanese woman work force including women workers in public offices even in 1975 (Prime Minister's Office 2000). Moreover, full-time workingwomen were concentrated on so-called women's jobs such as nurse, kindergarten teacher, grade-school teacher and social and welfare workers in which gender inequality was seldom found (Japan Institute of Women Employment 1988).

Therefore, the housewives in the 1960s could be divided into two groups: some housewives returned to work as part-timers to supplement the family income, while the others did not. Economic reasons, particularly, the husband's income, and women's education level determined whether they could be full-time housewives (Buckley 1995; Ueno 1995). There is an empirical theory called 'Douglas-Arisawa's Rule, which shows a correlated relationship between husband's income and married women's employment (Economic Planning Agency 1996). Although the rule was applicable to the case of the United States until the 1960s, it applied to the Japanese case even in the late 1980s (Ibid.). The 1989 Basic Survey of the Employment Structure demonstrates the phenomenon that the higher the income the husbands earn, the more the housewives stay at home (MOL). The dividing line on the annual income was 7 million yen at that time (Ibid.) Moreover, the education level of Japanese women did not correlate with a high rate of employment of women unlike other highly industrial democratic countries (Ueno 1995). There was

and has been a tendency toward “hypergamy,” in Japan which means that university women marry up to more highly educated men. This hypergamy also reinforces the myth of the housewife because the higher educated women became the full-time housewives, marrying with high-income men, while the lesser-educated women reenter the work force to supplement their family income. Only female civil servants or female professionals in nursing and teaching at elementary or secondary schools were exceptions to this tendency in the 1960s. This situation, in which a majority of women worked to supplement the husbands’ income, induced women to embrace the myth of the full-time housewife

The Japanese government also supported the creation of the myth of the full-time housewife through tax system and the pension system in the 1960s. The Tax Deduction for Spouse system (*haigusha kōjo*) implemented in 1961 provides a favorable tax system to a family in which a wife does not earn over a certain level of income (AMPO 1996; Rosenberger 1996; Shinozuka 1995).¹³ For example, if the wife’s income exceeds certain limit, the head of the family (her husband) must pay more income tax and social insurance fees because he loses the spouse exemption. Additionally, the husband also loses certain fringe income from his company such as the special spouse allowance (the average is ¥ 10,000). Moreover, the double income couple must pay a certain amount of money to the pension fund individually, while the full-time housewives do not have to pay it because the husband’s company pays it for them. Lack of public care facilities for the elderly also demonstrates the government’s assumption that married women should take responsibility for their elderly at home (Rosenberger 1996). Since

¹³ In 1974, a male worker having a wife and child and earning ¥110,000 (\$1,100, \$1=¥ 100) pays ¥ 7,200 (\$720) per year for income tax, while a single woman earning the same amount has to pay ¥ 55,000 for the income tax (Asahi Shimbun 4 April, 1975).

the beginning of the 1970s, this tax and social welfare system was the rationalization for married women to stay at home or work as part-timers. Thus, some policies of the Japanese government rewarded the full-time housewives and part-timers but penalized the full-time working housewives through the discriminatory social policies.

As Takie Lebra (1984) argues, most Japanese women sought domestic goals (marriage, childbirth and rearing) rather than career goals. Having considered marriage as 'permanent employment (*eikyū shūushoku*)', Japanese young women called the age of 25 as 'a Christmas Cake at the Christmas day,' that means the cake, which was about to be left on the shelves. They also called resignation of their jobs at marriage as '*kotobuki taisha* [congratulatory resignation].' After marriage, they desired to have the luxury of a full-time housewife's life that enables them to devote themselves to only family responsibilities. The voluntary resignation of the young women arose from their dimorphic gender consciousness, which valued a woman's roles of 'mother and wife' who perform her family responsibility. Thus, changes of the life style along with the rapid economic growth created 'the myth of full-time housewife,' which caused self-restricting attitudes among Japanese women, causing them to remain full-time housewives and indifference among women's groups and the labor unions to gender inequality in employment.¹⁴

3.2.2. Insensibility of Japanese Feminism to Gender Equality

The myth of the full-time housewife had a huge impact on the women's movement in the 1950s and 60s in Japan and created a unique type of feminist movement.

¹⁴ However, the new life style in Japanese society including higher education rates, fewer children, a longer life span, mechanization of housework, and increasing living costs transformed the pre-war dimorphic gender consciousness, which confined women in their home and made women do homework (*naishoku*) in order to earn extra money to the new dimorphic consciousness, which gave women double burden at home and work.

Just after WWII, the American female officers, empowering Japanese women leaders, supported them in forming various women's groups that aimed at furthering women's status in cooperation with the female officers. After the withdrawal of the American Occupation Forces, these women's groups split into small groups. The majority of women's groups concentrated their activity on promoting women workers into labor unions that also had strong affiliations with left-wing political parties (Inoue 1981; Tanaka 1996).¹⁵ For instance, Kato Shizue stated that because she withdrew from activity of the Democrat Group of Women and devoted herself to her Diet member's activity because the group focused on activities affiliating with the Japan Communist Party (Kato 1985). In the 1950s, when the myth of the full-time housewives was created, a unique type of women's movement emerged. The new feminism in Japan was called 'housewife feminism' (Kanai 1996, 13; Liddle and Nakajima 2000; Shiota 1990). While the socialist women's groups in the 1950s and 60s concentrated on political issues such as the anti-U.S.-Japan Security Treaty and the anti-Vietnam War movement, the housewife groups rather aimed at solving problems of everyday life such as education, environment, and consumer rights, from the standpoint of 'mother' and 'housewife,' not 'women' (Liddle and Nakajima 2000; Yamaguchi 1992). Thus, neither socialist nor housewife groups had focused on women's liberation and gender equality unlike the women's groups after the 1970s.

The failure of housewife feminism to challenge traditional gender roles derived from their identity based on the dimorphic gender consciousness that praised the full-time housewife's status. Consequently, the strong ties between the women's bureau in the

¹⁵ The socialist women's groups having long history prior World War II continued to organize women into labor unions, but still adhered to the traditional Marxist idea that actualization of a classless society would bring about elimination of oppression of women (Tanaka 1995).

MOL and the women's groups disappeared. Instead, these women's groups maintained strong relationships with other government agencies and political parties, which dealt with problems of consumer issues. The affiliation with government agencies and political parties characterized the housewife's consumer groups. Moreover, unlike the women's groups in the pre-war period, the women activists formed national-wide organizations, which could make impact on politics directly and effectively. The National League of Regional Women's Organization (established in 1952, *Chifuren*), the Housewives Association (established in 1948, *Shufuren*), and the Japanese League of Women Voters (Buckley 158, 1994) represented housewife feminist groups. These groups emerged in the late 1940s and 1950s and developed into the main forces of the movement in the 1960s. In particular, the first two organizations carried out massive lobbying activities with governmental agencies and political parties and exchanged information on consumer products and their prices with them to remove poor quality products and exorbitantly price-products (Buckley 159-160, 1994).

In the 1960s, the nation-wide Mother-oriented Movement (*haha oya taikai, undō*), which committed to various peace movements such as anti-war and anti-American bases, also became active (Buckley 1994, Mackie 1988).¹⁶ Under a slogan, "Mothers, who give birth to life, desire to protect and bring up the life," maternal identity played an active role in making coalitions of women's groups to mobilize the various peace activities (New Japan Women's Group 1995, 29). Unlike the housewives movement, these mother movement groups, opposing the U.S.-Japan Security Treaty, had no connection with the government but kept strong tie with the opposition parties.

¹⁶ In fact, 'the Mothers Congress' played active roles in making coalition of women's groups to mobilize the various activities [Buckley, 168, 1994 #82].

However, both the groups of consumer and peace activities in the 1960s shared common characteristic, that is, “the conservative position on issues of women and work” (Buckley 161, 1994). Both groups paid no attention to the working conditions of women because of their identity with ‘mother and wife’, and did not generate a propulsive force to push the BWM to take the initiative in legalizing gender equality in not only employment but also society.

3.2.3. *U-man Ribu* Feminism

In the early 1970s, a new type of feminism emerged in Japan. Some women activists in the New Left movement in the late 1960s had become disillusioned with the patriarchal nature of male members of the movement, who forced them to perform only supplement works such as housekeeping, typing, nursing care, and excluded them from decision-making processes (Steinhoff 1996). They began to attack the traditional values of the gender relations that the socialist activists could not destroy and attempted “to establish their own movement, separate from men, in order to liberate themselves (Tanaka 1995, 345).¹⁷ The *u-man ribu* (transliteration from English, women’s lib) movement indicated women’s dual oppression, in which rules of not only social class but also the patriarchal social system subjugated women in both public and private spheres (Ibid.). Further, the new feminism valued identity as women rather than identities as mothers and wives by focusing on the self-awareness of individuals (Kōdō suru kai 1999, 13; Tanaka 1994). To nurture the women’s identity as women not as mothers, the *u-man ribu* movement had women’s eyes opened to the stern realities of gender

¹⁷ While American scholars attempted to indicate that “the movement shared much more in common with” the Second feminist movement, Japanese activists and scholars paid more attention to “distinct factors from its American counterpart” (Buckley 172, 1994). However, it was exceptional that Jane Condon (1985) states that Japanese feminists were inspired by the writing of Betty Friedan and Gloria Steinem.

discrimination in society by utilizing consciousness-raising as a means (Tanaka 1994).¹⁸ The other *u-man ribu* group, as a result of this self-discovery, focused on women's sexuality, particularly on freedom of utilization of the contraception pill (Buckley 1994). The transformation of the nature of the women's movement was symbolized by the shift of the slogans, 'Let's Contribute to a Richer Tomorrow' to 'Solidarity and Action for Women's Independence' (Buckley 161, 1995). Thus, the *u-man ribu* movement, paying attention to the individuals' consciousness, attempted to liberate women from the traditional gender consciousness.

Unlike the women's groups in the 1960s, the new feminist movement generated a variety of localized and issued-oriented groups (Buckley 1994). The issued-oriented groups included the Group to Protest Sexist Court Judgment against Working Women and Unmarried Women; the Group against Sex Tours to Korea for Japanese Men; the Group to Promote Coeducation in the Study of Home Economics in High School; and the Group Supporting Abortion and the Contraceptive Pill.¹⁹ Among them, the groups aiming at the politics of individual sexual freedom were isolated from not only the Japanese public but also any existing women's organizations, which tended to value identities as mothers and wives. The mass media reported their activities as Chupiren (Confederation of Conceptive Pill) ridiculous and sensationalized the dangers of the *u-man ribu* feminism.²⁰ A large number of feminists were also explicitly critical of the

¹⁸ The *u-man ribu* activists held study groups: "the First Women's Liberation Study-Work Camp in August of 1971, the First Women's Liberation Convention in May of 1972, and the Second Women's Liberation Study-Work Camp in August 1972 and the Second Women's Liberation Study-Work Camp in August 1972" (Tanaka 347, 1995).

¹⁹ Minikomi system maintained close connection among the number of small women's groups, while keeping their independence from the others (Buckley 172, 1994).

²⁰ To see in detail, Ehara, Yumiko, 1985 *Joseikaiho to iu shiso* [The Ideology of Women's Liberation] Tokyo: Keiso Shobo.

u-man ribu groups, which attacked women's values on the housewife's role. The BWM also mostly ignored the movement, while the *u-man ribu* groups also avoided contact with any government agencies. Nevertheless, the new movement had a significant influence on women's movements after 1970's. These *u-man ribu* groups awoke other women activists in the existing groups to the sense of gender inequality in public and private. Thus far, the new movement worked as a bridge from housewife feminism to the feminist movement toward legalization of gender equality in employment.

3.2.4. Insensibility of Gender Equality in Labor Unions before 1975

The dimorphic gender consciousness of male members of labor unions also induced marginalization of women in Japanese labor unions.²¹ Women's battles against Japanese companies over gender-based discriminatory practices were practically neglected altogether by the labor unions' male leaders and members. There were three reasons for the indifference of labor unions to discriminatory treatment against women in employment. First, a unique relation between labor unions and employers, that is, enterprise unionism caused women's issues to be marginalized in labor unions.²² OECD report (1977) indicates that enterprise unionism (*kigyō kumiai shugi*) is one of 'three sacred treasures' of the Japanese employment system.²³ The strong tie between the male employers and the top leaders of labor unions prevented setting an agenda for women's issues in labor unions.

Second, in the 1950s and 1960s, the ideological oriented labor union movement

²¹ For instance, in 1992 27 percent of union members were women, but only 5.3 percent of members of the executive committees and 3.3 percent of members of delegates of the central conference were women. (Fujimura 131, 1993).

²² For instance, the labor union of Mitsui Zosen reached an agreement to create a system of retirement at childbirth for only women with the company (Sakamoto, 130-131, 1973). Nissan Koki also concluded an agreement of forced early retirement (at age of 30) with the labor union (Ibid., 132-133).

²³ The other two are the lifetime commitment practice, the *nenko* wage system.

was also active and organized women into labor unions, which attributed women's oppression to capitalism and which ignored "the complexities of the new reality" generated during and after the high growth of the Japanese economy (Tanaka, 344, 1994). There were two main labor groups having strong affiliation with leftist political parties: *Sohyo* (General Council of Trade Unions) and *Dōmei* (Japan Confederation of Labor). *Sohyo* was the largest and most important federation and is closely linked with the Japan Socialist Party (Krauss 1989). At each election, *Sōhyō* provided the JSP financial and personnel supports. The labor union was also a most leftist of the union federations and its leaders and activists included some very orthodox Marxists. It considered political action against the conservative government as its main goal. In the meantime, *Dōmei* had been the other large union federation with heavy political involvement. It is one of the main supports of the Democratic Socialist Party (DSP), a party whose moderate socialism, support parliamentary democracy, and pro-Western alliance policies causes it to resemble such Western European parties as the Socialist party in West Germany. *Dōmei* is composed primarily of private enterprise unions, and therefore, believed that political activity was but a supplement to its main goal of improving its members' economic benefits through negotiation with employers directly.

Third, membership is generally limited to permanent regular workers, excluding temporary, casual workers and part-timers, which were mainly women. Thus, in most cases of gender-based discriminatory practices by Japanese corporations, women could not rely on labor unions to resolve the problems, but had to organize an issue-oriented group by themselves to fight against the company. In other words, the marginalization of women workers in the labor unions was ubiquitous.

The masculinity of the labor union drove women members into dealing only with issues of protective measures for women and prevented women members from setting agendas of gender-based discrimination, which rested on the one-role ideology male members held, and which saved male employees from layoff. Before 1975 women labor unions members carried out only two strikes, Mitsukoshi Department Case in 1951 to raise women's salary and the Omi Kenshi (silk mill factory) in 1954 to remove the discriminatory rules such as the prohibition of marriage and going out without the company's permissions. Women leaders in the labor unions had been preoccupied by preservation of the protective measures, which they tried to obtain through their female-oriented movement, not by elimination of gender-based discriminatory practices.²⁴

3.3. Activities of the Bureau of Women and Minors before International Year of Women

This section explores how the Bureau of Women and Minors (hereafter the BWM) of the Ministry of Labor implemented the policies for improvement of women's and women workers' status under the situation in which almost all groups had been indifferent to the issue of gender equality. As Chapter 2 examined, the BWM had lacked the legal and political power to prevent gender inequality in employment, while acknowledging the persistence of the gender inequality in employment.

²⁴ As Sandra Buckley argues, Just as in the 1910s and 20s when economic development had similarly favored the entry of increasing numbers of women into the work force, a discourse of motherhood and the family was quick to surface through the 1950s in opposition to the emerging women's labor movement Buckley, S. (1994). "A Short History of the Feminist Movement in Japan." *Women of Japan and Korea: continuity and change*. Edited by J. Gelb and M. L. Palley. Philadelphia: Temple University Press, 150-186..

3.3.1. Litigation as Political Opportunity for the BWM

The antagonistic political environments in the 1950s against the women's policy located the women's bureau in the marginalized position within the MOL that was also marginalized within the government. The marginalization of the agency caused to be called the women's Bureau as 'an opposition party within the government [*Kakunai Yotō*] (Muraki 2001). The marginalization of the BWM and its lack of the strong legal and political power of the BWM hindered it from implement effective policies for the rectification of gender discrimination. The agency had already issued an official statement in 1950, which informed Japanese companies that differential treatment on wage between the two sexes was illegal (Japan Institute of Employment 1981). Legally, the director of the BWM possessed only the rights to issue administrative guidance to the companies that the BWM considered to have performed the discriminatory treatment and to advise the director of the Labor Standards Inspection Office to carry out inspections of the alleged companies and factories (Fujiwara 2000). However, administrative guidance could not force the companies to change their practices. The directors of the Labor Standards Inspection Office denied any responsibility for taking any measures to remedy the gender discrimination even after the court decision in the Sumitomo case except for clear cases of wage differentials (Upham 1987).²⁵ In 1967, the BWM convinced the government to ratify the ILO Convention Number 100th on Equal Pay, which prohibits wages differential between the two sexes (MOL 1988). However, the treaty also has no enforcement power over signatory countries to force the enactment of laws to prohibit the

²⁵ Most cases of wages differential are difficult to prove because wage systems are always related with promotion of the employees concerned. At the entry into a company, there is no wages difference between the two sexes. However, because women workers' promotion is lagged behind that of men workers, the gap of the wage becomes wider.

wage differentials. Thus, the BWM paid acute attention to wage differential cases, which clearly violates Article 4 of the LSL, but was utterly unable to devise any appropriate measures to cope with other discriminatory treatments, which no laws in Japan directly prohibited (Upham 1987).

However, the Sumitomo Cement case gave the agency the motivation to deal with the problems of the discriminative retirement of women workers. It was not until January 1965 that the BWM published an information booklet, which disclosed that the great majority of Japanese companies had employed the discriminatory retirement system (Josei Rōkyōkai 108, 2000). After that, the bureau gave priority to the elimination of overt gender inequality such as the discriminatory retirement system (Upham 1987). It was not until the beginning of the 1980s that the bureau issued the first administrative guidance, which urged the withdrawal of the system (Ibid). Only after the court made decisions favorable to women plaintiffs, did the BWM implement effective policies to discontinue the retirement system. In 1983, 90 percent of Japanese companies previously maintaining the discriminatory system on retirement had discontinued it, and 70 percent had eliminated all forms of the separate retirement system (Hanami 159, 1985).

The enforcement activity of the BWM had been limited to overt and explicit discriminatory treatments, and ineffective against legally ambiguous practice such as promotion, job assignment, and rotation policies (Upham 1987). In addition, the bureau had carried out only 'enlightenment guidance' to deal with the special problems of the increase of female part-timers and the refusal to hire female university graduates (Ibid. 147). Women's frustration was elevated by slow and unpredictable judicial decisions,

and they began calling for judicial reform (Buckley 1994). Women bureaucrats in the BWM also began to recognize the necessity of rearranging the legal system that secured substantial equality in employment and removed the protective provisions for female workers.²⁶

3.3.2. Two Legislative Actions for Working Women before 1975

The marginalization of the BWM within the government had the agency concentrate their jobs on activities of survey, research and education of the society. In the late 1960s, the BWM expanded the scope of its task from passive activity to active activity such as legislative efforts. Under the situation in which women workers had begun to continue working and married part-time women workers increased, the women bureaucrats of the BWM endeavored to lobby for certain protection of the women workers: the Industrial Home Work Law (*Kanai rōdō hō*) (1970) and the Working Women's Welfare Law (*Kinrō fujin fukusi hō*) (1972). The Industrial Home Work Law aimed at protecting the housewives, who were employed by factories as home-workers and obtained extremely low income but received no protection by any labor unions and laws. In the 1960s, 2 million women were involved in the practice of the homework employment to supplement their household-income (Japan Institute of Employment 1981). The latter law aimed at furthering the welfare of working women by taking appropriate actions to help them reconcile their dual responsibilities of work and home (ILO 1972; Japan Institute of Employment 1981).²⁷ However, both laws just

²⁶ Early in the 1970s, the Working Women's Welfare Law, which aimed at addressing the specific conditions of women's work, was enacted. Similarly, the maternity leave to public servants (1972), and the Child Allowance Law (1971) were implemented.

²⁷ The latter law stemmed from a report of the Labor Force Research Committee in November 1969, which expected a shortage in the labor force and suggested to increasing use of the under-utilized middle-aged women in the labor market (Keizai Shingikai 1969).

'recommended' employers in Japan to implement some measures for creating more comfortable working environments for their women workers. Whether the recommendation was accepted was left to the discretion of the companies. Thus, the law possessed no enforcement power to assess employers' substantive penalties for noncompliance with the law (Lam 1992). Hence, women activists criticized the two legislations for losing their edge at the very outset and called them "Band-Aide measure(s)" (Buckley, 163, 1994).²⁸

Nevertheless, the two legislations were the first major policy reform that aimed at addressing the specific conditions of women's work and demonstrating that the BWM recognized a woman's right to work full-time (Ibid.). Thus, the women bureaucrats of the BWM zealously sought a chance to enact more powerful gender equality laws in employment because they realized that the existing laws were lacking an edge. Before the International Women's Year of the United Nations the BWM keenly realized the urgent necessity of reforming the legal system for women workers, while paying attention to the protection of women workers and their working conditions.

3.4. Conclusion

This chapter scrutinized how the economic, social, and political background of the need for gender equality law in employment influenced the policymaking activity of the BWM. Japan's rapid economic growth and the development of service industries increased the number of women workers in the 1960s and also created the discriminatory employment system against the women workers, who were forced to quit their job at marriage, childbirth, or childrearing. These discriminatory practices of employers and

²⁸ This comment was done by Tsukahara Toshirō, Minister of Labor. Takahashi Nobuko, a director of the BWM had similar comment in this committee.

the troubles of women workers attracted less attention in the society because of the widespread myth of the full-time housewife rooted in the patriarchal-complimentary gender consciousness of Japanese society. Even the labor unions led by the male workers in Japan were apathetic to the problems of inequality between the two sexes. Thus far, the BWM also failed in producing the framing process in which the women activists acknowledged the necessity of the legal measures, while it had devoted in spread the idea of gender equality to the society.

Because of the ineffectiveness of the BWM in coping with the problems, women victims attempted to obtain remedies for the unequal treatments of the employers through litigation. The series of cases favoring women workers pushed the women bureaucrats of the BWM to deal with these problems. Thus, the litigation favoring women workers became the political opportunity for the BWM to motivate it to obtain legal measure to rectify the inequality between the two sexes in employment.

The significance of the BWM to cope with the problems of women's employment issues began to be recognized within the government, although there was no political opportunity to change the four limitations of the BWM. The demand of employers in Japan to increase the number of women workers, the emergence of the discriminatory employment system, and the series of litigations about inequality between the two sexes in employment reinforced the *raison d'être* of the BWM within the government. During this period, there was no movement for dissolution of the agency, although the government never attempted to strengthen its bureaucratic power. However, as the discriminatory employment system appeared and the litigation increased, the bureaucratic ineffectiveness of the BWM became more apparent. Still the BWM

had been marginalized within the MOL and government.

The BWM continued its broad jurisdiction, but it could not intervene in the jurisdiction in other ministries. Therefore, the other women's policies favoring the full-time housewives impeded the efforts of the BWM to rectify inequality between the two sexes in employment. Moreover, the policy focus of the BWM has moved from the improvement of women's welfare to the betterment of working women's working conditions gradually since the 1960s.

Isolation of the BWM from women's groups was more obvious than in the previous period. Because the members of the women's groups held the identity as housewives, not as independent women, the activities of the groups also concentrated on problems of daily life or the peace movement from their maternal standpoint. Moreover, the widespread dimorphic gender consciousness in Japanese society prevented attention to gender inequality in employment as infringement of a human right. Thus, the policy alliance between the BWM and the women's groups to cope with the discriminatory employment system against women workers did not emerge.

During the 1960s and the early 1970s, the BWM expanded its scope of activity. Because women workers began to continue working and married part-time women workers increased, the women bureaucrats of the BWM endeavored to legislate for certain protections of the women workers: the Industrial Home Work Law (*Kanai rōdō hō*) (1970) and the Working Women's Welfare Law (*Kinrō fujin fukusi hō*) (1972). However, these two laws aimed at guaranteeing women workers' welfare not at rectifying gender inequality in employment. Moreover, the laws lacked penalty provisions and enforcement power. Women bureaucrats of the BWM desired to expand its scope to

enact a strong law, which could deal with the problems of inequality in employment against women workers. Thus far, the BWM failed in creating the framing process and the mobilizing structure, while having the small political opportunity to motivate the enactment of the new law for the rectification of gender inequality.

CHAPTER 4

DEPARTURE FROM POLITICS OF PROTECTION: AGENDA SETTING PROCESS

This chapter examines how the Bureau of Women and Minors (hereafter BWM) in the Ministry of Labor (hereafter MOL), while having the four limitations on policymaking, set the passage of a gender equality law in employment as a political agenda for the Japanese government under the adverse circumstances in which neither the political elites nor the public had little concern for the issue of gender equality in Japan. To gain political agenda status for an issue is a first and a most significant of many difficult steps to enact a new law. In order to examine the agenda setting activities of the women's bureau, it is necessary to examine "how the environmental variables of social, economic and political climate enabled women bureaucrats to set the issue of gender equality in society as a significant political agenda" (Lovenduski 1986, 248). As the previous chapter analyzed, social and economic climates were indifferent in gender equality issues. In this chapter, I explore what political climate enabled the women's bureau of the MOL to set gender equality issue as a political agenda.

In the process of agenda setting, the women bureaucrats of the BWM obtained international political opportunities that enabled them to communicate the necessity of policy change to not only the public but also the other government ministries and the political party in power; and persuade them to prioritize the issue of legalization of gender equality as a political agenda. Yet, did the black ship [*kurofune*] force Japan to accept the idea of gender equality? Or did the BWM utilize the international influence to persuade the male elite counterparts? How did they persuade their counterparts in bureaucracy and the legislature to enact them by using the international influence? Did

the BWM create the mobilizing structure and the framing process to co-opt women's groups in the activities of the agenda setting? The section answers these questions.

4.1. Political Opportunity in the Agenda Setting

The section examines what kinds of political opportunities the BWM obtained and how it utilized to achieve their goals, focusing international political opportunities.

4.1.1. Internationalization of the BWM

After the Japanese government participated in the United Nations in 1952, activities of the United Nations have influenced various domestic policies in Japan and gender equality policy is not exceptional. For the BWM, the United Nations was the significant place to obtain not only a variety of information abroad but also political opportunities that enable women's rights issues to be legitimated and the women's bureau to formally set the issues as political agenda. This section explores how the BWM had been internationalized and institutionalized the women's rights issues in domestic policy by using the United Nations' events in order to examine political opportunities that provided to the BWM in the subsequent chapter. Why and how did the agency join in their events on its own initiative? At the outset, the activities of the international organizations in terms of gender equality are examined and then, the activities of the BWM at the international level are examined.

4.1.2. Events of the United Nations

The principle of gender equality has been established, been documented, and monitored its implementation at the international level since the 1940s (Armstrong 1982, 1996; Donnelly 1986; Gibson 1991; Szego-Brokor 1978). The core documents of this principle are the United Nations' Charter and the Universal Declaration of Human Rights.

The United Nations' Charter includes the phrase, "The people of the United Nations determine to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women..."(Karl 1995, 122). The Universal Declaration of Human Rights, adopted in 1948 also affirms that "Every one is entitled to all the rights set forth in this Declaration, without distinction as to race, sex, nationality or religion" as part of the human rights provision (Ibid.). Moreover, the United Nations adopted more than sixty human rights documents by 1982 (United Nations 1983).

These documents aimed at legitimating the issues of human rights for not only the international community but also nation-states. Then, "the supranational institutions were expected to set standardized guidelines to be followed and implemented by all nation-states as far as the well being and the rights of their respective citizens were concerned" (Berkovitch 1999, 103). This process of institutionalization of human rights issues as a global agenda helped women's rights issues become a global agenda (Ibid.). The 1967 UN' General Assembly adopted a Declaration of Elimination of Discrimination against Women and designated the year 1975 as the International Women's Year. In 1972, the UN's General Assembly decided on a slogan: 'equality, development, and peace' for the International Women's Year (hereafter IWY). Thus, this first intergovernmental conference on women was held in Mexico City from June 16 through July 2, 1975.¹ In the First World Women's Conference, two documents emerged: 'The

¹ Diana G. Zoelle (2000) indicates complexity of intentions within the UN to adopt the IWY as followings.

"The United Nations' direct involvement in affecting the situation of women occurred when, as a result of studies outlining the third world crises in population and food early in the 1970s, the UN system was forced to recognize the importance of women's contributions, and the critical nature of their roles, in each of those area of life. At that time there were virtually no women in

Declaration of Mexico on the equality of Women and their Contribution to Development and Peace' and 'The World Plan of Action for the Implementation of the Objectives of International Women's Year.' In October 1975, the UN declared 1976-1985 the Decade for the Advancement of Women, during which various policies for women were to be implemented at intergovernmental and governmental levels. The World Action Plan proposed actions and set targets for the decade in a wide range of areas including political participation, education, health and employment (UN 1976).

From the moment the BWM was established, women bureaucrats desired to participate fully in activities of the international organizations to raise working conditions for women workers to the same level as in the other industrial states. Since the 1950s, the BWM endeavored to make contact with international society. Even through the crisis of its attempted dissolution in the 1950s it sent members to various events and seminars organized by the United Nations to obtain information about female labor policies in other states of the UN² (WLA 2000). In 1950, five years before Japan had a seat in the United Nations and two year before Japan was independent, the BWM sent an officer, Takahashi Nobuko, to attend a meeting of the Commission on the Status of Women (hereafter CSW) as an observer (WLA 2000). Since then, the members of the

the mainstream UN system in a representative capacity. Still a far cry from sensitizing itself to the diverse voices of women and with few mechanisms by which to avail itself of their collective knowledge, the UN unanimously adopted a recommendation from CSW that 1975 be declared IWY. Unfortunately (though predictably), the focus within the mainstream UN system was not the liberation and equality of women, but the ways in which women could be instrumental in the efforts to address the aforementioned crises (61). As a result of the complexity within the UN and its member countries, the women's conferences always was occupied by political disputes between north and south, east and west, and among religious groups, rather than discussions over how to obtain equality of women.

² The Japanese participant was just an informal observer in 1950. In 1952, a chief of the Minors section attended the committee as a formal observer. A chief of the Women's Work section presented herself at the Textile Committee of the International Labor Organization (hereafter ILO) as a first woman representative of the Japanese government in 1953. Japan won the election of the committee membership of the UN's Women's Status for the first time in 1957 [Miraikan, 10-12, 2000 #69].

BWM have been sent to various meetings and seminars organized by the UN and the International Labor Organization, which has been a treasure trove of information on women's labor policies abroad.

4.1.3. Skepticism of Protective Legislation for Women

The most shocking information for women bureaucrats of the BWM from the international organizations was an argument that dismissed the notion of protection for women workers. Protective legislation for women had been prevailed in industrial nations in the pre-war period and imposed employers limitation of women's working hour, night work, holiday works. Protective legislation for women had been implemented in the major industrial nations since the middle of the nineteenth century for various reasons including labor unions' intention of reducing competition increased by women's participation in employment as lower paid workers, socialists' intention of protecting women from harsh working environments (Berkovitch 1999; Boxer and Quataert 1987; Connell 1980; Koven and Michel 1993).³ Moreover, the protective legislation divided women into two groups: 1) women in a middle class who are anxious that protectionism only for women might limit to chances for employment and for promotion and 2) working women in labor unions who consider protective legislation as their achievement (Berkovitch 1999; Boxer and Quataert 1987; Sowerwine 1982). Until the 1950s, the international organizations had adopted the workingwomen's argument and promoted the protective legislation to national governments which had not implemented yet. However, the ILO, the big protector of working women, posed the question of the protective legislation in the Asian Regional Conference of the ILO in 1950 (Berkobitch

³ By the 1910s, about twenty countries including most Western Europe, Australia, Japan, New Zealand, Russia, the United States, and Uruguay) had adopted any kind of protective legislation for women (Blanpain 1977-1990).

1999).

The early socialists' idea that women should be protected because they have maternal roles and assume family responsibility was criticized for its strong implication that women were gendered and subordinated workers associating with domestic sphere not public sphere (Berkovitch 1999). Since 1950s, the International Labor Organization (hereafter ILO) began discussing necessity of the unique protective measures for women. In 1950, the Asian Regional Conference of the ILO posed the first question and stated that "the strict enforcement of legislation for the protection of women and young persons might have the undesirable effect of reducing employment possibilities for women and young persons (quoted from Berkovitch 1999, 122). Yet, not so much action was taken in the international organizations and rather, the legitimacy of the protective legislation had been emphasized in most parts of the world until the early 1970s (Karvonen 1971).

In the 1970s, the removal of the protective legislation attracted the attention of policymakers for women's issues at a domestic level who participated in events at an international level. Moriyama Mayumi, the fifth director of the BWM, became acquainted with argument of the removal of protective legislation at the international level and national level of western industrial countries when she participated in international seminars organized by the United Nations. In 1970, she attended a UN seminar in the Soviet Union with the theme of "Women' Roles in the Economic Society" (Moriyama 2001, 76-6). Among women participants from more than thirty countries, there was a male participant from Sweden, who astonished her deeply. While the women participants insisted on necessity of protective measures for working women, who had the double burden of home and the workplace, to lessen gender inequality in

employment, the Swedish male participant stated that the Swedish government did not grant protective measures only to women workers but also to men workers because protection for only women was discrimination in favor of the women (Ibid.).⁴ Among the participants, the Swedish official's opinion was in the minority, and no other participants agreed with his opinion (Ibid.). However, in September 1974 when she attended another UN seminar in Canada, almost all of the participants announced the transformation of women's policy from protection oriented to gender equality oriented, as the Swedish delegate had asserted in 1970. She was more shocked by the fact that "the world had advanced during the time when Moriyama left the BWM to work for other sections of the MOL (Ibid.). She came back to Japan from the UN seminar recognizing the necessity of the transformation of policy orientation from providing protection for women to obtaining gender equality.

When Moriyama Mayumi assumed the fifth directorship of the BWM in 1974 as a first genuine female bureaucrat, who passed the Examination for Upper-class Public Officials as the first woman university graduate and was promoted to this position, she had already decided to start a campaign of equality between the two sexes within the government in accordance with the UN's policies (Moriyama 2000). The most significant activity of the BWM was to participate in the first World Women's Conference. These international activities helped the elite Japanese women in the BWM perceive the transformation of the discourse of equality.

4.1.4. Collaboration with Women's Groups

The women's agency in the MOL played the main roles in disseminating

⁴ Such an argument could be found in the pre-war period when a special protection for women was advocated for the first time. The Norwegian representative of the ILO in 1919 opposed a special protection for only women and advocated prohibition of night work for all workers (Berkkovitch 1999, 89).

information of the first World Women's Conference and preparing for participation in it in spite of opposition from other ministries (Kubota 2000). In 1974, the BWM and the United Nations' NGO National Women's Committee (*Kokuren NGO kokunai fujin iinkai*) organized 'The National Liaison Conference of the International Women's Year' as a preparatory meeting by inviting more than twenty women's groups in Japan (Asahi Shimbun, 6 January, 1975). In this meeting, the BWM decided to hold a government-led conference for women in November 1975 to publicize the UN's events for women and equality between the two sexes.

The BWM struggled to persuade the government to send delegates of the Japanese government to the first World Women's Conference. The Ministry of Finance, particularly, strongly opposed allocating a budget for sending the delegates to the conference because of financial reasons and the insignificance of the conference (*Kokusai fujinnen Osaka no kai*, 1985). The BWM began to lobby within the government to demand the dispatch of the delegates in cooperation with the women's groups invited to the Liaison Conference, which carried out lobbying activities from the outside (*Ibid*). The Ministry of Finance finally agreed to allocate the budget, which enabled the delegates to attend the first World Women Conference. As a result, in June 1975, the Japanese government sent to the Mexico Women's Conference a delegate group including Fujita Taki (the second director of the BWM) as the head of the delegation, Moriyama Mayumi (the then director of the BWM) as the government delegate and five women and five male government delegates with ten women non-partisan Diet members (Asahi Shimbun, 19 June, 1975). Thus, the BWM took the initiative in forcing the Japanese government to dispatch the delegates to the first World Women's Conference.

Because of the participation in the world conference, the BWM became the central agency that connects between state feminism and global feminism.

4.1.5. The First Women's Conference in Mexico

This first World Women's Conference in 1975 was symbolic of transformation from protection politics to equality politics on women's labor issue. The Declaration on Equality of Opportunity and Treatment for Women Workers adopted by the conference was very clear about the need for general protection such as maternal leave. Women's maternity functions including pregnancy and childbirth were considered valid reasons for separate protection because of their biological nature. Yet, the document dismissed any notion of the unique needs that only women might have. It stated "women shall be protected from risks inherent in their employment an occupation on the same basis and with the same standards of protection as men" (Art.9 [2]). Moreover, the World Action Plan ascertained that special treatment for women's workers should be removed or expanded to include men (Akamatsu 1990; Kōdō suru kai 1989; Ōwaki 1985). For instance, before the International Women's Year, the ILO had recommended giving childrearing leave to only women, who were assumed to take family responsibility, while after 1975 it advised providing it to both sexes. Thus, the first World Women's Conference clarified its transformation of policy orientation from protection to equality.

The other external influence on domestic politics originated from 'the World Plan of Action for the Implementation of the Objectives of the International Women's Year' adopted by this first World Women's Conference in Mexico in 1975. The World Action Plan was not a treaty that would have had precedence over national laws, but just a suggestion that was to be honored by participatory countries. The 1975 World Action

Plan primarily advised national governments and organization to set targets for a ten-year period in a wide range of areas including political participation, education health and employment (Karl 1995). In particular, this Plan indicated that the dimorphic gender consciousness caused discrimination against women in society and employment. These UN's events provided the women bureaucrats of the BWM a precious political opportunity not only to disseminate knowledge of gender equality to the public but also to prepare for legalization of gender equality in employment, although the preparation for the legalization led to an intense debate on definitions of sexual equality between the two sexes.

4.2. Framing Process between the BWM and Women's Groups

4.2.1. Alliance of the BWM with Women's Groups

The BWM utilized the events of the UN in 1975 concerning women's issue to mobilize women's groups such as National League of Regional Women's Organization (*Chifuren*, hereafter NLRWO), the Housewives Association (*Shufuren*), and the Japanese League of Women Voters (*Nihon Yukensha Dōmei*, hereafter JLWV) led by Ichikawa Fusae, a prominent feminist activist from the pre-war period, though excluding the *u-man ribu* groups. These housewife-feminist groups influenced by the *u-man ribu* movement also began to perceive gender inequality in the society and searched for a new objective for their movements concerning the gender equality issue. Thus, the BWM's intention to mobilize the women's groups to support the government-led gender equality movement overlapped with the women's groups' interest in the new type of women's issue. However, since the women's groups and the BWM did not share the same objective, a certain degree of alliance was created to participate in international events,

but an alliance for enacting gender equality law in employment was not formed.

The most effective means for the BWM to advertise the UN's events to the public and simultaneously to mobilize Japanese women's groups were to hold a conference so huge that it would attract the mass media's attention. The BWM held **the Japanese Conference on Women's Problems for the International Women's Year** (*Kokusai fujinen Nihon fujin mondai kaigi*) on November 5, 1975 in cooperation with a large number of women's groups. The participation of the women's groups in the BWM-led conference should have been the first step of the creation of a policy alliance between the BWM and women's groups. However, the conference was held under a strong police guard because of the fierce opposition of women's groups to the attendance of the emperor and empress (Asahi Shimbun, 5 November, 1975).

The attendance of the emperor and empress at the BWM-led conference made two contrary impacts on the bureau. The positive influence of their attendance was that the appearance legitimized the BWM's policy objective to improve gender equality in employment. The MOL never before had succeeded in inviting the royal family to their events. Because of the nature of labor issues, which involved ideological controversy, the Imperial Household Agency tried to prevent the royal family's involvement. Their presence surprised the male bureaucrats and politicians reluctant to support gender equality issues and the public indifferent to them, showing that the government had already granted legitimacy to the BWM and its activities associated with the UN's event (Moriyama 2001; Sato 1979).⁵ On the contrary, leftist women's groups and *u-man rib*

⁵ Moriyama Mayumi, a director of the BWM during 1974 and 1979, expressed her gratification for the Royal Family's attendance at the conference by using a term of "*kuzen zetugo*", (There never was and never will be such a happen) Moriyama, M. (2000). *Josei gyousei 50nen wo kaiko site. Mirai wo Hiraku: Roudoushou Josei Gyousei Hanseiki no ayumi*. Z. h. J. r. kyouka. Tokyo?Josei Roudou Kyoukai: Josei to

groups opposed the attendance by arguing that gender discrimination was deeply rooted in the patriarchal royal family system per se (Asahi Shimbun 5 November, 1975b). Consequently, some women's groups became more skeptical about the BWM's intention to rectify gender inequality in society and attempted to put distance from the government agency for women.

4.2.2. Emergence of New Women's Groups

The UN's events yielded two leading women's groups and set in motion lobbying activities. In October 1974, the First National Liaison Conference of The International Year of Women organized by the BWM together with the United Nations' NGO National Women's Committee (*Kokuren NGO kokunai fujin I'inkai*) generated a large, mass non-governmental women's group, which wished to play important parts in eliminating gender-based discrimination in society. Since the group was more individual-oriented and skeptical of the policymaking intention by the BWM, it focused on more demonstration and rallies than lobbying activities.

In late November 1975, the civilian-led conference yielded a more group-oriented group, which focused more on lobbying activities not only with the government but also with all related organizations. Some members of the two groups overlapped at the beginning. Two female members of the House of Councilors, Ichikawa Fusae, a feminist activist ever since the pre-war period and a non-partisan Diet member and Tanaka Sumiko, a former-women bureaucrat in the BWM and a socialist Diet member, played significant roles in mobilizing various women's groups and women activists from socialist oriented to housewife feminists in the two leading women's

Shigoto no Miraikan.. The author speculates that the BWM endeavored to ask the Imperial Household Agency for the attendance of the Royal Family.

groups. They never made an ideological appeal, but urged on them the significance of women's solidarity and the group-oriented activities associated with the UN's events of the Year of Women and the Decade for Women (Kōdō suru kai 1999).

The first groups, the **International Women's Year Action Groups** (*Kokusai fujinnen wo kikkake toshite kōdō wo okosu on'natachi no kai*) organized the committee members of the preparatory conference, who desired a new women's movement focusing on more individual participation and less on radical issues (Kōdō suru kai 1999).⁶ Using its extensive nationwide network of regional action and study groups, they succeeded in mobilizing very many women activists and spreading a rapid and comprehensive critique through both the informal channels of the *minikomi* (transliteration from mini-communication in English) by distributing pamphlets and booklets to the members and the mainstream media (Buckley 1994).⁷ In September 1975, the Action Group complained to television stations including the NHK (Japan Broadcasting Corporation), and private companies about gender inequality on television programs. Particularly, the Action Group was famous for its attack against a TV commercial of House Food Inc., in which a girl was defined as the person taking responsibility to cook food, and a boy was considered as the one, who ate the prepared

⁶ The most famous and momentous activity of the group in the 1970s was to accuse a largest food company in Japan for gender-based discrimination in the TV commercial Film. In this film, a boy called to a girl, "I am a person, who eats. You are a person, who makes." The understandable gender role in the film edified the Japanese people on the context of gender-based discrimination, which was extremely abstract before.

⁷ The group was sharing a nature of a new socialist movement, which is not creating a pyramid structure, which usually includes a chair or committees that give the members commands, but more horizontal relations among the members. Ichikawa Fusae was one of the mediators not a chair of the group. The mediators including Tanaka Sumiko, Kajitani Noriko, Takeda Kyoko, Nakajima Satomi, Nakajima Michiko and so on composed a mediators' meeting, in which everyone could participate and set agendas. A person, who set an agenda, became a leader of the action without any permission or command. Therefore, the scope of the group expanded to education, labor, media, housewives, prostitutions, divorce, policy-making and so on Kōdō suru kai, (1999), *Kōdō suru on'na tachi ga hiraita michi*. (Tokyo: Miraisha). In June 1975, a member of the group, Yoshitake Teruko attended the conference in Mexico not as a leader but as a member Ibid..

food (Asahi Shimbun, 24 September, 1975). The strong critique toward the obvious image of the dimorphic gender relation in the TV commercial film promoted the public's understanding of what gender inequality based on the division of labor between the two sexes was. Moreover, the first demand to legalize gender equality in employment was derived from the Action Group's activities. In March 1976, the group submitted to the Ministry of Labor and the Prime Minister's Office a list of demands, based upon the proposals of the World Action Plan adopted by the UN's World Women's Conference and the ILO's General Meeting in 1975 (Asahi Shimbun, 6 March, 1976).⁸ Thus, the Action Group's activities, emphasizing that Japanese society still lacked *de facto* equality, brought the women activists into contact with the BWM.

One of the most powerful women's groups in the last quarter of the twentieth century in Japan also emerged in the International Women's Year. The civilian-led **Japanese Conference on the International Women's Year** was held on November 22 1975, involving more than 2,200 women attendances (twice as many as those at the government-led conference) (Asahi Shimbun 22 November, 1975). In the conference, these women attendees decided to establish a comprehensive coalition group of women's groups in Japan, the **Liaison Group for the Implementation of the Resolutions from the International Women's Year Conference of Japan**, (an abbreviated title is the Liaison Group) (*Kokusai fujinnen Nihon taikai no ketugi wo jitugen surutame no renrakukai*). The group consists of organizations from a wide range of fields (48 groups with almost twenty-five million members), including general women's organizations,

⁸ The demands included 1) guarantee of gender equality in all stages from recruitment to retirement, 2) protection of maternity, 3) expansion of the general protective measures for female workers to male workers, 4) expansion of childrearing to male workers and 5) establishment of an institution which deals with working women's problems.

professional women's organizations, religious women's organizations and the women's divisions of labor unions, while overlapping the members of the Action Group (Equality 1994; Yamaguchi 1992).⁹ Promoting the slogan, "To eliminate gender discrimination, to strengthen women's power," the conference recognized deep-rooted gender discrimination in the Japanese society through discussion about women in "politics, education, labor, family, and social welfare" (Yamaguchi, 54, 1992). The keynote speaker in the conference stated that political and social reforms would be crucial for elimination of the gender inequality, while attributing gender inequality partly to women's gender consciousness (Ibid. 54). Finally, the conference adopted a resolution demanding that the Japanese government formulate and implement a National Action Plan in Japan according to the 1975 World Action Plan. Thus, the conference decided to start lobbying activities toward a wide range of parties, such as the BWM, the MOL, the National Personnel Authority (*Jinji in*), the OWA, political parties, labor unions, business circles, and local governments (Ibid. 56). The Liaison Group still plays significant roles in lobbying activities within the government in the early twenty-first century. Thus, the UN's events turned the women's groups' attention to the significance of legalization and encouraged them to participate in the legislative process (Buckley 1994; Mackie 2000).

4.2.3. Alliance with Women Leaders of Labor Unions

The UN's events in 1975 concerning women's problems also made a huge impact on women's policies in labor unions. The most significant problem of labor unions was their masculine nature, which tended to ignore the significance of working women's problems. 30.2 percent of labor unions had no women delegates in 1975

⁹ The Liaison Groups had 52 organizations and 24 million people in 1994.

(Asahi Shimbun, 27 July, 1975). A majority of labor unions had set up a Minors and Women's section mainly composed of and managed by male members. However, a majority of top male leaders of labor unions acknowledged the gender unequal practices of companies before the International Year of Women. The 1973 survey of the Prime Minister's Office shows that 63.7 percent of the top leaders admitted the discriminatory practices of the Japanese companies, while 19 percent denied it. However, 65.9 percent of the leaders, who admitted the companies' discriminatory practices, considered that it was impossible to remove gender inequality in employment (Asahi Shimbun, 27 July, 1975).

However, the International Women's Year slightly changed the masculine structure. In 1975, *Dōmei* strengthened the Minors and Women Bureau and appointed a woman as the vice director with the International Women's Year as a start in implementing women's policies (PMO 1980). It held a national meeting of women in 1976 under a slogan, "Start toward the Year of 1985: Aiming at gender equality—Independence, Solidarity, Action. The slogan clearly demonstrates that *Dōmei* was conscious of the UN Decade for Women, which would finish in 1985. In the meeting, women workers complained not only of wage differences between the two sexes but also gender discrimination in the labor union and their distrust of male top leaders, who never seriously discussed the problems that women workers faced in workplaces (Asahi Shimbun, 13 May, 1976).

Sōhyō also established a Women's Bureau and appointed a woman, Yamano Kazuko, as the first director (PMO 1980). The labor federation also held a central meeting of working women in May 1976 under the slogan, "The International Women's

Year aiming at Equality, Development, Peace” (Asahi Shimbun 15 December, 1976). The participants agreed that the division of labor between the two sexes based on the dimorphic gender consciousness caused gender inequality in employment (Ibid). They criticized the slogan created by *Sōhyō*, “Get as much income so the wives do not have to do homework,” because the slogan assumed that only husbands were breadwinners and wives were beneficiaries (Ibid). Thus, the women leaders of the labor unions utilized the UN’s events to turn the members’ attention to gender inequality in employment and consequently reinforced women’s positions in the masculine labor unions.

Spurred by the International Women’s Year in 1975, the Japanese women’s groups and the women’s bureaus of the labor unions grew rapidly and took on the eradication of employment discrimination as a major cause (Molony 1995). Although the discrepancy of the discourse of equality hindered creation of policy alliances between the BWM and women’s groups as well as labor unions in the decision-making process, the cross-sectional participation in the First World Women’s Conference and necessity of a gender equality law in employment produced an informal policy alliance among them. Thus, the UN’s events provided the BWM the opportunity to create a political spiral toward the gender equality law in employment through involving the women’s groups in the events. In the meantime, the events transformed the identity of the women’s groups from that of a mother and wife to that of a woman, with the objective of requiring gender equality, and the strategy of lobbying, activities that they strongly promoted in the last quarter of the twentieth century. Consequently, an invisible women’s political alliance between the women bureaucrats in the BWM and women’s groups in Japan was unconsciously generated for the purpose of setting the agenda for gender equality law in

employment. Later, the invisible alliance became visible in the process of decision-making for pushing the government to sign the Convention on Elimination of All Forms of Discrimination Against Women as described in the next chapter. Also, the women bureaucrats attempted to include women members of the labor unions in the legislative process by including them in the deliberative council.

4.3. Activities of Political Agenda Setting by the BWM

By using international influence, the BWM created the political environments that allowed the BWM to set gender equality as a significant political agenda. One of the policies implemented by the BWM was to increase its resource to formulate gender equal policy by establishing an agency for women's policy that was in charge of formulation of comprehensive gender equality policy and policy coordination among other ministries. In the next step, what the BWM could do for improvement of gender equality without intervention to private sector and any legal enforcement was to modify government policies not prescribed by laws. Until the early 1970s, the Japanese government had set number of limitations to exclude women applicants from certain public jobs. Because Article 14 of the Constitution can be applied to governmental activities, the BWM, without legal enforcement power, could demand removal of regulation in public sector by indicating the unconstitutionality of these limitations. The third and hardest step of the BWM for agenda setting was to make consensus of the new discourse of equality among Japanese women, particularly women leaders of labor unions and women's groups to obtain their supports for the legalization of prohibition of gender discrimination. In spite of international influence, isolation of the BWM from the women leaders and activists became more apparent because of the

difference-versus-equality debate in Japan.

4.3.1. Reorganization of the Women's Policymaking System

The international influence derived from the UN's World Women's Conference also led to structural change in the women's policymaking system in Japan from the unified system, in which only the BWM took part in policymaking on women's issues, to a plural system, in which a new government agency, the Headquarters for the Planning and Promotion of Women's Policies (hereafter the Headquarters) (*fujin mondai kikaku suishin honbu*), involved vice-ministers of the most government ministries and the agency created the basic outline of women's policy according to the UN's World Action Plan and the BWM formulated and implemented substantial policies based on the basic outline. Yet, the comprehensive policymaking system did not reduce but reinforced the policymaking power of the BWM in the 1970s and 80s.

Just after the Mexico Women's World Conference, Fujita Taki, the second director of the BWM and the top government delegate to the first World Women's Conference persuaded Prime Minister Miki Takeo to established a new policy agency within the government to incorporate the World Action Plan adopted by the World Conference into domestic policies (Zenchifuren 1986, 146). In September 1975, the Headquarters for the Planning and Promotion of Women's Policies (hereafter the Headquarters) (*fujin mondai kikaku suishin honbu*) was established within the Prime Minister's Office¹⁰ (Japan Institute of Employment 1981). The Prime Minister led the Headquarters and vice-ministers of eleven government ministries and agencies including the MOL participated in it. Simultaneously, the Office for Women's Affairs (here after

¹⁰ In 1994, the Headquarters was replaced by the Headquarters for Promotion of Gender Equality within the Cabinet. The Office for Women's Affairs was also renamed to the Office for Gender Equality in 1996 and again, to the Bureau for Gender Equality in 2001 within the Cabinet's Office.

OWA) as a secretariat of the Headquarters within the Prime Minister's Office and the Conference for Planning and Promotion of Policies Women's Policies (*Fujin mondai kikaku suisin kaigi*) as an advisory commission to adopt opinions of specialists and women activists were set up. The official job of the Headquarters were "to clarify the policy objectives of women's issues" for the U.N. Decade of Women (1976-1985) based on advices of the deliberative council and "to carry out policy coordination among the ministries concerned" (Akamatsu 1990, 48-9). Although the BWM had been legally charged with dealing with women's issues until 2001, OWA had formulated and the Headquarters had decided the basic outline of women's policy in Japan for women's issue.

Superficially, the reorganization seemed to narrow the scope of official duty of the Bureau of Women and Minors. However, the BWM possessed strong influential power over the OWA, which had been put in charge of policymaking. For instance, the members of the OWA came from various ministries such as Education, Welfare, and so on, but mainly from the MOL. A majority of the directors of the OWA were sent from the BWM to the OWA. During the 1970s and the 80s, directors of OWA were powerful women bureaucrats from the BWM: Kubota Manae (the former head of Women's Section of the BWM), Akamatsu Ryoko (the former heads of the Women's Section and the Women's Labor Section of the BWM and later the seventh director of the BWM), Takahashi Hisako (the former head of the Women's Labor Section of the BWM and later the sixth director of the BWM), and Shibata Tomoko (the former head of Women's Section). Second, the Headquarters made decisions on the basic outline of policies, but

left the BWM to formulate concrete policies.¹¹ Hence, the BWM could utilize the decisions of the Headquarters to legitimize their policy objectives. For example, when the Headquarters adopted the National Action Plan in compliance with the UN's Action Plan in January 1977, the plan failed to indicate the necessity of legal reforms such as the legalization of gender equality in employment (Asahi Shimbun 18 January, 1977). Yet, the BWM set about legalizing gender equality in employment in 1978 despite the decision by the Headquarters.

Third, the establishment of the comprehensive policymaking system informed the other ministries of the government's intention with regard to women's issues, particularly gender equality issues. Although most ministries except the MOL paid no attention to the World Women's Conference before 1975, the cooptation of the ministers in the Headquarters made the bureaucrats of the other agencies reckon with gender equality in policies. Moreover, the National Action Plan, although criticized as too abstract, indicated the problems to be solved including improvement of women's legal status, promotion of women's political participation, respect for maternity, and improvement of the pension system and instructed the ministries concerned on concrete policies, such as the increase of women members in deliberative councils, removal of discriminatory retirement system and so on (Asahi Shimbun 1 February, 1977). Accordingly, the other ministries could not ignore the National Action Plan approved by the cabinet and also began to pay attention to the UN's events for women, although the plan did not have the power to change these policies.

Thus, the establishment of the Headquarters in the Prime Minister's Office led by the

¹¹ What the headquarters actually proposed was to increase women members of the deliberative councils to 10 percent of the whole to improve unequal proportion (5311 men vs. 151 women in 1977) (Asahi Shimbun 21 June, 1977).

Prime Minister demonstrated the government's intention to promote a gender equality policy. The BWM had justified its existence within the MOL and its efforts to promote gender equality in employment, although it had faced several attempted dissolutions since its establishment. Therefore, the structural position of the BWM was reinforced within the MOL and the government and its policymaking power was increased.

4.3.2. Open Door Policy for Women Applicants

In order to demonstrate the BWM's intention to introduce the new equality discourse, the BWM started lobbying the other ministries to remove limitations on women's application for certain jobs and to increase women members of advisory councils. There were number of jobs, from which women were excluded because these jobs involved night work that the 1947 LSL prohibited women to do (Moriyama 2000).¹² In February 1975, the Director of the BWM and leaders of women's sections in the other ministries demanded Prime Minister, Miki Takeo, to promote recruitment of women in bureaucracy (Miraikan 2000). In October 1975, the BWM sent to the National Personnel Authority concerned petitions for removing restrictions on eligibility to take examinations for national public officials, which excluded women from taking the entrance examination (Ibid.). The women officials of the BWM also visited these ministries to appeal to open the door for women, while most male bureaucrats were

¹² In particular, in 1979, the Ministry of Transportation removed the eligibility of application for air-traffic controllers, colleges of Air Safety, Maritime Safety, Meteorological, and a school of Maritime Safety. According to Moriyama Mayumi, her husband's support enabled these quick removals because her husband, Moriyama Kinji, was the Minister of the Transportation (Moriyama 2000). Moreover, women were allowed to take examinations for air-controllers, Air Force Safety College, Metrological College, Maritime Safety College, and Maritime Safety School in 1979. Also, the Tokyo Mercantile Marine College allowed women to take the entrance examination in 1979. The national tax specialists and the Imperial Guards in 1980 allowed women to apply for the jobs. The government removed the job restriction against women revenue officers at a national level and immigrant officers, and jail officers in 1981, of mailmen at a national level in 1989 (Ibid.). Moreover, the Medical School of the Self Defense Forces accepted women applicants in 1984, and the College of the Self Defense Forces accepted women applicants in 1992 (Ibid.).

reluctant to allow women to take the examination (Amakasu 2000; Moriyama 2001).

Actually, the women officers of the BWM faced much difficulty when they visited other ministries. Two women officials in the BWM were allocated a job to visit the Defense Agency. At that time, because the Self Defense Forces Academy excluded women's applicants, there was no women leader in the Air, Maritime, and Army Self Defense Forces. The Maritime and Air Forces, which had been unfamiliar with women bureaucrats and did not know how to deal with them, gave warm welcome to the two female officers unintentionally. Then, the two forces asked the Army Self Defense Forces to give rough welcome to the two women in order to make them renounce the plan of accepting women applicants, and the Army prepared for a practice to descend by parachute. The two women, who intended to show that women could work for the Army, performed the practice willingly (Amakasu 2000, 79). Also, Moriyama Mayumi, the then director of the BWM, also wrote in her book that when she visited ministries to ask the removal of restriction, a majority of male bureaucrats implied that we don't want to assign so important jobs to women, while they were polite to her on the surface but actually contemptuous of her (Moriyama 199, 2001). Also, she was actually told, "We cannot accept women applicants because of lack of lavatory for women" (Ibid.).

In spite of the male counterparts' unreasonable opposition, she found a strong male supporter of the removal of restriction against women applicants. It was the then Minister of the Transportation, Moriyama Kinji, a husband of the then director of the BWM. For Moriyama Mayumi, the then director, negotiation with Moriyama Kinji to remove the restrictions was the easiest because she knew he had held gender-neutral consciousness. He always encouraged her to have a professional job and to continue her

job as a career bureaucrat even after her childbirth of their three children. Simultaneously, she wanted to avoid criticism that she used her personal relationship with her husband to remove the restrictions. Then, one day she phoned his secretary to make an appointment to him. The secretary was surprised at the phone call and asked the Minister of Transportation whether his wife asked something to him in this morning (Maki 1998). Yet, he had not known why she made the formal appointment as a director of the BWM until she requested him to remove the restrictions that fell under the jurisdiction of the Ministry of Transportation. Then, he began taking initiative in eliminating the restrictions of women applicants for the jobs such as an air-transport controller, a weather officer of the Meteorological Agency, and an officer of the Maritime Safety Agency. The restrictions were removed in January 1979 (Yayama and Ito 1988). Thus far, Moriyama Kinji became the strong driving force to rectification of gender inequality in the government.

The increase of political participation of women was one of the targets set by the Mexico Conference. At first, the BWM sought to increase women in higher positions within the government. In February 1975, the BWM sent to Prime Minister Miki Takeo a formal request that demanded the appointment of more women to section leaders of ministries within the government (Amakasu 2000). In the late 1970s, there were two ministries, the Ministry of Transportation and the Ministry of Post and Telecommunications, which did not hire any female high-ranking officers, while the formal restriction was removed in 1950. A ministry officer attributed the lack of the female high-ranking officer to a lack of a female applicant, while the refused the female applicants to even apply for the Ministry of Transformation at the back. Moriyama

Kinji, the then Minister of Transportation, who knew there were some female applicants, told the leaders that he wanted to interview these applicants directly. Consequently, the ministry hired the female high-ranking officer for the first time and the Ministry of Post and Telecommunications also employed a female applicant. All of the factual closed door of for female applicants for high-ranking government officials was opened in 1979 (Yayama and Ito 1988). Moreover, the BWM demanded appointment of more women in deliberative councils. This demand was included in the first National Action Plan formulated by the Headquarters of Promotion and Planning relating to Women's Programs, aiming for women members to occupy more than 10 percent of the deliberate councils. Now, although the target is up to 30 percent, the policy has been implemented.

4.3.3. Framing Process for a new gender equality law

The fact that private sector had been immune to the open door policy executed by the BWM motivated the women bureaucrats to enact a new gender equal policy, while there were no consensus of how gender equality in the society could be realized among women bureaucrats, women leaders of labor unions, and activists. The more the agenda setting process advanced, the more the discrepancy between the women bureaucrats and the other activists in terms of definition of equality made clear. The women bureaucrats adopted the bureaucratic framing process to reach the consensus. Consequently, the agenda was set, but women activists held dissatisfaction that caused stagnant of the next stage of the political decision-making process for the 1986 EEOL.

4.3.4. Discrepancy of Discourses of Equality

In order to legalize the rectification of gender discrimination in employment, there were three measures: 1) to create a new law; 2) to add a discriminatory clause in the

Labor Standards Law; or 3) to amend an existing law such as 'Working Women's Welfare Law' to prohibit discrimination between women and men in employment of private sectors (Akamatsu 1990). For the BWM, the first plan was the most desirable but most unfeasible because of the antagonistic relationship between labor unions and employers. The third plan would be the easiest for the BWM but might make the law ineffective without penalty provisions because the Women's Welfare Law lacked enforcement power. Hence, the BWM attempted to amend the Labor Standards Law by including a provision prohibiting gender inequality in employment in the law and removing the special protective measures for women following the World Action Plan of the First World Women's Conference (Akamatsu 1990; Shinoda 1986). However, there was fierce opposition against the removal of the protections from the women activists of labor unions and women's groups (Ibid.).

The opposition stemmed from a discrepancy between the women bureaucrats and the women activists concerning the definition of equality. The discourse of protection from the turn of the century became obsolete because of its strong implication that only women associated with domestic affairs. Instead of the discourse of protection, feminists in the 1960s and 70s created a new discourse from radical feminist ideology that values women's experience and mode of thinking different from men (Chodorow 1978; Gilligan 1982, 1993; Hartsock 1992; Ludack 1990). As Martha Minow (1984, 160) warned that ignoring the differences of women from men might leave women "in a faulty neutrality", Japanese feminists and women labor activists were anxious about rough and ready application of the male standards to women and its consequence, that is, deterioration of women's working conditions. They had been persistent in demanding

preservation of the special protection for women during the political decision-making process for the 1986 EEOL.

On the other hand, the women bureaucrats had maintained the relatively fresh idea, 'discourse of gender equality', which argued that the special protection for women pushes women in subordinated positions in employment, while the protection for maternity (pregnant women workers) also is necessary. Rather than demanding the special protection for all women, the discourse of gender equality pays attention to equal share of family responsibility between both women and men and the protection for maternity indispensable for women workers. According to the discourse of gender equality, although protective legislation concerning protection of women's maternal functions should be repealed, maternal leave for pregnant women and family-care leave for the two sexes should be included.

The debate between equality-versus-difference in Japan is not exceptional and could be found among feminists in the United States in the 1970s and 80s (Scott 1988). However, the discourse of gender equality held by the women bureaucrats is dissimilar from the discourse of equality maintained by American feminists who insist on equality without any exceptions. The American version of the discourse of equality rejects a notion of necessity of protection for maternity. While the discourse of difference could be found in academic literature, the United States is one of high countries out of 145 that have not passed statutes specifically providing for at least some maternity protection (Berkovitch 1999, 135). In the Japanese case, the difference discourse had been more powerful and influential than the United States.

Women activists were persistent in holding the discourse of difference. For

instance, the United Nations' NGO National Women's Committee (*Kokuren NGO kokunai fujin iinkai*) held a symposium on Women's Issue in June 1975 attended by 600 women (Asahi Shimbun 9 June, 1995). Kageyama Yūko, a former chairperson of the Japan Working Women's Club, proposed reconsidering the necessity of general protection for women such as night work and dangerous work because these general protective measures prevented working women from being employed in higher paid jobs if women wanted and being promoted to management positions. However, a majority of participants disagreed with her argument, because women workers, who were expected to give a birth, needed to work under the protection of society based on legal guarantees of general and maternity protective measures.

4.3.5. Bureaucratic Framing Process

In order to disseminate the new discourse of gender equality to the public and obtain supports of women activists for enacting a gender equality law in employment, the BWM publicized several reports created by the advisory bodies in favor of removing the general protection for women. In September 1975, the Deliberative Council of Women and Minors' Problems submitted to the MOL a report stating that the BWM should issue more appropriate administrative guidance against the companies carrying out the discriminatory practices (Asahi Shimbun 11 September, 1975). Also, the report suggested the government to ratify the 110th convention of ILO, which prohibits gender inequality in employment and to carry out persistent efforts to remove inequality in employment (Ibid). Meanwhile, the report indicated the necessity of women workers' and labor unions' efforts to remove the general protective measures for women (Ibid). Also, the agency set up formal discussion meetings consisting of experts and scholars

even before 1975 because the women bureaucrats expected the fierce oppositions to the removal of special protection for women from women activists. In December 1974, prior to the International Women's Year, the BWM already had established the Study Group on Equality between the Sexes in Employment (*Shigoto jō no danjo byōdō kenkyū kaigi*) under the Deliberative Council of the Women's and Minors' Problems, consisting of labor specialists in academia and asked them to conduct research of the working women's conditions from scientific and technical points of view (Japan Institute of Labor 1981). Criticizing both marriage and forced retirement systems as discrimination against women workers, the Study Group's a report published in October 1976 insisted that the general protective measures for women had no scientific or technological reasons and suggested that protective measures for women should be limited to only women's functions on maternity, such as pregnancy and childbirth (Asahi Shimbun 10 October, 1976). Based on the report, the deliberative council gave the Labor Minister 'the Proposal for Promotion on Gender Equality Opportunity and Treatment in Employment' (MOL 1978). This council suggested a legal reform to remove the general protective measures for women because such special treatments prevented the expansion of women's employment opportunities and their promotion to higher positions (Ibid.). The report reflected the new discourse of gender equality embraced by the BWM and its intention to remove the general protective measures in return for ending the discriminatory practices of the companies.

The National Action Plan in compliance with the UN's Action Plan was announced in November 1977. Although the plan failed to indicate the necessity for legal reforms, it showed transformation of policy orientation from protection to equal

opportunity for the first time. The document clarified the necessity of 'equality of opportunities and treatment in all the spheres of occupational life (PMO 1978). Concerning the special protective treatment for women, it asserts that such treatment of women should be reviewed to determine how far women workers should be protected, whether these measures possessed scientific or technological grounds, and whether they prevent women from acquiring gender equality in employment (Ibid). Within these two years 1977-8, the women bureaucrats of the BWM considered itself ready for legalization of gender equality in employment because of these two reports by the advisory groups. However, since the vertical framing process did not adopt opinions of women activists, it generated frustration and dissatisfaction of women activists about the new law.

The last step of agenda setting is to start the discussion at a subcommittee of the deliberative council. In order to legalize rectification of gender inequality in employment, the BWM had to follow the necessary procedures for the enactment of a law. The policymakers usually attempt to obtain a resolution of the deliberative council that explains necessity of and proposes enactment of a new law. Political legitimacy of the legalization of rectification of gender inequality in employment already obtained by designating the World Action Plan of the First World Women's Conference as a significant national policy. This made it easily for the BWM to start the discussion at a deliberation council in the spring of 1978. The committee was called the Subcommittee on Women's Employment (*fujin rōdō bunka kai*) of the Council on Women and Minors' Issues (*Fujin mondai singikai*) under the MOL including members of labor unions, business circles and public representatives (Mikanagi 1999).

4.4. Conclusion

In this chapter, I examined efforts of the BWM to legitimate the issue of gender equality as a significant political agenda through interaction between international events and domestic activities. While acknowledging significant effects of the UN's events on gender equality policy in Japan, a majority of previous studies neglected the women bureaucrats' enthusiasm to rectify gender discrimination in the society. It is believed that both the Japanese business community and government would have "turned a blind eye to the latest moves and actions [toward gender equality] taken by their western counterparts" (Lam 1992, 89), but for the UN's events because the compliance with the UN's decisions results from the Japanese government's "desire to participate in international life," not from intention to improve gender equality in the Japanese society (Creighton 1996, 192). The other group of scholars argues that women's groups pressured the BWM to legalize the gender equality law and took the initiative in the decision-making process (Mackie 2000; Tanaka 1995). These studies elucidate a dimension of Japanese gender politics but undervalue the women bureaucrats of the BWM who were marginalized within the MOL and government and desired to rectify gender discrimination in employment and everyday life. I conclude that the women bureaucrats of the BWM took a strong initiative in setting the issue of the gender equality law in employment as one of the top priority within the government by utilizing the external influences to change its policy orientation to gender equality despite the lack of social demands for gender equality.

The BWM utilized the International Women's Year and its first world conference to bring up the issue of gender equality in employment and to disseminate an idea of

gender equality to the society, a society that had preserved the myth of the full-time housewife (Moriyama 2000). Various domestic activities connecting with the international events and focusing on the equality of the sexes became a turning point for the Japanese society and aroused public opinion greatly and had much impact on people's consciousness and sense of values. The external and internal influence made it easier for women's groups to participate in the government-oriented event, in which the BWM unwittingly created the women's policy alliance with women's groups. Their activities --demonstrations and rallies-- reinforced the female bureaucrats' motivation to formulate a proposal for gender equality law in employment. Structurally the establishment of the Headquarters of Promotion and Planning relating to Women's Programs reinforced the policymaking power of the BWM. Nevertheless, the BWM failed in creating the effective framing process in which the women bureaucrats and women activists shared the same notion of gender equality (difference or gender equality), the sources of the discrimination (protectionism or not), while both parties aimed at enacting the new gender equality law. So far, state feminism carried by the BWM took a strong initiative in setting the issue of gender equality in employment as the political agenda by utilizing international influence.

CHAPTER 5
MEDIATOR'S ROLE OF THE WOMEN'S BUREAU: ACTIVITIES IN THE
DECISION MAKING FOR THE 1986 EEOL

This chapter examines to what extent the Bureau of Women and Minors (hereafter BWM) influenced the decision-making process for the 1986 Equal Employment Opportunity Law (hereafter the 1986 EEOL) and what roles it played in policymaking and decision-making for the law. The central questions are how they negotiated and made compromises with employers, labor unions, and public interest representatives to gain their acceptance of a gender equality law in employment. Moreover, this chapter explores how international influence and women's groups in Japan made an impact on the political decision-making process.

After agenda setting, the political decision-making process involves drafting a bill and getting it passed by the assembly. Although the content of a bill determines where the critical point in the political decision-making process lies, adjustment of interests among the related groups during the drafting of the bill occasionally becomes the most significant moment; affecting the substance and enforcement power of a law (Nakamura 1996). In the decision-making process on the gender equality bill, the adjustment of interests between labor unions and business circles was the most important roles for the women bureaucrats of the BWM. A deliberative council formed by the MOL under supervision of the BWM was the space in which women bureaucrats worked as mediators to adjust the interests. As a matter of fact, the deliberative council failed in facilitating a compromise between labor unions and business circles and handed out an exceptional proposal including the three parties' opinions. In the end, the labor union representative and employers' representatives had no option but to leave the decision in

formulating a compromised bill, which lacked teeth partly because the BWM did not obtain support from women's groups, which had lost their solidarity due to a controversy on the definition of equality. Scrutiny of the women bureaucrats' activities in the intricate decision-making process demonstrates the factors, which undermined the enforcement powers of the 1986 EEOL in spite of the women bureaucrats' intention to formulate the first gender equality law in employment.

To examine the activities and roles of women bureaucrats and their relations with other groups, the chapter divides decision making into three stages: 1) First Stage: Establishment of the Deliberative Council, 2) Second Stage: Discussion in the Council: Protection or Equality, and 3) Third Stage: Formulation of a Bill by the BWM. Then, the chapter analyzes the BWM's relationship with the women leaders of labor unions and women's groups to discern how much external pressure, political women's alliances, and discrepancies in the discourse of equality affected their relationship and decision-making process.

5.1. First Stage of Decision-making: Establishment of the Deliberative Council

As a first step of the decision-making process, the BWM attempted to adjust interests among the various groups concerned, while collecting information which reflected public opinion and the specialists by using the Deliberative Council of the Women's and Minors' Problems (Sakamoto 1997, 118). It is believed that the deliberative council had increased its importance in the process of political decision-making process, because it enhanced "flexibility" in the bureaucracy, although the bureaucracy's directly power in decision-making has recently tended to decrease (Abe

et. al. 1994, 39).¹ However, the case of the gender equality law in employment demonstrates that the deliberative council under the BWM failed in producing a consensus among the various representatives and caused the BWM difficulty in formulating a bill acceptable to not only these representatives but also to the public.²

5.1.1. Composition of the Deliberative Council

In May 1978, the BWM asked the council to submit a report concerning the gender equality law in employment in May 1978.³ The discussion of the gender equality law in employment was held in the Subcommittee of Women's Labor (hereafter SWL) (*fujin rōdō bukakai*) within the Deliberative Council of the Women's and Minors' Issues. The SWL consists of three representative groups: public representatives (retired bureaucrats, legal specialists, or prominent journalists), labor unions⁴ (General Council of Trade Union, [*Sohyō*], Japan Confederation of Labor [*Dōmei*], and the business circle

¹ These appointed councils provide consultative service to an agency of the executive branch and has been ubiquitous in national and local governments (Ibid., 40). The arbitrary power of agencies to establish deliberative councils without any legal restraints generates multifarious functions and substances of the councils Shinoda, T. (1986). *Singikai: Danjo koyō kikai kintōhō wo meguru isikettei. Nihon kata seisaku kettei no hen'yō.* M. Nakano. Tokyo: Tokyo Keisai Sinpō sha, pp. 79-110..

² Shinoda Akira argues that the deliberative councils under the MOL usually have a strong 'inclusion' function to adjust the interests of the representative groups (Shinoda 1986). According to him, the reason for accepting the bill formulated by the BWM was the cooptation of the antagonized representatives in the deliberative council. However, since the deliberative council had to submit to the BWM the report with opposition opinions, I argue that the cooptation function of the deliberative council could not work to mediate the interests. Shinoda also attributes the approval of the final bill formulated by the BBWM to the deliberative council to the cooptation function. Yet, I maintain that the time limit to ratify the CEDAW caused them to approve it.

³ The Women's and Minors' Issues Deliberation Council (WMIDC) had been set up under a labor minister since 1948 just after the establishment of the BWM and the MOL according to the Organization Law of the Ministry of Labor (Shinoda 1986). The job of the council is to submit a report to the minister after carrying out research and discussion concerning certain problems that the minister asks to the council (Ibid.).

⁴ In the 1970s organized labor unions were divided into three groups: General Council of Trade Union (*Sōhyō*), Japan Confederation of Labor (*Dōmei*), and *Chūritu*. The General Council of Trade Union (hereafter GCTU) was the largest and most important federation and was closely linked with the Japan Socialist Party and the most leftist of the union federation. The Japan Confederation of Labor (hereafter JCL) had been the other large union federation with heavy political involvement and supported by the Democratic Socialist party, which was moderate socialism. The JCL was composed primarily of private enterprise unions. *Chūritu* was a group of independent labor unions and had least power among three groups.

(Japan Federation of Employers Association, hereafter JFEA [*Nikkeiren*], The Japan Chambers of Commerce and Industry, JCCI [*Tokyo Shōkō Kaigisho*], and the Group of Small Enterprises [*Chushō Kigyō Dantai*] (Shinoda 1986).⁵ However, in the beginning of the decision-making process, the deliberative council could not reach a consensus among the members about necessity of a gender equality law. Therefore, the main role of the BWM at the deliberative council was to mediate the interests of the members by using the common interest among the members. The common interest was to sign and ratify the UN's Convention of Elimination of All Forms of Discrimination Against Women (hereafter CEDAW) as I show below.

5.1.2. Impasse at the Deliberative Council: Antithetical Concepts of Equality

The women bureaucrats had already recognized that a discrepancy of definitions of equality would impede reaching a consensus on the basic outline for the gender equality law in employment.⁶ Inside and outside the meetings of the councils, the employers and labor unions argued about the major point: whether the new gender equality law would preserve general protective provisions for women such as: limitation of overtime working, prohibition of night, holiday, and dangerous work, and granting of menstruation leave. At that point, the BWM had three options for trying to legalize the concept: 1) to enact a new independent law; 2) to amend the Labor Standards Law by adding prohibition of discrimination against women in Article 3 and removing general

⁵ The BWM considered gender balance in appointing the members. As a result, the subcommittee of labor in the Council of Women and Minor's Issues (hereafter CWMI) including three women of labor unions, one women of public representative, and three male representatives of business circle and two male public representatives, started to discuss policies of gender equality in employment in the spring of 1978 [Mikanagi, 227, 1999 #108].

⁶ The discrepancy of the discourse of equality could be found in the discussion of legislation in employment at the Subcommittee on Women's Labor (*fujin rōdō bukakai*) of the WMLDC, which had been already started since the council submitted to the Labor Minister the proposal of legal reform in October 1976 (Shinoda 1986).

protective measures; 3) to amend the 'Working Women's Welfare Law' by including prohibition provisions on gender discrimination (Akamatsu 1990). For the BWM, the first plan was the most desirable but most unfeasible because of the antagonistic relationship between labor unions and employers. The third plan would be the easiest for the BWM but might make the law ineffective without penalty provisions because the Women's Welfare Law lacked enforcement power. Therefore, the BWM expected the council to reach a consensus that the amendment of the Labor Standards Law would be sufficient to secure legal gender equality in employment (Ibid.).

The first deadlock on the deliberative council stemmed from the final recommendations of the MOL Research Group on the Labor Standards Law in 1978.⁷ The report suggested promoting gender equality in employment by eliminating all general protective clauses for women, while preserving or enhancing protection of maternity such as pregnancy and childbirth (MOL 1978b). Yet, the business circle had requested removal of the general protective measures from the LSL since the 1950s in order to utilize women workers more efficiently. The 1970 Report of the Tokyo Chambers of Commerce and Industry (hereafter TCCI) explicitly condemned the general protective measures because there were no scientific and technological grounds for their need (Lam 1993; Molony 1993).

The report of the LSL Study Group provoked a discussion at the SWL and preparation for the bill by the BWM stalled because of strong opposition from the women members of the labor unions and the women's groups (Asahi Shimbun, 3 June 1979).⁸

⁷ Although the report of the LSL Study Group was also released in the early 1970s, it was not publicized until 1978 because the BWM was afraid of strong opposition from women members of labor unions (Buckley 163, 1994).

⁸ Asahi Shimbun put this article at the top of the first page (Asahi Shimbun 21 November 1978). It was

After the report was announced in 1978, the labor unions and women's groups expressed their fervent criticism of it; Claiming removal of the protective measures for women would aggravate working conditions in Japan because it promotes destruction of women's health and family life, where women bear a double burden (Buckley 1994; Moriyama 2000; MOL 1979).⁹ The proposal for removal of the general protective measures by the LSL Study Group stimulated the women's groups to lobby the BWM to formulate their desired bill for a gender equality law in employment. In January 1979, the Women's Group to Make Our Own Equal Employment Opportunity Law emerged to lobby for a gender equality law in employment with general protective measures (Asahi Shimbun, 21 January, 1979). Because of unexpectedly fierce opposition, the BWM reached an impasse and had to withdraw its intention to amend the Labor Standards Law and also gave up further discussion in the SWL (Asahi Shimbun, 3 June 1979). To resolve the situation, in December 1979 the BWM established the **Experts Group on Equality between the Sexes** (*Danjo byōodō mondai senmonka kaigi*) consisting of scholars, lawyers, labor activists and women activists to clarify an official definition of 'equality between women and men in employment' (Shinoda 1986; Takahashi 2000; Upham 1987). The report published in 1982 defined 'gender equality' as 'equality of opportunity' for the first time, although it also suggested that protective measures should be gradually and incrementally phased out instead of being suddenly removed.

the first time for it to put an article of women's issue on this place. Moreover, the related article was on the page 3 and 4 of the same newspaper.

⁹ In the late 1970s, only few women reporters had been in the Japanese mass media. A male bureaucrat of the BWM wrote that no women reporters at the press conference of the final recommendation of the MOL Research Group surprised him, though there was unprecedented number of reporters, who were enthusiastic to ask questions to the BWM, in the room. Amakasu, K. (2000). *Gekidou zenki no omoide. Mirai wo Hiraku: Roudoushou Josei Gyousei Hanseiki no ayumi*. Tokyo: Women Labor Association, 79..

5.1.3. International Influence on Domestic Policy

While the Experts Group on Equality between the Sexes was researching and examining meanings of equality between the two sexes and necessity of protective measures for women workers, the Convention on Elimination of All Forms of Discrimination against Women (hereafter CEDAW) accelerated the women bureaucrats' policymaking activity for gender equality in employment. CEDAW originated from the Declaration on the Elimination of Discrimination against Women drafted by the Commission on the Status of Women of the United Nations in 1963.¹⁰ The General Assembly of the United Nations adopted the declaration in 1967 and then, the Commission of the Status of Women drafted the CEDAW. The resolution on the CEDAW was discussed at the Third Committee of the General Assembly during 1977-1979. The Japanese government sent three women delegates to the committee for the three years. Two Japanese women, Sato Ginko and Takahashi Nobuko, out of the three Japanese women representatives were dispatched from the BWM. At the international stage, the BWM was the main agency for women within the Japanese government.

The CEDAW includes several characteristics, which had not evolved in the previous major international documents such as the United Nations Charter; The Universal Declaration of Human Rights, The International Covenant on Civil and Political Rights; the International Covenant on Economic, Social, and Cultural Rights. First, the convention is the first international document that focuses on problems of

¹⁰ The Declaration of the Elimination of Discrimination Against Women aimed at 'ensuring the universal recognition in law and in fact of the principle of equality of men and women' and suggested that measures be taken to abolish discriminatory laws and customs and to change public opinion, recognizing the significant role of women's organizations concerning the gender equality (Karl 128, 1995).

gender inequality as violations of human rights, as the preamble of the CEDAW stipulates, 'discrimination against women violates the principle of equal rights and respects for human dignity'. Second, the CEDAW indicates that gender inequality exists in state systems and demands the ratifying countries to rectify the inequality. Article 2 obliges national governments "to repeal all national penal provisions which constitute discrimination against women" and "to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women. Third, the CEDAW pays attention to gender inequality in private relations by piercing the traditional boundary between public and private area of life. In Article 5, national governments are required to "take all appropriate measures: to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and custom and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. Moreover, Article 5 (2) insists on necessity of 'recognition of the common responsibility of men and women in the upbringing and development of their children'. Furthermore, the CEDAW requires to the national government of the signatory countries to submit a report, which describes the progress in rectifying gender inequality. These factors establish the CEDAW as the most advanced treaty for gender equality in the late 1970's, while neither women workers nor male employers in Japan were agreeable to introducing these characteristics that were against not only the employment customs and practices but also the dimorphic gender consciousness in Japanese society in the 1970s.

5.1.4. Domestic Turmoil concerning the CEDAW

In December 1979, the resolution on CEDAW was passed with 130 in favor to

zero against and 11 abstentions at the General Assembly of the UN (Asahi Shimbun, 20 December, 1979). This General Meeting also decided to hold a ceremony for the signature of the CEDAW at the second World Women's Conference in 1980 to assist women's groups' activities to persuade national governments to sign and ratify the CEDAW. Although the Japanese government voted in favor of the convention, the Ministry of Foreign Affairs, just after the General Assembly, stated it would be difficult to sign the convention at the conference because there were legal contradictions between the principles of the CEDAW and the existing laws in Japan (Agora 1980).¹¹ In particular, to conform to the terms of the Convention, the government had to enact new laws or amend the existing laws to correspond with the provisions of the convention by the end of the UN Decade of Women. Moreover, the Japanese government was required to report on their progress in implementing it within one year after ratification and once every four years thereafter. Therefore, the government also announced its difficulty in signing of the convention because it was too difficult to amend existing laws, which were in contravention of the provisions of the convention (Asahi Shimbun, 20 December 1979).

To ratify the CEDAW, the Japanese government was obliged to amend or legalize issues of education¹², nationality¹³ and employment according to the principles

¹¹ Later, when fifteen ministries and agencies gathered to discuss the contradiction between the provisions of the CEDAW and the Japanese existing laws, more than 150 issues were indicated as problematic (Yamaguchi 59, 1992). Accordingly, the Japanese existing laws in 1980 included 150 points, which were considered as unconstitutional.

¹² Concerning educational curriculum, the Ministry of Education (hereafter MOE) was forced to take up an issue of forcing only girl students to study homemaking. The gendered curriculum explicitly conflicted Article 10 of the CEDAW, which requires signatory countries to establish a uniform curriculum for male and female. Since the early 1970s in Japan, various women's groups and organizations consisted of school teachers, including the Women's Action Group and the Association for the Promotion of the Study of Homemaking by Both Sexes, had already performed a series of energetic campaigns to bring about a change the gendered requirement, which forced only girl students to take homemaking course.¹²

of the CEDAW. Regarding the employment issue, the CEDAW obliges signatory countries to take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights. Moreover, Article 11 (3) stipulates, “protective legislation shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.” The provisions of the CEDAW provided the women bureaucrats of the BWM opportunities to persuade both sides: employers and labor unions to accept the idea of gender equality in employment without general protective measures for women by using the provisions of the CEDAW concerning the issue of gender equality in employment. Therefore, the signing of the CEDAW was indispensable for them to facilitate policymaking for a gender equality law in employment.

While the MOE and MOJ were awfully hesitant, the Japanese government faced deciding if it would sign the Convention in July 1980 at the World Conference of the United Nations Decade of women held in Copenhagen. On 28 March 1980, in compliance with the wishes of Tanaka Sumiko, a Socialist member of the Diet and the second Head of Women’s Section of the BWM (1950-1954), and other Diet women

Nevertheless, even just before the Copenhagen conference, the MOE insisted that the curriculum based on the division of labor between the two sexes was not discriminatory, but resulted from educational consideration of students’ future life style (Mitsumura 1979). By put strong pressure from other ministries, the MOE allowed girls to take some industrial arts subject and boys some subjects in homemaking in lower secondary schools in 1981 (Kameda 11-112, 1995).

¹³ Concerning an issue of nationality, the convention stipulates that all signatory states agree to grant women equal rights with men with regard to their children’s nationality. Japan’s Nationality Law was clearly inconsistent with Article 9 of the CEDAW, which specifies “to grant women equal rights with men with respect to the nationality of their children” because it granted Japanese nationality only to children whose fathers were Japanese (the United Nations 1979). Even just before the signature of the CEDAW, the Ministry of Justice, which had been afraid of emergence of the people having double or multiple nationalities, was awfully reluctant and claimed to take more than four or five years to amend the Nationality Law (Tanaka 1979). Yet, the government revised the law to be consistent with this prevision of the CEDAW in 1983.¹³

members, the Budget Committee of the House of Councilors held an intensive discussion on the issue of CEDAW (Asahi Shimbun, 29 March 1980). At the meeting the government hesitated to clarify its attitude toward the problem about whether it would sign the CEDAW at the second World Women's Conference, but stated that it had striven for a consensus on signing the convention among the ministries (Ibid). However, the MOE and MOJ indicated difficulty in adjusting the existing laws to conform to the CEDAW at the meeting (Agora 1980).

5.1.5. Informal Policy Alliance among Women Bureaucrats and other Women

In spite of the male political and business elite's strong resistance against signing the convention, the women bureaucrats of the BWM and other ministries, women Diet members, women reporters in the mass media and women activists informally created a women's policy alliance and successfully persuaded the government to sign the convention (Agora 1980; Kinjo 1995; Saito 1979; Takahashi 2000). In early June, the newspapers reported that the government had not informed the World Conference of its intention to sign the CEDAW by the deadline because it was impossible for the government to sign the convention, which had many conflicts with the existing laws (Asahi Shimbun, 10 June 1980). The report triggered the formation of the informal policy alliance aiming at making the government sign the CEDAW. The BWM asked the women members of the Conference for Planning and Promotion of Policies relating to Women (*Fujin mondai kikaku suisin kaigi*) to appeal to the prime minister, the minister of Foreign Affairs and other bureaucrats to sign the convention, while the women bureaucrats lobbied for the signing from within the government (Yamaguchi 1992). Moreover, women Diet members pressured the government and convinced other male

Diet members of the need to sign the convention. While the mass media also attacked the government's decision, women's groups vigorously lobbied for the signing (Asahi Shimbun, 22 July 1980).

These women utilized a discourse of shame to persuade political elites within the government. In particular, the Liaison Group organized by Ichikawa Fusae, when it demanded the government to sign the convention, argued that the Japanese government would bring shame on Japan, if it did not sign the CEDAW at the signing ceremony, because it had sent delegates to the conference (Buckley 1994; Yamaguchi 1992). Persuasion by using the sense of shame easily made the male political elites change their mind. Finally each administrative vice minister of the government agreed to work toward the legal reform required by the CEDAW and to ratify it at the Headquarters of Planning and Promotion of Policies relating Women on June 27. The government formally decided to sign the CEDAW at the cabinet meeting on July 15 just one day before the signing ceremony (Asahi Shimbun, 15 July 1980; Yamaguchi 1992). Thus, by utilizing the external influence of the CEDAW, women bureaucrats made the gender equality law in employment become a reality.

The government sent 13 delegates to the second World Women's Conference (Asahi Shimbun, 8 July 1980). Among the members, one-third belonged to the BWM. The head of the delegation was Takahashi Nobuko, who was the fourth director of the BWM (1965-1974) and then ambassador to Denmark. Akamatsu Ryōko, then ambassador to the UN (later the seventh director of the BWM during 1982-1985) and Sato Ginko (later the eighth director of the BWM during 1986-1990) as a representative of the MOL and Shibata Tomoko as a representative of the Prime Minister's Office

(hereafter PMO) (a Women's Section Leader during 1975-1978) also participated. The BWM still had more power in policymaking for the improvement of women's status than any other ministries. The success of the campaign for the signing of the CEDAW pushed the BWM into another stage, a stage in which the women bureaucrats pressured the Deliberative Council to adopt a proposals.

5.1.6. Japanese Foreign Policy and Women's Policy

The Ministry of Foreign Affairs, while showing its hesitation at the outset, took the lead in preparing for the signing of the CEDAW and the second World Women's Conference. A bureaucrat also recalled that the MOFA, MOL and PMO had been eager about the signing of the CEDAW (Agora 1979). Since the MOL and the PMO took responsibility for dealing with the problems of women's issue, it is reasonable that these two ministries were enthusiastic in lobbying for the signing of the CEDAW. Yet, why did the MOFA strive for the signature? The reason was that the MOFA wanted to demonstrate the Japanese government's efforts to implement the UN's policies and its attitude toward gender equality as one of the most industrialized and democratic countries.

One of the basic outlines of Japanese foreign policy in post-war Japan had been to obtain a significant position in the United Nations (Asahi Shimbun 9 November 1978). In 1978 there was an election that enabled Japan to obtain the non-permanent member of the United Nations Security Council (Asahi Shimbun 3 September 1978). A rival at the election was the newly established small country, Bangladesh. The MOFA energetically lobbied for the votes of the participating countries by dispatching diplomatic missions to New York City, and Asian and African countries (Asahi Shimbun 9 November 1978).

On the day before the election, the MOFA expected to win the election easily (Ibid.). Nevertheless, Japan lost the election by getting the lowest votes among the candidate countries. The loss of the election traumatized the MOFA as well as male political elites within the government and pressured them to implement policies according to the United Nations' decisions more enthusiastically, except issues relating national security. In this the situation, MOFA was nervous about being criticized that its foreign policy would bring shame on Japan again, if the Japanese government did not sign the CEDAW.¹⁴ As an indication of the Japanese government's positive attitude toward the second World Women's Conference, the MOFA also appointed Takahashi Nobuko, the fourth director of the BWM, as ambassador to Denmark, where the world conference would be held (Asahi Shimbun 29 March 1979). Since the signing of the CEDAW, the Japanese government's attitude was less reluctance to adjusting its women's policies to the United Nations' policies.

5.2. Second Stage: Equality with or without General Protection

5.2.1. Report of the Expert Group on Equality between the Sexes

The signing of the CEDAW legitimized policymaking for a gender equality law in employment within the government and the Japanese society. In May 1981, the Headquarters of the Planning and Promotion for Policies relating to Women restated that the top priority for the second half of the United Nations' Decade for Women was to review existing legislation and to formulate appropriate measures, including legislation to ensure equality for women in employment according to the CEDAW (PMO 1981). Yet, the external influence could not create a national consensus on a definition of gender

¹⁴ In contrast, the Japanese government has not been enthusiastic for policies of the International Labor Organization. The Japanese government has not ratified the 111th of ILO treaty (concerning gender equality in employment) and the 103rd treaty (concerning a treaty of protection for maternity) yet.

equality and the content of a gender equality law in employment. In order to produce that consensus on the definition about equality between the two sexes in employment and the scope of the legitimate practices of companies, the BWM set up the Experts Group on Equality between the Sexes in 1979. The Experts Group published its report, "Views on the Criteria for Determining Sexual Equality in Employment" in May 1982. However, the report revealed more explicitly the discrepancy between employers and labor unions about the definition of equality and the content of the law.

The Experts Group failed in getting consensus on the content of future legislation among the members of the Experts Group (Akamatsu 1990). The report included the following ideas: 1) the need to realize equal opportunity and treatment between women and men because of internal and external demands; 2) to secure equal employment opportunity between the two sexes, not equality of result, which would require companies to hire or promote the same number of women as men; 3) the need to realize equality between the two sexes on consideration of women's maternity functions; 4) tolerate different treatment between the two sexes during the transition period (Ibid. 55-6). This report demonstrates that the BWM had no intention to implement an affirmative action-type gender equality law in employment, of which the employers' side was afraid, while it aimed at formulating an employment equal opportunity law with maternity protection but without general protection for women.

Rather, the report brought the discrepancy between labor unions and employers to the surface. The members were divided in opinion on the subject of whether "to retain certain existing statutory protections for female workers, including limitations on overtime, the prohibition of night work, menstrual leave, and restrictions on employment

in various dangerous or undesirable occupation” (Upham 1987, 148-9). These members were split between employers, who demanded the removal of general protective measures, and labor unions, which required preserving them. Also scholars, women activists, lawyers involved in gender unequal employment litigation were divided along with this line (Ibid.). The discrepancy lasted until the enactment of the EEOL and caused the enactment of the defective equal employment opportunity law later.

The Subcommittee of Women’s Labor in the Deliberative Council of Women’s and Minors’ Problems was reconvened after the report of the Experts Group was published in May 1982. During the spring of 1982 and the autumn of 1983, the members of the Subcommittee Women’s Labor (hereafter SWL) focused their activities on research and survey of working conditions for Japanese women and comparative research on gender equality law in employment in Western European countries (Akamatsu 1990). In the meantime, the employers’ side began a campaign against the gender equality law in employment explicitly during the same period.

5.2.2. Informal Negotiation with the Business Circle outside the Council

The employers became aware of the Japanese government’s determination to pass a gender equality law in employment after the government signed the CEDAW in 1980 and announced the National Action Plan for the latter half of the Decade of Women, proposing enactment of the new gender equality law in employment, in 1981. The employers began a campaign against the gender equality law in employment. Japanese enterprises opposed not only the idea of gender equality in employment but also the content of the gender equality law in employment.¹⁵ In particular, the employers in the

¹⁵ Ohtsuki Bunpei, president of the Japan Federation of Employers Association, stated, “Gender equality would derive men of jobs and cause social unrest. By nature, women are better suited for raising children

secondary industries, who were afraid of increasing personnel expenses, resisted enacting a gender equality law including the general protective measures for women and the penalty provisions (Akamatsu 1990). Just after the report of the Experts Group was published, the Tokyo Chamber of Commerce and Industry announced the gender equality law in employment should be approved only on condition that the vitality of business enterprises would be affected (Akamatsu 1990). On September 28 1983, a newspaper reported that the Japan Federation of Employers' Association prepared a statement against legalization of gender equality in employment and prepared to withdraw from the Subcommittee of Women's Labor (Mainichi Shimbun, 28 September). The BWM could not ignore the JFEA's opposition to the legislation because the business circle is one of the four huge business federations in Japan, has its representative to the deliberative council, and possesses strong influential power on employment issues.

For the BWM, the cooperation of the JFEA in the decision-making process for a gender equality law in employment was indispensable. The BWM feared that JFEA's opposition would block the gender equality law, just as it had blocked the Childcare Leave Law in 1981. The women bureaucrats of the BWM failed in enacting the childcare leave law because JFEA created a policy alliance against it with the three other business federations and finally killed the bill formulated by the MOL despite approval of the LDP (Akamatsu 2001). Akamatsu Ryōko, the sixth director of the BWM (Sep. 1982-Dec. 1985) began to carry out informal negotiation (*nemawashi*) with the top leaders of the business circle before JFEA made the decision to withdraw from the deliberative council. Utilizing the sense of shame, Akamatsu Ryōko informed the top

and domestic responsibilities." (Quoted from Yujiro Yamamoto, "Male Establishment Resists Female Workers," *The Asia Record* (May 1982), 84.

leaders of the JFEA individually that the failure to enact the gender equality law in employment would bring shame on Japan despite of the signing of the CEDAW and aggravate the criticism against the Japanese trade deficit, which was considered to be a result of the discriminatory employment system against women (Akamatsu 2001). Women's groups and the women reporters in the mass media also assisted Akamatsu's efforts to change the JFEA's stance toward the legalization of gender equality in employment. For instance, Shimomura Mitsuko, an editor of the Asahi Shimbun, interviewed Akamatsu Ryōko about the stance of the BWM toward the gender equality law in employment and the opposition from the business circle. This article appeared in the Asahi Shimbun, a national-wide newspaper in Japan, and her appearance attracted the attention of the public to the law (Asahi Shimbun, 6 October 1983).

As a result of the women bureaucrats' persuasion, the Committee of Policymaking, a top decision-making organ of the JFEA, decided to retract its opposition to the legalization of a gender equality in employment because "the announcement of opposition to the enactment before formulation of the bill would create a bad image of the JFEA dissenting from gender equality, not only to the public but also abroad" (Asahi Shimbun, 8 October 1983). After the decision, other business groups also stopped their campaign against the enactment of a gender equality law in employment. The BWM utilized well the reputation of Japan in other industrial and democratic countries as 'external pressure' to persuade business elites to accept the policy of enactment of gender equality in employment.

5.2.3. Discussion at the Deliberative Council

The discussion in the Subcommittee of the Women's Labor formally started in

the autumn of 1983, after the JFEA agreed to participate in the discussion of the legalization of gender equality in employment. The BWM expected the Subcommittee of Women's Labor (hereafter SWL) to submit an outline of the bill for the gender equality law in employment by the end of 1983 because the women bureaucrats had to introduce the bill to the Diet in 1984 in order to ratify the UN treaty in 1985. Despite the expectation, the council became a battlefield between "those who demanded elimination of general protection of female workers in exchange for equal opportunity and those who insisted the continuation of the general protective measures for female workers made" (Mikanagi 1999, 227).

Yamano Kazuko, a woman labor union representative, attempted to destroy the impasse. She announced on November 9, 1983 that the general protective measures including prohibition of overtime working and holiday working would be removed if working time for both women and men would be shortened, although the preservation of menstruation leave was indispensable (Asahi Shimbun, 9 November 1983). However, the Public interest representatives rejected the proposal for the expansion of the protection to men because the issue was beyond the responsibility of the Subcommittee of Women's Labor. Concerning enforcement power of the law, the business representatives tried to weaken it.¹⁶ The labor union representatives attempted to add to the prohibition of gender-based discrimination at all stages of employment by having penal regulations (Shinoda 1986). However, the Public Interest Representatives rejected adding penal regulations because such aggressive measures were inappropriate for Japanese society at that time. After the Subcommittee published its interim report, the

¹⁶ Matsuzawa Takuji, a chairman of Fuji Bank and a member of the Special Committee of Labor Management of the JFEA, stated that some members wanted to discard the bill of the gender equality law in employment (Asahi Shimbun 25 November 1983).

discrepancies among the three representative groups became the focus of mass media's criticism (Akamatsu 1990; Shinoda 1986). The deadlock in the council left the women bureaucrats of the BWM perplexed. In order to ratify the CEDAW in 1985 at the Third Women's Conference, the BWM had to introduce and pass a bill for a gender equality law in employment through the Diet at least in 1984 (Asahi Shimbun, 20 November 1983). Accordingly, the BWM repeatedly asked the subcommittee to submit its report at the beginning of 1984 (Akamatsu 1990). Since the employers' and labor unions' sides made no concessions at all, the Subcommittee decided to make a tentative plan that would be based on the future discussion (Shinoda 1986).

5.2.4. A Tentative Plan

On February 20 1984, the BWM asked the public interest representatives to create a tentative plan, which arranged the issues discussed at the more than twenty meetings, in such a matter as to facilitate the discussion and to find a common ground between the employers' and labor unions' sides (Asahi Shimbun, 21 February 1984). The tentative plan created by the public interest representatives proposed to prohibit gender-based discriminatory practices only after entering employment, and left gender inequality in recruitment and employment untouched. Moreover, all protective measures for women except the protection for maternity were relaxed or removed (Shinoda 1986, 90). Both labor unions and business circles expressed their fervent opposition to the tentative plan as formulated by the public interest representatives. In particular, the labor union side was offended by the proposal for removal of menstruation leave, which was considered as a victory of women's labor movement in post-war Japan (Asahi Shimbun, 21 February 1984; Shinoda 1986). There was no indication from

either that they would move at all toward accepting the tentative plan. Also women's groups opposed the tentative plan because of the removal of the general protective measures for women.

5.2.5. Proposal of the Subcommittee of the Women's Labor

Yet, the BWM need the SWL's proposal, on which would be based on the bill formulated by the BWM and introduced to the Diet. Despite a long and heated discussion at the subcommittee, the parties could not reach an agreement on concrete measures for achieving gender equality in employment. Consequently, the subcommittee adopted an unprecedented proposal, which included three different opinions about the concrete measures to be taken, while consenting to the enactment of the gender equality law in employment on 26 May 1984 (Asahi Shimbun, 27 March 1984).

The three groups held their respective ground, each keeping their own opinion. The labor unions argued that the law should have penalty provision against gender discrimination at all stages of employment, while the employers insisted that the hortatory provision (*doroyoku-gimu kitei*) at all stages of employment, which means companies must endeavor to rectify gender inequality, would be sufficient for a decrease of discriminatory treatment against working women. The public interest representatives argued that gender discrimination in the stage of recruitment and hiring should be left alone, while that in the stage after hiring including promotion and deployment should be prohibited. Moreover, the public interest representatives and the employers maintained that the prohibitions should not include penalties. While the protective measures for maternity were to be increased from 6 weeks to 8 weeks, no consensus on the removal of

menstruation leave could be reached. In spite of spending more than seven years in discussing desirable measures for achieving gender equality in employment, the proposal made no attempts to disguise the differences (Lam 1992). As a result, a final decision on how to reconcile the conflicting views between labor unions and employers was left in the hands of the BWM.

5.3. Third Stage: Formulation of the Compromising Law

5.3.1. Formulation of a Bill by the BWM

The BWM began formulating a bill based on the tentative proposal. There were doubts among the parties concerned whether the BWM would be able to produce a bill acceptable to both labor and employers. It was predicted that even if such a bill were submitted, there was a strong possibility that it would be shelved because of strong opposition from both sides (Japan Times, 27 March, 1986). On March 2 1984, the JFEA sent the MOL a memo which asked what a minimum condition was for the MOL for the ratification of the CEDAW (Asahi Shimbun, 3 March 1984). The MOL responded that the minimum condition was to prohibit dismissal of women workers because of their marriage or pregnancy and of discriminatory treatment between single and married women (Asahi Shimbun, 28 March 1984). This response demonstrates that the BWM might be formulating a more ineffective bill than the proposal of the subcommittee (Ibid.). On March 30 1984, Labor Minister Sakamoto Misoji also stated that the outline of the bill formulated by BWM seemed to be based on the opinion of the public interest representatives and included hortatory provisions for the stage of recruitment and hiring (Asahi Shimbun 31 March 1984). According to him, the pace of the progress should be slow and steady, and while a law might be ineffective at the outset it would gradually

become effective (*chisaku unde okiku sodateru*) (Ibid.). However, at the last minute the BWM took caved in, declared the council's recommendation as a reasonable compromise, drafted a bill which included hortatory provisions in the stages of recruitment, hiring, promotion and deployment and prohibition provisions in the stages of job training, welfare, and retirement. The BWM bartered preservation of general protective measures for hortatory provisions in promotion and deployment with labor unions' and employers' representatives to persuade them to accept the bill. The compromise bill was returned to the subcommittee to obtain its approval.

The final deadlock stemmed from opposition to the bill from the labor unions. Yamano Kazuko, a representative of the labor unions', refused to attend the council, which would approve the bill created by the BWM after she saw the bill in April 1984(Koudou suru kai 1999). The bill astonished her because the BWM gave up enacting the new law, instead deciding to amend the 1972 Working Women's Welfare Law. The amendment of the Women's Welfare Law to the EEOL was critical for the women leaders of the labor unions because the welfare law lacked penalty provisions. Therefore, the EEOL bill also excluded penalty provisions and was deficient in enforcement power. Moreover, the final version prohibited discrimination in basic training, fringe benefits, retirement and dismissal, while it did urge employers to 'endeavor to treat women equally with men' in recruitment, job assignment and promotion. Furthermore, restrictions on overtime, holiday work or late-night work were removed for women in managerial posts or experts, specialists or technicians. The maximum number of hours of overtime for women was doubled.¹⁷ Prohibition of late

¹⁷ The maximum number of hours of overtime for women in non-manufacturing industries was doubled from 6 per week and 150 per year to 12 and 300 respectively (Lam 98 1993).

night work was repealed for women working in a special category of industries such as food processing and taxi driving. Menstrual leave was totally repealed,¹⁸ while statutory maternity leave was lengthened from six to eight weeks. Nevertheless, by adding a conditional provision on menstruation leave, the BWM obtained concessions from the labor side.

More important, the time limit for ratification of the UN treaty forced the labor union to agree with the unsatisfactory bill (Shinoda 1986). The Deliberative Council of Women's and Minors' Problems approved the bill formulated by the BWM on May 9 1984. The Cabinet approved the bill on May 15 1984 with minor suggestions such as relaxing the overtime limitation and preserving menstruation leave (Akamatsu 1990, 68-69). The BWM introduced the bill to the 101st Special Diet on May 14 1984 (Asahi Shimbun, 14 May 1984).

5.3.2. Discussion at the Diet

The passage of the bill through the Diet was easier for the BWM than obtaining the approval of the bill in the previous stages, although women members of labor unions and women's groups expected opposition parties to dispute the effectiveness of the law with the government (Asahi Shimbun, 26 July 1984). In fact, the opposition parties including the Japan Socialist Party (hereafter JSP), Democratic Socialist Party (hereafter DSP), and the *Komei* Party, supported the government in passing the original bill for EEOL, although they also introduced their own bill of EEOL. The reasons for the smooth passage of the bill without intensive discussion deprived from three factors. First, there was the time limit to ratify the CEDAW in 1985 because the EEOL was one

¹⁸ Although the menstruation leave was repealed, employers must not make trouble for women workers, who claimed difficulty in working because of this reason (Asahi Shimbun 20 April 1984).

of the prerequisite legislations for the confirmation of the convention for prohibition of gender discrimination. Second, all of the opposition parties wanted to escape blame for destroying the first attempt in Japan to rectify gender discrimination in employment (Ibid.). Furthermore, the opposition parties recognized the difficulty involved in revising the content of the bill, which resulted from compromises between employers and labor unions through the seven-year discussion at the deliberative council. The government side always argued that the bill should be gradually revised toward the perfect law. In addition, the LDP threatened that delay of the passage of the bill might lead to discard the bill (Ibid.). Consequently, discussion of revision in both House of Representatives and Councilors were inactive.

On June 26 the discussion of the bill started with a speech of explanation for the necessity of the bill by the Labor Minister Sakamoto Misoji.¹⁹ Then, the bill was referred to the Society Labor Committee on July 3 (Akamatsu 1990).²⁰ The Japan Socialist Party also submitted a bill for a gender equality law in employment formulated by the other three opposition parties together (Ibid.). The crucial issue was whether the bill should include hortatory provisions and penalty provisions. Akamatsu Ryōko, then director of the Women's Bureau, stated at the committee that the existence of life time employment practices prevented equal treatment of women workers, who tended to work a shorter time than male workers, and prohibiting discriminatory practices at all stages of employment was impractical (Akamatsu 1990). Although the opposition parties

¹⁹ Sakamoto Misoji indicated three reasons for the enacting the new law: 1) to create working conditions in which women workers could give full scope to the women's ability; 2) to ratify the CEDAW and to consider international trend toward equal employment opportunity and treatment between women and men; 3) to expand protection for maternity (Akamatsu 1990).

²⁰ According to Akamatsu, because there were too many women and reporters who visited the Society Labor Committee to hear the discussion, the committee assigned a bigger meeting room than usual (Akamatsu 1990).

expressed their doubt on the effectiveness of the law, the bill was passed after only three meetings of the committee. On July 27, the ayes of all, except the Japan Communist Party, passed the bill at the House of Representatives (Asahi Shimbun, 27 July 1984).

The limited time to ratify the CEDAW made the opposition parties support the government bill, while they attempted to make small revisions in the bill. In the House of Councilors, the four opposition parties excepting the Japan Communist Party, acted in concert with the LDP to pass the bill within the time limit for the ratification at the third World Women's Conference in 1985. The bill was sent to the Society Labor Committee in the House of Councilors on April 11 1985 after the 102nd Diet started. In the committee, the focus of the inquiry was on the question of effectiveness of the law that did not have a penalty provision. Yet, the committee held only three meetings to discuss the content of the bill on April 11, 18, and 25. At the last meeting on April 25 the bill was passed with a revision, which the Liberal Democratic Party required: addition of a clause to reconsider the content of the bill in near future. On the same day, the bill was passed through the House of Councilors. Because the bill was carried over to the next session, it had to be returned to the House of Representatives. Finally, the bill of the EEOL was passed through the H of R on May 17 1985 and would be effective on April 1 1986.

5.3.3. Characteristics of the Equal Employment Opportunity Law

The bill became effective on April 1 1986. This law included three characteristics, which the other equal employment opportunity laws in other countries seldom had. First, the law did not aim at rectifying gender inequality in employment. The formal name of the 1986 EEOL was the 'Law Respecting the Improvement of the

Welfare of Woman Workers, including the Guarantee of Equal Opportunity and Treatment between Men and Women in Employment,' although the law was originally entitled 'Employment Opportunity Equality Law between men and women (*danjo koyō kikai byōdō hō*). At some stage during the debate, the word of '*byōdō*' was replaced by *kintō*, "which can be translated as 'equalizing' or 'progress toward equality'" (Lam 1993, 254). The switch from '*byōdō*' to *kintō* demonstrated a compromise between the BWM and the business circle. Moreover, when the BWM decided to enact the gender equality law in employment by amending the 'Women's Welfare Law,' the words of 'welfare of women workers' were included. Accordingly, the present title suggests only an effort toward equalizing opportunity and the betterment of women's welfare rather than commitment to achieve such equality (Edwards 1988). Although it was true that the law was the first legal framework to attempt rectification of gender inequality in employment, it included substantial shortcomings, which ruined its legal effectiveness.

Second, the law had no enforcement power to punish employers who violated it. The law imposed on employers only the 'duty to make efforts' to treat women equally with men in recruitment, hiring, job assignment and promotion (Art. 7 and 8), while the bill prohibited discrimination on grounds of sex in the areas of training, health and welfare benefits, forced early retirement including marriage and childbirth (Arts. 9, 10, and 11) (MOL 1986). Moreover, the law did not include any punitive provision. As Kinjo Kiyoko, a Japanese woman law specialist argues, "The act cannot be called a law prohibiting discrimination in employment," the EEOL totally lack its teeth (Kinjo 1995, 357).

Third, as relief measures to secure the effectiveness of the act, it provided for

three measures: 1) voluntary adjudication of employee complaints by a body consisting of labor and management representatives within the company (Art. 13); 2) the assistance the directors of the Women's and Minor's Bureau at each prefecture in the adjudication of disputes by giving necessary advice, guidance or recommendations when discrimination cases arise (Art. 14); 3) conciliation by the Equal Opportunity Mediation Commission composed of three commissioners appointed from among persons of expertise and experience (Art. 18). The EEOL primarily emphasized voluntary settlement within the company.

The most crucial problem of the relief measures was that the Conciliation Committee on Equal Opportunity could be held only if the both parties' consent could be obtained. Accordingly the company concerned could refuse to meet the committee, even if women workers brought a case to the committee. Consequently, the mediation procedure could not be carried out. The other problem of the conciliation system was that encouragement of arbitration by the Equal Opportunity Mediation Committee discouraged women victims from a remedy by litigation. Moreover, there was no partnership between women victims and the members of the EOMC in Japan, which could be found sometimes in the mediation system in the United States.²¹ The Japanese EEOL approaches the achievement of equality as primarily bureaucratic responsibility and creates no new equal rights or remedies (Lam 1993).

²¹ Title VII of the American Civil Rights Act of 1964 encouraged mediation of discrimination complaints; it requires all victims to file their complaint with the statutorily created the Equal Employment Opportunity Commission and to wait until the EEOC has either taken action or issued a "right to sue" letter before the victims can pursue independent legal options (Lam 1993). However, the passage of Title VII and the creation of the EEOC established a partnership between private litigants and the EEOC officials. Such a partnership results in acceleration of the pace and significance of private anti-discrimination litigation (Ibid.). The difference between Title VII and Japan's EEOL is not in their approach to mediation itself, but in their approach to independent private litigation. Not only did Title VII establish a private cause of action for employment discrimination, it also provided for injunctive relief and attorney's fees for the winning party.

TABLE 6: Outline of the 1986 EEOL

	Content
Exhortation	1) Recruitment 2) Hiring 3) Job assignment 4) Promotion
Prohibition without penalty	1) Basic Training 2) Welfare benefit 3) Mandatory retirement <ol style="list-style-type: none"> a. Age b. Marriage or Childbirth 4) Dismissal
Enforcement Measures	1) MOL's guidelines for items under 'exhortation' 2) Voluntary settlement by grievance procedures within the enterprise 3) Advice, guidance or recommendations of the director of prefectural Women's and Young Workers' Office 4) Mediation by an equal opportunity mediation commission

Source: Ministry of Labor, *Hataraku Josei no Jitsujō*, (Tokyo: 1986), p. 322.

It is important that an administrative agency should have extensive powers in investigation, to initiate proceedings in its own right and to assist and act on behalf of the complainants to bring the case to the courts when necessary. Neither the BWM nor the Commission had such powers. The greatest controversy over the EEOL is about its lack of effective enforcement procedures.

5.4. Effect of the Policymaking of the EEOL

5.4.1. Structural Security: reorganization to the Women's Bureau

During the decision-making process for the EEOL, the BWM faced the crisis of its dissolution. In 1982, the Nakasone Cabinet implemented a policy of administrative reform by reducing agencies and bureaus to reduce the financial deficit. One of the measures was to dissolve the BWM and merge it into the Labor Standards Bureau. However, the Nakasone cabinet gave up the plan to dissolve the BWM because of

unexpectedly strong opposition from not only the women bureaucrats but also women's groups, particularly the Liaison Group (Yamaguchi 1992). Again, the policy alliance between the BWM and the women's groups helped save the BWM.

In the mean time, as the BWM took the initiative in enacting the bill for the EEOL during 1982-83, the government decided to strengthen the policymaking function of the BWM and created the Preparation Office for the Equal Opportunity Employment Law in 1982 (Shinoda 1986). Moreover, In July 1984, the Bureau of the Women's and Minors' was formally reorganized as the Women's Bureau consisting of four sections: Women's Policy Section, Women's Labor Section, Women's Welfare Section, and Management Section (Women Labor Association 2000).²² The reorganization and strength of the Women's Bureau BWM resulted from the policymaking for the EEOL and made the office structurally secure. In particular, the interpretation of the hortatory provisions relied largely on the guidelines (*shishin*) provided by the BWM (Hanami 1986). Section 12 of the EEOL empowers the BWM to issue guidelines clarifying measures that 'should be taken by employers' in regard to the provisions of sections 7 and 8 of the EEOL (Lam 1993, 106). During the final session of the Diet debate on the bill of the EEOL, Akamatsu Ryōko, then Director of WB explained the importance of the guidelines and maintained that the guidelines provide practical behavioral guidance to employers (Akamatsu 1990). Thus, the EEOL also reinforced the significance of the BWM concerning implementing the EEOL and supervising employers' practices.

5.4.2. Institutional Change: Transformation of Job Focus

The policymaking tasks of the BWM transformed the women bureaucrats'

²² In this chapter, I use the name of the Bureau of Women and Minors instead of the Women's Bureau even after 1984 in order to avoid readers' confusion.

attention from betterment of women's welfare in society to improvement of working conditions for women workers while preserving their broad responsibility (Women Labor Association 2000). In particular, the Women's Section was reorganized to the Women's Welfare Section, which was in charge of dealing with problems of childcare and eldercare leaves, which tended to impose burden of women workers.²³ Later, the Office for Measures for Childcare Leave was set up under the Women Welfare Section in 1992.

The transformation of the job focus to problems of improvement of working conditions for women had the consequence of pushing the Office of Planning and Promotion for Policies relating to Women (hereafter the Office) in the Prime Minister Office to take more initiative in formulating women's policies and implementing research, survey, and education tasks for improvement of women's status, although the office had not possessed any legal jurisdiction and enforcement power. As a result, the broad job responsibility of the BW focusing on improvement of the workingwomen's conditions resulted in a future jurisdictional dispute between the BWM of the MOL and the Office in the PMO in the early 1990s (Asahi Shimbun, 11 December 1994).

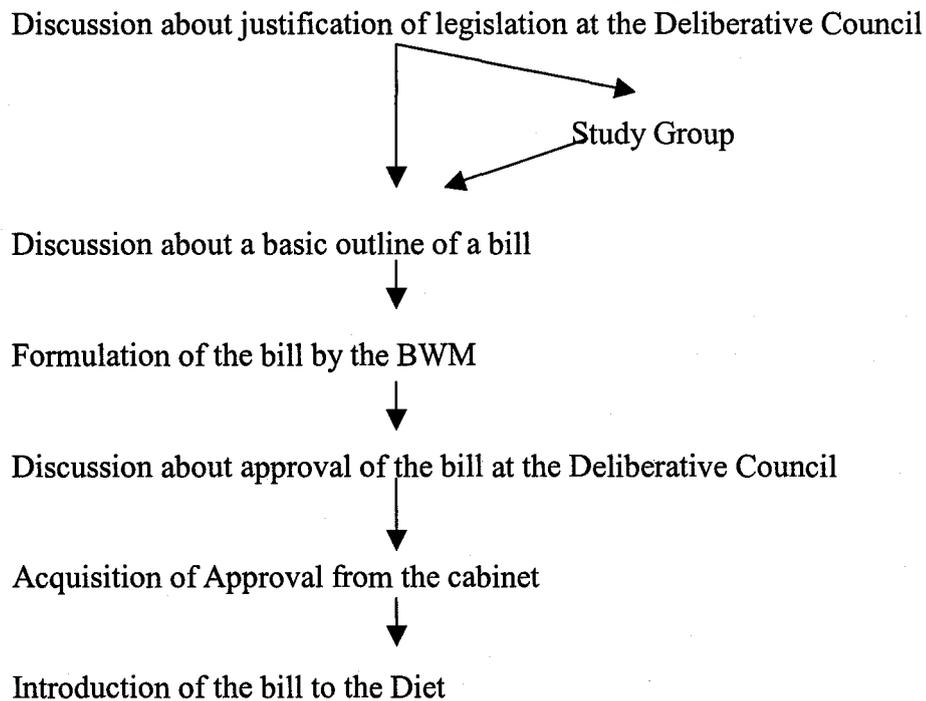
5.4.3. Institutional Strength of the BWM

Since the International Women's Year, the BWM had expanded its scope to policymaking activities for the gender equality law. In the process of decision-making, the BWM took strong initiatives in formulating and enacting the gender equality law in employment, controlled the flow of the bill, and mediated the variety of interests among the political actors, although its efforts resulted in creating an ineffective law. The policymaking activity of the BWM in the decision-making process for EEOL created a

²³ In 1991, the Childcare Leave Law, which stipulates that both women and men may take the leave was enacted.

certain framework of policymaking for women's policies.

FIGURE 7: Framework of Policymaking for the 1986 EEOL



Moreover, using this framework of policymaking, the BWM initiated enactment the gender equality law in employment. Shinoda Toru (1986) expressed the framework as that of water flowing in a river with dams; the bill was flowing in the framework with several discussions at the council. The women bureaucrats controlled the flowing of the water, as they wanted.

In the case of the EEOL, failure of the deliberative council in reaching a consensus about a definition of equality and concrete measures for gender equality in employment caused the BWM to devote itself to working as a mediator among the representatives. Therefore, the EEOL was a product of compromise among the labor unions, the employers, and the BWM. Thus, the women bureaucrats played three significant roles: setting up the framework of women's policy, controlling the flow of the

bill, and mediating the interests among the participants in the decision-making process.

5.4.4. Relationship with Women's Groups: Isolation from Women's Groups

Unlike the process of agenda setting, the women bureaucrats in the BWM had difficulty with creation of political alliances with women leaders in labor unions and women's groups to enact an effective gender equality law in employment. The complicated issues seem to prevent formulation of a women's policy alliance between the BWM and other Japanese women's groups. Even among women's groups unlike in the process of agenda setting, there were disagreements, which arose within the women's groups over the complexity of definitions of equality and concrete measures to obtain equality between the two sexes in employment (Akamatsu 1990; Lam 1987; Yamaguchi 1994; Upham 1993). Because of the lack of support from other Japanese women leaders the BWM failed in persuading the employers' side to accept a more effective law in employment and enacted the ineffective EEOL favoring the employers' side in order to ratify the CEDAW in 1985.

The representatives of the labor unions had been in opposition not only to the representatives of employers but also to women bureaucrats of the BWM concerning whether protective provisions for women should be removed. The main reason for the disagreement stemmed from their recognition that acquisition of the general protective measures to women workers was one of a series of historic achievements by women in the labor movement. Therefore, removal of the general protective provisions, particularly menstruation leave, meant a loss of a women's right, which women labor activists had acquired and maintained through bitter struggle (Molony 1993). Women members of the labor unions had persistently resisted elimination of the general

protective provision and started a campaign in support of menstruation leave (Moriyama 2000). Moreover, the women leaders in the labor unions argued that the general protective measures for women should be extended to apply to male workers, who were criticized for working too long. Furthermore, the indifference of male top leaders of the labor unions because of their conservative gender consciousness seemed to harden the women leaders' persistent objection to the removal of menstruation leave.²⁴ Thus, the labor unions articulate their opposition to the removal of the general protective measures.

They claimed that the removal of the general protective measures brought about more of a double burden for women at home and workplace because of the lack of childcare leave and eldercare leave. The women bureaucrats of the BWM applied a carrot-and-stick policy to the representatives of the labor unions by preparing compromise to preserve some protective provisions. Simultaneously, the BWM terrified them into compliance by asserting that there would not be another similar legislative chance for gender equality.

Women's groups were also divided in opinions on the definitions of equality. On the one side, some workingwomen argued that removal of general protection could allow women to penetrate various spheres of industry and could realize sexual equality in employment (Asahi Shimbun, 17 July 1983). On the other side, elimination of certain regulations could aggravate working conditions for women, who have actually borne

²⁴ Therefore, before 1984, no labor union had seriously tackled the issue of EEOL enactment. That year, the General Council of Trade Unions (*Sohyo*) suddenly announced its acceptance of reconsideration of general protective provisions, though the women leaders still opposed it. In addition, the GCTU publicized that the legalization was linked with the UN's treaty and was considered as a movement to create "new value system" (Shinoda, 94,1986). The top male leaders of the labor unions were in favor of the proposal formulated by the BWM because they recognized that the removal of protective measures was not widely acceptable to the society and because the support of the government proposal might have given them advantage at wage struggle (Ibid.). The act of treachery performed by male leaders of the labor union weakened the women labor union representatives' resistance in the deliberative council.

most of the household responsibilities. A most powerful women's group, the Liaison Group consisting forty-eight women's groups also "failed in reaching a consensus on supporting the EEOL bill", while endeavoring to carry out a variety of activities leading up to the ratification of the convention on the Elimination of All Forms of Discrimination against Women (Yamaguchi 1992, 65).²⁵

The dimorphic gender consciousness of the women leaders in Japanese society including the labor unions caused the opposition in the decision-making process for the EEOL. The women leaders of the labor unions maintain that the EEOL brought about more of a double burden for women. A certain group of women argued that this EEOL bill would destroy Japanese culture. In articles with titles like "Equality of the Sexes Threatens Cultural Ecology" or "The Equal Employment Opportunity Act' Will Destroy Japan," male and female academics and political commentators stated that the existing dimorphic gender consciousness and sex roles were not only necessary economically but also central to Japan's uniquely successful culture (Hasegawa 1982; 1984a, 1984b; Kusaka 1984; Yayama 1984).²⁶ In particular, Hasegawa Michiko (1982), a philosophy

²⁵ In 1980, the Liaison Group organized the National Convention on the Occasion of the Midpoint of the UN Decade for Women (Equality 1994; Yamaguchi 1992). The endeavor included lobby activities to call for improvement in national legislation relating to nationality, education, and equality in employment, lobbying of the Government, and sponsorship of gathering to address these matters (Ibid.). When the Liaison Group lobbied the Committee for Diet Measures of the House of Representatives, there was no agreement with supporting the bill among the women's groups in the Liaison Group. After one of the committee members inquired of the Liaison Group whether the women's groups supported to pass the EEOL bill or not, the group decided to support the passage of the bill to ratify the CEDAW (Ibid.).

²⁶ There were a large number of articles about relationship between women's working and their proper role in society. For instance, Hasegawa Michiko, "Danjo koyō byōdō hō wa bunka no seitaikei wo hakai suru" [The "law for sexual equality in employment" will destroy our cultural ecosystem], *Chūō kōron* (May 1984), 78; and "Equality of the Sexes Threatens Cultural Ecology," *Economic Eye* (June 1984), 23-26; Eiko Shinotuskoa, "Women in Labor Force," *Economic Eye* (September 1982), 22; Kimindo Kusaka, "Do Japanese Women Want Total Equality?" *Economic Eye* (June 1984), 19; Yayama Tarō, "Danjo koyō byōdō hō wa nihon wo tsubusu" [The Law for sexual equality in employment" will ruin Japan'], *Shokun* (May 1984), 240; Ido Kazuo, Kōno Tadayashi, and Sumiya Mikio, "Josei koyō wo ikani teichaku saseruka?" [How should "women's employment" be made secure?], *Ekonomisuto* (April 17, 1984), 46; Hashimoto Hiroko, Kakuta Takuko, Sujiya Mikio and Watanabe Michiko, "hataraku joseini totte, byōdō toha?" [What

professor, maintained that the EEOL would destroy the dimorphic gender relations and demoralize housewives, who hitherto had held a privileged position.

The diversity of interests among Japanese women impeded creation of women's policy alliances with the women bureaucrats in the BWM, though such an alliance was unwittingly formed when participation in the international events was the point of issue in the dispute. However, concerning the formulation of the gender equality law in employment, the diversity of the discourse of equality created a lack in women's solidarity in the process of the decision-making for the EEOL. Consequently, the activities of women's groups had been visible, but the diversity of their interests made them again invisible to the public. The lack of the policy alliance between the BWM and women leaders caused the enactment the ineffective gender equality law because the BWM failed to persuade male business elites to enact the more effective law in employment.

5.5. Conclusion

The decision-making process demonstrates the women bureaucrats' roles in controlling the flow of the bill, in mediating and persuading the participants in the discussion, who persistently were stuck on one ideology. By using the international influence of the CEDAW, its time limit, and the sense of shame, the women bureaucrats of the BWM succeeded in enacting the first gender equality law in employment in Japan. Together with this international influence, the series of litigation also made a strong impact on the decision-making process. The BWM stipulated prohibition provisions which followed the court decisions in favor of women plaintiffs, while the women

does "equality" mean to working women?"], *Ekonomisuto* (October 2 1984), 60, Ida Naotaka Nakayaama Tsuneo, Sumiya Mikio and Watanabe Kazuru, "Kigyō no asu wo tou josei koyō" [The Challenge to the future of the firm of female employment], *Ekonomisto* (July 3, 1984), 50.

officials required employers to make efforts to rectify discrimination, when women plaintiffs lost their cases at court. Moreover, the failure of the Japanese court system to order the employers to rectify the discriminatory treatment also caused the enactment the 1986 EEOL without enforcement power. Furthermore, the isolative activities of the women bureaucrats in the BWM without women's groups' support assisted in the enactment of the ineffective law without enforcement power.

In spite of the complicated process, the women bureaucrats formulated a bill by mediating the interests of the labor unions and employers, but failed in enacting a law that they wanted. The main cause stemmed from the labor unions and some women's groups' claim for preservation of protective provisions for women workers. The diverse definitions of equality broke up a women's policy alliance created at the disputes on the participation in international events. In its final form, the actual law changed its name from 'equality law in employment' to 'equal employment of opportunity.' The literal modification implies a change of the nature of law from equality of result to equality of opportunity (Mackie 2000). A large number of women bureaucrats of the Women's Bureau of the MOL expressed regret, desiring to enact a new law with more enforcement powers in the future (Akamatsu 2000, 2001; Kawahashi 2001, Kubota 2000; Matsubara 2000; Moriyama 2000, 2001; Sato 2000; Takahashi 2000).

CHAPTER 6
ACTIVITY OF THE WOMEN'S BUREAU
FOR AMENDMENT OF THE 1999 EEOL

Chapter 6 explores activities of the Women's Bureau (hereafter WB, a successor to the BWM) to amend the 1986 Equal Employment Opportunity Law (hereafter the 1986 EEOL) that had made only a small impact in rectifying gender inequality in employment. The decision-making process for the 1999 Equal Employment Opportunity Law (hereafter the 1999 EEOL) was smoother than that for the 1986. In particular, the WB could set the amendment issue as a significant political agenda easily because the revision clause was included in the law per se. Moreover, the apparent ineffectiveness of the 1986 EEOL, the weak administrative power of the WB, litigations against indirect discrimination to women workers, and international pressure pushed the WB to give priority to the amendment. The most significant difference between the decision-making processes of the 1986 and 1999 laws for equal employment opportunity is that the labor unions voluntarily withdrew the demand for removing the general protective measures for women. What social, economic, and political forces created the smooth decision-making process? What roles did the WB play in the decision-making process for the amendment of the 1999 EEOL? These are the major questions to be answered in this chapter.

6.1. Effects of the Enactment of the 1986 EEOL

This section examines what influences the 1986 EEOL had on society and the employment system in Japan. The outcome of the 1986 EEOL was rather mixed. While making a strong impact on individuals' gender consciousness, the law also reproduced a new type of direct and indirect discrimination toward women workers in

employment.

6.1.1. Impact on Gender Consciousness

The impact of the 1986 EEOL on gender consciousness in the late 1980s could be found in the public opinion data in Japan as the TABLE 1 in the Introduction section shows. According to the report of the Bureau of Gender Equality, the people, who agreed with the idea of the division of labor between women at home and men at work, decreased from 43.1 percent in 1987 to 29.3 percent in 1990, 26.8 percent in 1995 and 25.0 percent in 2000 (Cabinet Office 2001).¹ On the other hand, the proportion of Japanese, who disagreed with the idea, increased from 26.9 percent in 1987 to 39.1 percent in 1990, 48.0 percent in 1995 and 48.3 percent in 2000 (Ibid.). The salient characteristic of the transformation of gender consciousness is that the changes from 1987 to 1990 are larger than the changes from 1990 to 2000. The proportion of the Japanese people, who maintain the idea of the division of labor based on the sexes, decreased 4.3 percent for the ten years from 1990 to 2000, but decreased 13.8 percent in only three years from 1987 to 1990. Similarly, the ratio of Japanese people, who do not have that idea, increased 9.2 percent in the ten years from 1990 to 2000, but increased 12.2 percent in the three years from 1987 to 1990. Thus, although the gender consciousness has changed gradually, the transformation from 1987 to 1990 was more apparent than in the latter decade.

Moreover, the Japanese men, who considered that women would better continue working after marriage and childbirth, increased from 9.7 percent in 1973 to 15.7 percent in 1987 and 27.2 percent in 2000. Also, the Japanese women, who had the same

¹ I wanted to compare the data before 1987, but could not find the data because the government did not carry out the public opinion research before 1987.

opinion, increased from 11.5 percent in 1973 to 20.1 percent in 1987 and 32.5 percent in 2000 (Naikakufu, 44, 2000). The growth rates between 1987 and 2000 are slightly bigger than those between 1973 and 1987. Thus, the public opinion data demonstrate that in the late 1980s, gender consciousness was transformed from dimorphism to bimorphism more significantly than in the latter decade in Japan.

6.1.2. Influence of the EEOL on the Employment System

After the 1986 EEOL was enacted, many employers changed their employment system to meet the requirements set by the law (Asahi Shimbun, 26 April 1985; Asahi Shimbun, 16 March 1986; Nihon Keizai Shimbun, 31 March 1986). A large number of companies, especially the large ones, had taken steps to eliminate the most blatant forms of direct discrimination against women, which the courts had decided in favor of women plaintiffs, before the EEOL formally came into force in April 1986. About one-third of the firms reported that they had completed reviewing their personnel management procedures (75 percent in the case of firms with 3,000 or more employees) and half of them were taking some kind of action, according to a survey on 321 large manor firms in March 1986 (Rōsei Jihō 1986). Moreover, a comparison of the results of the MOL survey on companies' personnel management policies on women at three different points of time, 1977, 1981, 1987, shows a dramatic decline in the number of firms reporting direct discrimination against women, with the decline especially sharp between 1981 and 1987 (MOL 1977, 1981, 1987). The change in the 1980's was most dramatic with regard to recruitment, conditions of employment and job assignment (Lam 1993).

However, discriminatory treatment of women workers in promotion in the 1980's and 90's was persistent because Article 8 of the 1986 EEOL required employers to only

make efforts to provide women equal opportunity with men. Accordingly, 41.3 percent of the firms reported not offering women management promotion chances or imposing different terms of conditions in 1987 as compared to 45.1 percent in 1981 and 52.3 percent in 1977 (MOL 1988). Even in 1995, only 1.3 percent of women workers were promoted to directorship and 2.8 percent were promoted to a lead position of a section (MOL 1993). Only women workers in the lowest position increased from 3.9 percent in 1985 to 7.3 percent in 1995. There might exist a time lag between the increase of women in lower positions and that in higher positions (Cabinet Office, 2000). After thirteen years since the 1986 EEOL was enacted, only a few women workers have been promoted to management positions. The discrimination in promotion inevitably brings about wage differentials between the two sexes. Japanese women workers enjoyed only a small decrease in the wage gap after the enactment of the law. In 1985, full-time women workers earned on average only 59.6 percent of men's monthly regular cash earnings, while the differential became 62.5 in 1995 (MOL 1996).

6.2. Shortcomings of the 1986 EEOL

Moreover, after the Japanese economy entered economic recession in the early 1990's, the discrimination against women workers in recruitment, hiring, job assignment, and promotion became clear through coverage of the mass media. Why did the 1986 EEOL fail to have a strong impact on rectifying gender discrimination in promotion? There are three main reasons: the ambiguous guidelines of the hortatory clauses, ineffective administrative guidance, and an inactive mediation system. Together with lack of punitive provisions in the 1986 EEOL, these three obstacles prevented the law from rectifying gender inequality in Japanese employment.

6.2.1. Ambiguous Guidelines issued by the Women's Bureau

The most crucial problem of discrimination in promotion was that the hortatory provisions in the 1986 EEOL lacked clear definition of the measures employers must take to provide equal opportunity to women. Article 7 and 8 of the 1986 EEOL required employers to do their best to ensure that women are given equal opportunities with men in the recruiting, hiring, promotion and job assignment of workers. In order to clarify ambiguity of these clauses, Article 12 stipulated that the MOL is empowered to issue guidelines with respect to the measures which employers shall endeavor to take, in regard to the matters stipulated in these articles. Then, the Women's Bureau publicized the guidelines in January 1986 prior to enforcement of the 1986 EEOL in April. Neither the mass media nor women activists in labor movement paid attention to the significance of the guidelines (Lam 1993).

According to the interpretation of the Women's Bureau, giving equal opportunity to women means "not to exclude women on the basis of their gender" and "not to treat only women disadvantageously" (MOL 1986). In other words, if employers provided some opportunity to women, it could be interpreted that the employer's practice was not against the requirements of the guidelines, and thereby in compliance with the 1986 EEOL. Employers understood that they were allowed to do anything except examples the guidelines showed to be considered as exclusion or disadvantageous treatment (Nihon Keizai Shimbun, 28 January 1997).

The ambiguity of the guidelines resulted from the compromise of the WB with employers and labor unions (Lam 1993). The Women's Bureau formulated these guidelines based on suggestions of relevant advisory committees consisting of members

of business federations and labor unions. As a result, the content of the guidelines became more ambiguous than the WB expected. Then, the WB announced that these guidelines were only tentative measures:

The guidelines do not represent the 'ideal norms' for achieving equal opportunities between men and women. They are no more than tentative measures, formulated on the basis of the present social and economic conditions, which employers are expected to 'make efforts' to follow at this point of time. Employers are, therefore, expected to take practical steps to follow these measures. Nevertheless, even if they implement their personnel management systems in line with the guidelines, it does not necessarily mean that they have fulfilled the 'moral obligation' enshrined in sections 7 and 8 of the EEO Law. Employers are expected to make further efforts to provide equal opportunities and equal treatment to women as that of men by taking measures which are not stipulated in the guidelines and adjust their personnel systems accordingly in respect of the spirit of the EEO Law (MOL 1986, 44).

The statement expressed the perplexity of the WB as a mediator, who failed in taking a strong initiative in formulating clear guidelines and recognized the risk that the guidelines might allow employers' to practice indirect discrimination in employment. Although the WB informed the public that the guidelines were no more than temporary minimum requirements at the present, employers interpreted the guidelines to their convenience. Consequently, the guidelines allowed employers to implement a two-track employment system and to practice indirect discrimination toward women workers.

6.2.2. Two-Track Employment System Authorized by the Guidelines

The guidelines issued by the Women's Bureau were generalized to create a two-track employment system, which confines most women workers in a non-career track with small increase in salary and no promotion (Miyachi 1996).² Article 2 (a) of the guidelines requires employers "not to exclude on the basis of their gender from those

² Hanami and Shinozuka state that the transformation of the employment practice was not specifically a response to the law but, rather, was a part of the necessary reorganizing process of enterprise's management policies in the context of Japan's changing economic structure after 1975 a shift from a manufacturing center economy to a service-oriented economy and intensification of international competition. The neWManagement system was part of the firms' attempt to change the seniority system to ability system. In this sense, the essence of the EEOL was well in line with the Japanese economy's effort to achieve efficiency.

persons recruited or hired for particular recruitment and hiring classification” (MOL 1986). As examples, the guideline considered limiting on recruitment and hiring to only men as discrimination (ibid.). Yet, employers interpreted the clause such that employers offered a small group of women to opportunity to work in a certain track mostly occupied by male workers, the track system would be legal. Moreover, the other guideline considered recruitment of only women in a certain track as legal because such favorable treatment to women allowed expanding women’s work opportunities in accordance with the principle of the 1986 EEOL (MOL 1986b). Consequently a two-track system, which differentiates between a career track (*sōgōshoku*) mostly occupied by male workers and a non-career (*ippanshoku*) track typically occupied by women workers, was recognized as legal if small number of women were in the career track.

After the passage of the 1986 EEOL an increasing number of firms, mostly large, have introduced the two-track system (Japan Institute of Women’s Employment 1990; Lam 1993).³ According to a ‘Survey Report on Career Tracking, among firms with employees of five thousand and over, 40 percent have introduced the two-track system (JIWE 1990). Employers argued that the two-track system was not based on sex but only based on individual merit or abilities (Kantō Management Association 1986). However, employees in the non-career track are predominately women and continue to be assigned low-ranking menial jobs such as filing, copying, greeting customers, and pouring tea (Creighton 1994). On the other hand, women workers in the career track could be promoted to management positions, but they have to accept possible overtime and transfer when they chose this track.

³ A total of 2.9 percent of companies in all sectors and of all sizes practice tracking; the bigger the company, the more likely it is to assign employees to career tracks the, and the practice is especially frequent in finance and insurance (Japan Institute of Women’s Employment. 29-32, 1991).

Women are given a choice between the two when entering the company, although many women feel pressured to choose the non-career track (Kinjo 1995). A small number of career-oriented women have opted for the career track. Then, the employers determine whether or not the women employee is eligible for the career track. The 1994 survey of the Institution of the Twenty-first Century Employment shows that only 2.5 percent of career track employees are women workers (Institution of the Twenty-first Century Employment 2000). Moreover, in 46 percent of companies, female graduates were less than 10 percent of career track employees (Recruit 1994).⁴ Kanematsu, a trading company, assigned only 8 women among 680 women workers to the career track, the other women were assigned to the non-career track (Yomiuri Shimbun, 1 April 1996).⁵ Yet, all male workers were assigned to the career track. However, because the employer assigned several women to the career track, this employment practice can be judged to have fulfilled the requirement that 'women are not excluded'.

The aim of the 1986 EEOL was to open up job opportunities to women, which were formerly closed to them, not to rectify gender inequality in employment. Employers made efforts in respect of the principle of the law by implementing the two-track employment system. Thus, the guideline issued by the Women's Bureau concerning the endeavor of employers to treat women equal to men produced another discriminatory employment system.

⁴ In 1989, more women graduates were hired as career-track employees. According to the Japan Institute of Women's Employment, 77.2 percent of companies hired both female and male graduates. However, female graduates in the career track occupied only 12.0 percent of the career track, while male graduates occupied 88.0 percent (Nihon Keizai Shimbun 10 April 1989). Among the workers of the non-career track, 97.7 percent was women, while 2.3 percent was male graduates (Ibid.).

⁵ Moreover, in this company, a wage of a fifty-four year female worker continuing working this company in the *ippanshoku* is almost same as that of a twenty-seven male worker (Yumiuri 1 April 1996).

6.2.3. Increase in Indirect Discrimination

According to the guidelines, treating women unfavorably means to set different qualifications or conditions of employment for the two sexes. The guideline specifies that if as a result fewer women than men are able to comply with such terms and conditions, it does not constitute 'unfavorable treatment' (MOL 1986). Therefore, even though the results of the promotion test created fewer women than men qualified for promotion, the practice was judged as equal treatment. In Japan, promotion is based on the seniority system and the criteria are age and length of service, not ability of employees (Lam 63, 1993). In Britain, promotion based on the seniority system is regarded as indirectly discriminatory because it has a disproportionate impact on women (Lam 63, 1993). However, the Women's Bureau considered promotion based on the seniority as legal because employers utilized the same criteria, age and length of service between the two sexes.

The 1986 guideline also allowed employers to specify in job advertisements that women only are required for part-time jobs or clerical jobs (Lam 1993). According to the interpretation of the Women's Bureau, exclusion of men from certain jobs or certain forms of employment does not constitute discrimination because the aims of the law is to promote equal opportunity for women and to expand their job opportunities. However, this practice of employers created more part-time or low-paid clerical jobs for women. The WB attempted to deal with indirect discrimination in promotion by issuing administrative guidance, which was ineffective in making private enterprises comply with the policies of government agencies.

6.2.4. Ineffective Administrative Guidance

The WB created a framework in which an ineffective law would be supplemented by administrative guidance. However, the administrative guidance framework failed in preventing the discriminatory practices of employers because of its lack of institutional strength, which is enforcement power. Article 33 of the 1986 EEOL empowered the Women's Bureau to give advice, guidance, or recommendations and to request a report about personnel management from employers if the WB considers it necessary to enforce the law (MOL 1986). The clause put heavy emphasis on 'administrative guidance' (*gyōsei-shidō*), a common Japanese regulatory technique. Yet, the administrative guidance by the WB never worked to rectify gender discrimination in employment.

Although the hortatory provisions required employers to provide women equal opportunity with men in regard to recruitment and hiring, female university graduates were excluded from hiring, particularly after the Japanese economy deteriorated in the early 1990's. Before the enactment of the EEOL, 73 percent of the companies limited their recruitment to male graduates and only 26 percent recruited both male and female graduates (MOL 1981). According to the survey of the MOL in 1989, more than fifty percent of the huge companies (5,000 employees and above) increased hiring of female university graduates in the past three years. However, after the 'bubble economy' busted, companies decreased hiring female university graduates, while continuing to hire male graduates. In 1995, the ratio between male university graduates expecting to be hired and companies expecting to hire them was 1.33, which means that the companies hiring male graduates were more than the number of the male university graduates

seeking for jobs (Nihon Keizai Shimbun, 9 August 1993). On the other hand, the ration between female university graduates expecting to be hired and the companies expecting to hire them was 0.45, which means the number of companies expected to hire them was fewer than the number of female university graduate desiring to be hired. The administrative guidance by the Women's Bureau was ineffective in stopping the discriminatory hiring system against female graduates.

The WB has never reported the results of the advice, guidance, and recommendation to the employers concerned, although how many cases the WB gave advice and guidance on has been publicized. Yet, some surveys demonstrate the administrative guidance by the WB and its results. In July 1993, the director of the WB instructed the business federations to provide equal employment opportunity in recruitment to women university graduates. However, because the instruction had no enforcement power, there was no indication that employers increased hiring female university graduates (Nihon Keizai Shimbun, 9 August 1993). In April 1994, the WB revised the guidelines for the 1986 EEOL to emphasize the necessity of efforts to provide equal opportunity in recruitment to female university graduates. Despite the revision of the guidelines, the WB issued instruction and advice to 621 companies, which had set limitation for the number of women graduates to be hired, to follow the new guidelines during June to October of the same year. Moreover, according to the survey of the WB in October of the same year, 404 out of 1453 companies carried out different recruitment schemes based the sex. Twenty-five percent of the companies implemented the schemes, although acknowledging that the new guidelines required employers to provide equal opportunity in recruitment to female university graduates (Yomiuri Shimbun, 8 June

1995). Thus, the attempts of the WB to supplement the ineffective law by administrative guidance created no results, but produced the idea that the 1986 EEOL was not worth serious consideration.

6.2.5. Ineffectiveness of the Mediation System

Arbitration by the Equal Opportunity Mediation Commission (hereafter EOMC) also had not functioned effectively. In Article 15, when either or both parties concerned apply for mediation and when the director of the Women's and Young Workers' Prefecture Office considers it necessary to settle the said dispute, mediation is involved. This EOMC consisted of three commissioners appointed by the Women's Bureau from among persons of learning and experiences. In the case when only one of the parties concerned applies for mediation, the director can make a referral only if the other party agrees. In other words, unless the company agreed using the EOMC, when the woman victims in this company brought a case to the EOMC, the mediation is never opened.

During the decade 1986-1996, there were 103 female workers in the eleven companies who applied for mediation. Twenty-two women in the companies could not reach mediation because of refusal to mediate by the companies. Moreover, the directors of the Women's and Young Workers Prefecture Office refused to accept the mediation cases from seventy one women in the five companies because these cases were concerned with the two-track system, in which differential treatment on promotion of women in a non-career track compared with men in a career track were not considered to be against the 1986 EEOL (Miyachi 1996, 126-131). In those ten year, there was only one case, the Sumitomo Metal Case, which the director and the company accepted their application to mediation.

The Sumitomo Metal Case demonstrates the institutional shortcomings of the mediation system. First, it takes too long to make a decision to accept a case for mediation. In the case of the Sumitomo Metal, it took six months to decide whether the EOMC would accept the case after the women workers in the Sumitomo Metal applied for the mediation to the Osaka Women's and Young Workers Office in March 1994. Then, the EOMC proposed a mediation plan in February 1995 after more than fifteen meetings. Second, the EOMC has no enforcement power. The commission does not have the power to order the companies concerned to submit evidence: such as documents on wages or the employment system. Moreover, according to the WB, the EOMC has not authority to judge whether the accused practices of the company are discriminatory or not. Therefore, in the case of the Sumitomo Metal, the EOMC only suggested that the company conform the employment system to the 1986 EEOL while avoiding deciding if the violated the EEOL (Miyachi1996, 134-8).⁶ Therefore, the institutional system for mediation does not function to rectify gender inequality in employment.

⁶ The mediation plan includes 1) to introduce and implement a system of transfer from a non-career to a career track regardless the sex, based on applicants' ability, and at an appropriate stage; 2) to secure an equal opportunity of training besides education, on which the 1986 EEOL prohibited to discriminatory treatment, and to further the training system for women from a point of view of nurturing women workers; and 3) to have leaders of the company fully understood that utilization of women workers was indispensable for the company (Miyachi 136, 1996).

TABLE 7: Application to the Mediation after the 1986 EEOL

Company's name	Date	Number of Applicants		Content	Decision
Tokai Radio	9/28/1990	19	Aichi WYO (Women and Young's Office)	No women workers as formal workers (Violation of Article 8)	Not taken (disagreement of the company)
Nihon Seimei (Insurance company)	12/7/1991	19	Osaka WYO	Two-Track System, in which women were assigned a non-career track.	Not taken (director's decision not appropriate for mediation)
Sumitomo Seimei (Insurance company)	2/29/1992	22	Osaka WYO	Discrimination in promotion between the two-track system.	Not taken (director's decision not appropriate for mediation)
Sumitomo Metal	3/23/1994	7	Osaka WYO	Discrimination between the two sexes in a non-career track.	Taken (mediation plan on 20 Feb. 1995)
Sumitomo Chemical	3/23/1994	3	Osaka WYO	Discrimination in promotion between the two sexes 1) in the different track and 2) the same track.	Not taken (disagreement of the company)
Sumitomo Electricity	3/23/1994	2	Osaka WYO	Discrimination in promotion between the two sexes in the different tracks.	Not taken (director's decision not appropriate for mediation)
Sumitomo Seimei (Insurance company)	1994/6/17	20	Osaka WYO	Discrimination in promotion between a career and non-career married women tracks.	Not taken (director's decision not appropriate for mediation)

Nankai Hoso (broadcasting company)	2/3/1995	8	Ehime WYO	Only women were contract workers, who could expand the contract only three years. (Forced retirement)	Not taken (director's decision not appropriate for mediation)
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Source: MOL, *Hataraku Josei no Jitsujou*, 1999, p. 208.

The closing of the EOMC door and the hortatory provisions reduced the threat of litigation to employers. In the most cases making their claims to the mediation system based on 1986 EEOL except in the Sumitomo cases, the women applicants declined to bring their cases to the courts in part because the EOMC had already judged their claims to be ungrounded and in part because the long and complicated process. The ineffective mediation system deprived women of an important avenue for rectifying gender inequality in employment discrimination and obtaining remedies for the inequality for women workers.

After the enactment of the 1986 EEOL, the women bureaucrats attempted to prevent the gender unequal practices by creating the policy framework, in which administrative guidelines and guidance supplemented the ineffectiveness of the law. The ambiguous hortatory clauses in the 1986 EEOL caused the WB to create guidelines that allowed employers to create their own, arbitrary interpretation, thereby creating more indirect discrimination. The WB's attempt to deal with the problems of indirect discrimination by issuing administrative guidance, also failed to stop discriminatory treatment on women workers by the employers. Moreover, the 1986 EEOL, guidelines, and administrative guidance did not penalize the employers concerned even if they, the employers, did not make efforts to fulfill their moral obligation to comply with the law

and policies. The policy framework did not function because of a lack of enforcement power in the WB and law. The need for amendment of the 1986 EEOL was obvious, and cries to do so came from not only the WB but also society.

6.3. Agenda Setting of the Amendment of the 1986 EEOL

This section explores what social and political climates pushed the WB to give priority to the amendment. The WB had prearranged the amendment of the 1986 EEOL in the law by including the special clause for its revision. The problem was when the process for the amendment was to start was not determined. Six years after the EEOL was enacted, the WB began the process for amending the 1986 EEOL. From 1986 to 1996, the WB prepared for arranging the political climate to amend the law smoothly by lobbying to revise the Labor Standards Law to reduce working hours and enacting the Childcare Leave Law for both sexes. Compared to the process of agenda setting for the 1986 EEOL, the WB received more pressure for setting the amendment issue as a political agenda from social demands, court decisions and women's groups related this decisions and the mass media. In addition, there was international influence mainly from the United Nations to initiate the process for the amendment of the 1986 EEOL. When these political and social situations were set, the WB initiated the process for amendment of the 1986 EEOL.

6.3.1. Political Climate: Preparation for the amendment of the 1986 EEOL

During 1986 to 1996, the WB had prepared to establish political climate for smoothly amending the 1986 EEOL by revising the Labor Standards Law in 1989 and enacting the Childcare Law in 1991. The enactment of the new childcare leave law was an important issue for the Women's Bureau since the government-led bill for the 1981

Childcare Leave Law had been defeated. However, Article 26, 27, and 28 of the 1986 EEOL only required to employers endeavor to give consideration or take the necessary measures for health care during pregnancy, after childbirth and promotion of childcare leave scheme. After the ineffectiveness of the law was revealed, the introduction of the new Childcare bill providing to not only female but also male workers with leave was a growing necessity.

The social demand triggered a new policy for Childcare leave by the WB. In the survey data, the necessity of implementing some measures to provide women workers Childcare leave was apparent. Over 50 percent of the employers indicated that women's short years of service and another 34 percent indicated that women's responsibilities in the family hindered them from utilizing women (MOL 1987). However, only 11 percent of employers considered the introduction of re-entry or Childcare leave systems as one of the policy priorities they intended to consider in the future (Ibid.). In order to encourage companies to take actions in these areas the WB introduced special financial incentive. In April 1986, the WB set up a 're-entry subsidy fund' to provide financial incentives for firms to introduce a re-employment system for their female employees. Moreover, in 1988, a 'childcare leave incentive fund' was established to encourage employers to introduce childcare leave schemes for their female employers (Chunichi Shimbun, 15 April 1989). However, the financial incentive produced not much fruits. In 1989, the ratio of companies with re-entry schemes was only 16.6 percent (MOL 1990). Moreover severe skills shortages and a continued decline in the birth rate had pushed back the enactment of the new Childcare leave.⁷

⁷ In 1990, the average number of births per woman was just 1.53 (Kinjo 357, 1995).

After the enactment of the 1986 EEOL, the opposition parties attempted to pass a bill for the Childcare Leave but failed. In August 1987, the Japan Socialist Party introduced a bill formulated by the four opposition parties to the House of Councilors (hereafter the H of C), and then, the H of C established a subcommittee to create a forum in which to discuss the Childcare Leave bill and to pass it smoothly in cooperation with the Liberal Democrat Party (hereafter the LDP) (Takahashi 2000). However, the opposition parties' bill could not be enacted because of difference of opinions between the opposition parties and the LDP about the concrete measures to be included in the bill. The LDP was supported by the business circles, which were afraid of increasing personnel expenses if the Childcare law were enacted (Ibid.). Since the bill was shelved again, the WB took a strong lead in enacting the government-led bill of Childcare Leave through discussion in the Deliberative Council of Women and Young's Issues (Ibid.). In spite of strong opposition from the JEFA, the bill of the Childcare Leave Law was introduced to the Diet in March and was passed in May 1991. The Childcare Leave Law has been in force since April 1992. The Childcare Leave Law guarantees a maximum of one-year leave for working parents providing 25 percent of their salary from Employment Insurance (MOL 1991). In June 1995, the WB also enacted the Eldercare Leave, which provides certain leave for women and men workers to take care of their family members. However, the law involves no clause, which guarantees payment of salary during the period of leave (Kinjo 1995). Consequently, most beneficiaries are women workers, not men, who assume the roles of breadwinners.⁸

⁸ Women mainly took both the childcare leave and the eldercare leave.

6.3.2. Reduction of Working Hours

During the discussion of the decision-making for the 1986 EEOL, a large number of the women leaders in labor unions and women's groups criticized long working hours of male workers, which they believed might harm their health and further prevented women workers from continuing working in private companies and re-entering the job market. The WB endeavored to push the other bureaus within the Ministry of Labor to amend the Labor Standards Law to reduce working hour. In 1989, the MOL amended the law to limit working hour to 46 hours a week and to 40 hours in 1995 (MOL 1995).

In 1992, the Basic Outline for Measures for Women Workers' Welfare created by the WB stated the need to consider the revision of the 1986 EEOL in order to spread the principle for gender equality in employment and to remove the general protective measures for women such as the limitation on working hours (MOL 1992). The Prime Minister's Officer also mentioned the need for the amendment in the "Five Year Plan for a Great Nation of Living (*seikatu taikoku gokanen keikaku*) in 1992 (PMO 1992). Thus, the political climate for the amendment was prepared.

	Ratio between the sexes			Ratio among women workers having childbirth and taking the leave	Ratio of male workers who took the leave because their spouses had childbirth
	Total	Women	Men		
1993	100.0	99.8	0.2	48.1	0.02
1996	100.0	99.2	0.8	44.5	0.16
1999	100.0	97.6	2.4	56.4	0.42

(MOL, Josei Kōyō kanri kihon chōsa)

Acquisition of Eldercare Leave in 1999

Ratio between the two sexes			Ratio of female workers who had the eldercare leave among whole female workers	Ratio of male workers who had the eldercare leave among whole male workers
Total	Women	Men		
100.0	90.7	9.3	0.15	0.01

6.3.3. Series of Litigation

A series of court decisions after the enactment of the 1986 EEOL pushed the WB to set the amendment as a political agenda by showing the deficiency of the enforcement power of the 1986 EEOL. From 1986 to 1997, no court decision applied the 1986 EEOL to any cases. Still, Article 90 of the Civil Code was applied to the discrimination cases in the Japanese legal system. Women plaintiffs won cases of direct discrimination as they did before the enactment of the 1986 EEOL. However, did the court decisions function to stop indirect discrimination in promotion? What court decisions pushed the WB to give top priority to the amendment in policymaking? This section answers these questions.

With regard to direct discrimination such as a forced retirement case, all court decisions were in favor of the women plaintiffs (Research Institute of Radiation Influence case in 1985 at Hiroshima District Court, in 1987 at the Hiroshima Higher Court, and in 1990 at the Supreme Court; Tottori Education Board case in 1986) (Hayashi 2000). In cases of the differential in wages between women and men, most women plaintiffs also won their cases (Japan-Soviet Publishing Case in 1992, Sanyo Bussan in 1994, and Ishizaki Honten in 1996) except the Nissan Automobile case (Ibid).⁹ The Japan-Soviet Publishing case in 1992 was the first court decision that decided that the differential treatment between women and men, who did similar jobs, was illegal (Ibid). In a case of wages differential, the Tokyo District Court decided in 1994 that a company providing only male workers a family allowance was against the Civil Code and acknowledged such a treatment as indirect discrimination (Sanyo Bussan Case) (Ibid). Moreover,

⁹ In this case, a woman plaintiff claimed to obtain family allowance usually provided to male workers, who were a head of family. The court judged that she was not considered as a head of family because she was not a person, who earned the most in her family.

sexual harassment issues emerged in the early 1990's. In 1990, a court convicted a man of sexual harassment for the first time (Shizuoka Case) (Ibid). The court decision in 1992 judged not only the man a harasser but also the company guilty of sexual harassment for the first time. In this case, the Fukuoka District Court acknowledged verbal harassment as environmental harassment and required the company to prevent sexual harassment in the office (Ibid). After the court decision, a majority of the court decisions were in favor of women plaintiffs, and the issue of sexual harassment has attracted attention of the mass media and the public.

Women plaintiffs lost most cases of indirect discrimination, in particular promotion, deployment, assignment of job issues because the 1986 EEOL only required employers to endeavor to provide women equal opportunity with men and thereby left its implementation in hands of employers. In cases against deployment of married women within the company but to branches where they could not commute from their home or could not continue using the same daycare facility, all plaintiffs lost their cases. Women plaintiffs in the Japan Association of Steel Manufacturers case claimed they were placed in non-career tracks without any inquiry. However the Tokyo District Court judged that the discriminatory treatment was illegal in 1990's, but legal in the 1960's when the women plaintiffs entered the company, and such employment practices were acceptable to society.¹⁰ In the case against the Social Insurance Consultation Reward Payment Foundation, the Tokyo District Court acknowledged discrimination in promotion, while refusing to order transfer to the appropriate positions for them because of the hortatory provision of promotion in the 1986 EEOL (Hayashi 2000). Moreover, thirteen women

¹⁰ In this case, the same court judged that an agreement between the company and the labor union on a different wage system and lump-sum payment based on sex was illegal.

in the Shiba Credit Union, working more than twenty years, sued the company in June 1987 because discrimination in promotion and wages between the two sexes was against Article 90 of the Civil Code (Asahi Shibun, 18 June 1987).¹¹ While admitting the wage differential as illegal, the Tokyo District Court judged the inequality between the two sexes on promotion as legal because the hortatory provision allowed the company to have discretion in the matter of promotion. The 1986 EEOL prevented relief for women victims. The inadequateness of the hortatory provision in litigation and the increase of sexual harassment cases justified amending the 1986 EEOL to a more effective law.

Through the long process of litigation, women plaintiffs and lawyers created a strong bonding and formed a new type of women's groups. Working Women's Network (hereafter the WWN) stemmed from meetings in which the women plaintiffs of the mediation cases of the Sumitomo Metal, Sumitomo Electronic and Industry, and Sumitomo Chemicals discussed the situation with women lawyers (Miyachi 1996). The members enthusiastically utilized the mass media to spread information of the litigation to the public. Moreover, female lawyers specializing women labor litigations formed *Hataraku Josei no tame no bengo dan*, [a lawyers' group for Working Women] in the early 1991 to assist women victims to bring their cases to courts (Kuroiwa 2001). The appearance of the professional women's group attracted the attention of the public and pressure the WB by creating a social demand for the amendment.

6.3.4. International Influence for the Amendment

International influence for the amendment stemmed from the critique of the Japanese government by the Committee on Elimination of Discrimination against Women

¹¹ The Shiba Credit Union case was brought to the Supreme Court, and the two sided were reconciled on October 24, 2002, favoring women plaintiffs (Mainichi Shimbun, 25 October, 2002).

(hereafter CEDAW) in the United Nations. Article 18 of the Convention on Elimination of Discrimination against Women requires the signatory countries to submit “a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect” after one year from the ratification and hereafter every four years. The first Japanese government report in 1987 did not become the focus of criticism because it just explained the legislative efforts to ratify the convention. However, the 1994 Japanese government report received fierce criticism from both home and abroad.

The Japanese government delegate group headed by Matsubara Tuneko, then director of Women’s Bureau, submitted to the CEDAW a report, which stated that Japan had already obtained *de jure* equality between the two sexes and had made huge progress toward *de facto* equality in the society such as the appointment of three women ministers, co-educational curriculum of home economics, and enactment of the 1986 EEOL. However, the members of the CEDAW condemned ineffectiveness of the 1986 EEOL and the government policies against persistent gender inequality in employment including wages differentials between the two sexes, the two-track system, and indirect discrimination despite the fact that Japanese women contributed to its economic growth (Hayashi 1994). Moreover, the members of the CEDAW criticized the report as too one-sided without any opinions from non-government organizations (hereafter NGO) in Japan. While responding that the Japanese society did not consider wage differential based on the seniority system as gender discrimination, the Japanese government failed in specifying prospective policies for gender equality in the future such as amendment of the 1986 EEOL. Moreover, the Japanese government became the focus of criticism of

the International Labor Organization because of Japanese women's low social status (Yomiuri Shimbun, 23 June 1995). These criticisms from international organizations pressured the Japanese government to ratify the 156th treaty of the ILO (family responsibility of the two sexes) and to promote a domestic policy for gender equality.

The fourth Women's World Conference of the UN was held in 1995 at Beijing. Compared to the three other conferences in Mexico, Copenhagen, and Nairobi the international conference having the theme: 'Poverty, Violence against women, and Conflict' produced not so much pressure on the Japanese government to legislate new laws or policies for gender equality in employment.¹² Rather, the conference provided Japanese women activists' opportunities to create a network of women's groups. Consequently, these NGO members created a networking group, the Beijing Japan Accountability Caucus (hereafter Beijing JAC) during and after the fourth conference. These two groups played significant roles in pressurizing the WB to amend the 1986 EEOL. Moreover, the Japanese women's NGO held their own panel discussion and demonstrated the discriminatory practices of Japanese employers even after the enactment of the 1986 EEOL. Such panels also pushed the government to proceed with the amendment process.

6.3.5. Pressure by the Mass Media toward the Amendment

Unlike the agenda setting process for the 1986 EEOL, the mass media played significant roles in creating the proper social climate toward the amendment, together with the women groups' utilization of the mass media to disseminate information of ineffectiveness of the 1986 EEOL. A number of newspapers publicized the fact that the

¹² The International conference made strong impact on legislation of the 2001 Domestic Violence Law in Japan.

Japanese EEOL with its hortatory provisions brought shame to Japan by using international comparison of gender equality laws. Asahi Shimbun chose the topic of the Equal Employment Opportunity Committee in the United States, which has strong enforcement power, in order to compare the Japanese EOMC, which had no enforcement power (27 June 1987 and 30 November 1996). Nihon Keizai Shimbun reported on the Equal Employment Law in Canada, which also includes enforcement power to order employers to rectify discriminatory practices (Nihon Keizai Shimbun, 2 August 1995). Akamatsu Ryoko, the fifth director of the Women's Bureau appeared in an article of the Tokyo Shimbun and argued that Japan would be further behind from other countries unless the EEOL were changed to a more effective one (Tokyo Shimbun, 21 November 1996). Yomiuri Shimbun reported on amendment of gender equality laws abroad. The German government removed the hortatory provision by amending the Gender Equality Law in 1994. South Korea enacted its Gender Equality Law in 1988 but had already amended it twice to strengthen its enforcement power (Yomiuri Shimbun 13 November 1996). Japan has fallen behind the other countries because of its indifference to global standards of gender equality (Ibid.). Furthermore, Japanese women members of the NGO attending the meeting of the CEDAW spread information that the Japanese delegates received exceptionally harsh criticism from the mass media (Asahi Shimbun, 18 February 1994).

The most significant difference between the processes of agenda setting between the 1986 and 1999 EEOL was that gender equality already became the political issue in the 1999 EEOL. Therefore, neither strong international influence nor an alliance between the WB and women's groups were necessary for the WB to set the

amendment as the significant political agenda. Rather, the power of the mass media reporting the court decisions against gender inequality in employment and the activities of the women groups relating to the litigations creates social climate in favor of the amendment. The sexual harassment issue exemplified the increasing power of the mass media. The women bureaucrats proceeded to the next stage for the amendment.

6.4. Activities of the WB in the Decision –making Process

The decision-making framework of the 1999 EEOL was similar to that of the 1986. In that framework, women bureaucrats formulate a bill based on the Deliberative Council's proposal and introduce it to the Diet. The most significant difference between the decision-making processes for the two laws was that the deliberative council reached a consensus, although there were fierce disputes about transformation of the hortatory provisions to prohibition provisions, rearrangement of the mediation system, and inclusion of a hortatory provision for sexual harassment. The smooth process of the decision-making resulted from the labor union's voluntary withdrawal of the demand for preserving the general protective measures for women. The strong impact of the 1986 EEOL on transformation of gender consciousness from dimorphic to bimorphic brought about the policy change of the labor union and the smooth passage of the 1999 EEOL.

6.4.1. Labor Union as a Facilitator at the Deliberative Council

The issue of amendment of the 1986 EEOL was discussed in the Subcommittee of Women' Labor, which was also a tripartite committee consisting of 'public interest representatives,' 'labor union representatives,' and 'employer representatives' under the Deliberative Council of Women's Issues. Yet, the member composition was changed from that for the 1986 EEOL. In particular, because of merger of the labor unions into

one huge union, the Japanese Private Sector Trade Union Confederation (*Rengō*) in the late 1980s, the WB appointed three women leaders of the *Rengō* as labor union representatives of the Subcommittee.¹³

The strongest impact on the decision-making process for 1999 EEOL came from the newly appointed representatives of *Rengō*. In June 1996, *Rengō* formally announced its policy change to withdraw demand for preserving the general protective measures for women, if the new EEOL included certain conditions such as prohibition of night work by women workers, who have a child younger than six-year old and elders to care for (Josei to Rōdō 1996).¹⁴ By proclaiming the withdrawal of the demand for the general protective measures, the representatives attempted to take the initiative in enacting a gender equality law in employment applied to the both sexes, which included prohibition clauses at all stages of employment and strengthened enforcement power (Nihon Keizai Shimbun, 14 June 1996).

The withdrawal of demand for the general protective measures announced by the labor union made a strong impact on the employers' side. In July 1996, the Subcommittee of the Women announced an interim report, which enumerated the three

¹³ *Rengō* was created by in part by the formal dissolution of Dōmei and another independent labor federation in 1987, and Sōhyō and is the biggest labor union in Japan,

¹⁴ The most problematic point of issue during the decision-making process for 1986 was whether menstruation leave should be removed. As a result of strong demand to preserve the menstruation leave, the 1986 Labor Standards Law stipulated that 'when a woman for whom work during menstrual periods would be especially difficult has requested leave, the employer shall not employ such woman on days of the menstrual period' (MOL 1986). However, before and during the decision-making process, no women leaders of the labor unions and women's groups demanded its preservation. The author asked several scholars, who demanded to preserve the menstruation leave during the decision-making process for the 1986 EEOL, but did not demand it after the enactment in the late 1980s, why they withdrew the demand of the menstruation leave in 2001. Asakura Mutsuko, a professor of Labor Law at the Tokyo Metropolitan University, wrote in her book, "*Danjo koyō byōdō ron*" that she was converted (1990). When the author asked her reasons for the conversion, she stated that the fact that no industrial countries had implemented the menstruation leave and the international trend to remove the general protective measures made her determine to withdraw the demand. Also, Iwamoto Misako, a professor of political science at Mie University, stated that, because the fact that a woman worker has to ask her boss to take menstruation leave implies that the company controls women's body and sexuality, she also changed her belief.

opinions of the public interest, labor union, and employer sides (Asahi Shimbun 6 July 1996). While having expressed strong opposition to inclusion of the prohibition clauses, the employer's side argued to start discussions about removal of the hortatory provisions in the stages of recruitment and hiring (*Nihon Keizai Shimbun*, 22 October 1996). The labor union side argued that instead of removing the general protective measures, it was necessary to enact a new law aiming at limiting overtime hours for the both sexes and exempting workers having family responsibility from overtime, holiday work and night work. Moreover, concerning the mediation schemes, the labor side demanded change to a mediation mandatory by only a worker's request, while the employers side supported the existing schemes. Furthermore, the employers' side strongly opposed including a prohibition clause of sexual harassment in the new EEOL, while the labor union side demanded its inclusion. A newspaper expressed its anxiety that clause on sexual harassment would be included in a new EEOL (Asahi Shimbun, 6 July 1996). Although the withdrawal of the demand for the general protective measures by *Rengō* facilitated the decision-making process for the 1999 EEOL, there were still disagreements between the labor union and the employers.

6.4.2. Proposal of the Deliberative Committee

The women bureaucrats worked to mediate between the two groups and helped them reach a certain consensus. In January 1997, the Subcommittee submitted the proposal reflecting the labor union's opinions more than that of the employers'. The proposal prohibited discrimination against women at all stages of employment, removed the general protective measures, changed the mediation schemes to open the EOMC by one side's request, required employers to prevent sexual harassment, and provided that

the WB to publicize names of companies which violated the new EEOL (MOL 1996). In the previous month, the employers decided to accept the removal of the hortatory provision but to make no more concession to the labor union side (Nihon Keizai Shimbun, 25 January 1997). Yet, the employers were greatly shocked by a sexual harassment case, in which the Equal Employment Opportunity Committee in the United States filed a lawsuit in April 1996 against the Mitsubishi Motors Manufacturing of America Inc. because of its negligence in preventing physical and verbal abuse of women workers. Consequently, the case drove the employers' side to accept the inclusion of a hortatory provision concerning sexual harassment. In addition, the enthusiasm of the WB and the public interest representatives to amend the 1986 EEOL to a strong law as same as those in other industrial democratic countries forced the employer's side to agree to the proposal of the subcommittee.

The proposal, however, still focused on only discrimination against women workers and did not propose to enact 'a gender equality law in employment' instead of the EEOL only for women. Compared to the 1986 EEOL, there was small progress toward gender equality. The most significant difference was to omit the words 'women's welfare' from the title of the bill. As Figure 5 shows, the 1999 EEOL prohibited discrimination against women at all stages of employment. Moreover, the new law allows women workers to request mediation without agreement with the company concerned. The clauses for positive action plan and sexual harassment were also included despite strong opposition from the employer's side.

TABLE 8: Comparison of the 1986 EEOL and the 1999 EEOL

	1986 EEOL	1999 EEOL
Recruitment and Hiring	Hortatory provision	Prohibition provision
Deployment and Promotion	Hortatory provision	Prohibition provision
Education and Training	Partly prohibition	Prohibition provision
Retirement and Dismissal	Prohibition provision	Prohibition provision
Mediation	Mutual Agreement	One-sided request
Positive Action	Nothing	MOL assists companies to implement positive action.
Sexual Harassment	Nothing	Hortatory provision
Enforcement Power	Nothing	To publicize name of companies violating the 1999 EEOL.
Positive Action	Nothing	Assistant by the government
Measures in connection with health care during pregnancy and after childbirth	Hortatory provision	Compulsory provision

TABLE 9: Comparison of the Labor Standards Law and the Amended LSL

	LSL	Amended LSL
General Protective Measures for women	Limitation of overwork, night work, holiday work, and dangerous work for women.	Removal

The bill was introduced to the House of Representatives in May 1997. The points of issue at the Diet were removal of the general protective measures for women without any new legislation which limits over time work for the both sexes and the weakness of the enforcement power of the 1999 EEOL. The New Frontiers' Party and the Democrat Party appealed for a limitation of overtime for both sexes as a substitute for the removal of the general protective measures for women workers. Moreover, the opposition parties criticized the bill of the 1999 EEOL for lacking punitive provisions and

including only a right for the WB to publicize the names of the companies concerned as a social sanction. However, members of the Committee of Society and Labor except for the Japan Communist Party passed the bill with a supplementary resolution, which expressed the demand to set limitation on overtime work the both sexes in the future. In July 1997, the bill was moved to the House of Councilors and gained approval of it. The new law became effective in April 1999.

6.4.3. Reorganization of the WB

The Japanese government carried out a merger of ministries in January 2001 to reduce its financial deficit. Consequently, the Women's Bureau of the MOL was merged with the Children's and Families Bureau of the Health and Welfare Ministry. The new bureau is called the Equal Employment, Children and Families Bureau of the Ministry of Health, Welfare and Labor. The purpose of the new bureau is to implement comprehensive policies, which can create a society where both men and women can jointly participate in activities at the workplace and at home as well as in their community (MOHL 2001). These include measures designed to secure equal employment opportunities for men and women and their fair treatment, to support having a family life and a career (Ibid.). The bureau is also promoting measures for the welfare of children and families, health insurance medical care and various allowances (Ibid.). The jurisdiction to deal with the improvement of women's status in society was transferred from the WB to the Office of Gender Equality in PMO.

6.5. Effect of the Policymaking of the 1999 EEOL

6.5.1. Structural Security but Marginalization

From 1986 to 1997, the WB was able to reinforce its structural strength within

the MOL, while its marginalization within the government overall the WB anxious about taking up jurisdiction that deal with all women's issue. The reinforcement of the structural strength increased its significance as a policy agency for women within the MOL. On the other hand, the location of the WB within the MOL limited its scope to working women's issues, and prevented the WB from implementing comprehensive policies for women.

One of the reasons for the structural weakness of the WB derived from the fact that the WB involved from its establishment in 1947, no extra-department organization, which supported the bureau from outside by taking over some tasks. The lack of the extra-department organization weakened the WB's structural power to subsidiary companies concerned. When the 1986 EEOL was in effect, the Ministry of Labor was authorized to establish 'The Japan Institute of Women's Employment' (*josei shokugyō zaidan*) as an extra-departmental organization (*gaikaku dantai*) of the Women's Bureau (The Institute of Women's Employment 1991). Aimed at improving "corporate personnel management aligned with national policies and to create conditions under which Japanese women can truly develop their potential", the organization has performed activities of research, survey, and education to assess Japanese women workers' status and employers' efforts to comply with the law and to disseminate information about the 1986 EEOL (Ibid. 76). The top leaders of the institution were retired women bureaucrats of the WB. The institution functioned as a forum to keep former government officials of the WB into high positions. In other words, the organization took over some tasks of the WB and supported its tasks from the outside (Matsubara 2000).

The WB reorganized the institution and renamed it 'The Institution of Twenty-first Century Employment' (*Nijūisseiki shokugyō zaidan*) with its regional branches to subsidize employers concerned in April 1993. Before the reorganization, the WB had to ask the other organizations within the MOL to subsidize companies, which promote Childcare facilities and systems, when the Childcare Leave was enforced in 1991 (Matsubara 2000). Moreover, the organization took over the activities of education carried out by the WB and its prefectural agencies, and consequently, the WB was able to focus more on policies implementing the EEOL (Akamatsu 1997).

Second, the amendment of the EEOL produced a consequence, which changed the discourse of 'woman' in politics. From the establishment of the Bureau of Women and Minors', the term of '*fujin*,' in Japanese was used. The word of '*fujin*,' was derived from a Chinese character, made up for the characters for woman and broom (In Chinese it means married woman or housewife.) Accordingly, women activists demanded renaming the bureau and policies from '*fujin*' to '*josei*,' which means women in English because '*fujin*' implied the division of labor between women and men based on the dimorphic gender consciousness. In 1997, the WB was finally renamed from '*fujin kyoku*' to '*josei kyoku*' (Women Labor Association 2000).

Third, the WB set up an Office for Childcare Leave Measures under the section of Women's Welfare in 1992 to promote employers' implementation of the childcare leave schemes after the Childcare Leave Law was in force. The office was renamed in 1995 to the Office for Childcare and Eldercare Measures. The structural change implies that the WB focused on women workers' working conditions more than over-all women's social status.

Despite this structural reinforcement of the WB, the agency for women has structural weaknesses caused by its marginalization within the government. The structural weakness was revealed, when the Section of Gender Equality was set up within the PMO in 1994. In 1975 the Bureau of the Women and Minors' Workers took a strong initiative in establishing the Headquarters for the Planning and Promoting of Policies Relating to Women (hereafter referred to as the Headquarters) and its secretariat, the Office for Planning and Promoting of Policies Relating to Women (hereafter referred to as the Office) within the Prime Minister's Office in accordance with the World Action Plan of the first Women's World Conference. Since then, the influence of the BWM decreased as the Office formulated its own comprehensive policy based on the proposals of the UN's Women's Conference.

The Office started to formulate a policy, which aimed at establishing national policy machinery for women based on the Nairobi Forward-looking Strategies. Yet, after the review of Japan's National Action Plan formulated by the Office, the UN's Economic and Social Council in May 1990 demanded Japan make more efforts to establish, enhance, and strengthen the national machinery for the advancement of women. Consequently, in 1992 the Headquarters created a policy called 'Improvement of the Structure for Advancement Toward Building a Society Which Ensures an Equal Partnership Between Men and Women,' which intended to restructure the Headquarters to enhance its power for policy machinery for women's issues (PMO 1994). The agency was renamed to Headquarters for Promotion of Gender Equality, and the Office for Gender Equality was also established within the PMO to serve as a coordinator between the Headquarters and ministries and "to translate the National Plan for Action

into ministry and agency policy” (PMO 1994, 17). The office (*shitsu*) was promoted to be a section (*ka*) giving it more staff and budget in 1994.

The structural strength of the Section of Gender Equality (SGE) became a menace to the WB of the MOL. The Section of Gender Equality had the possibility to be a hub to coordinate the efforts of other women’s policy agencies and to get them to prioritize women’s equality policy because of its location within the strong ministry, the Prime Minister’s Office. Moreover, the Headquarters had an advisory council, which co-opted a wide range of the women’s groups. Then, the WB exchanged a formal note with the SGE to confirm its jurisdiction of dealing with women’s issues and to assure the roles of the Section as a coordinator within the government (Asahi Shimbun, 11 December 1994). The exchange of the formal note disclosed the marginalization of the WB within the government and its ineffectiveness as the national machinery for women’s policy.

In 2001, the jurisdiction for women’s issue was moved from the WB of the MOL to the Office of Gender Equality of the PMO because of merger of the MOL with the Ministry of Welfare. However, there was no opposition from women’s groups over the transformation of the jurisdiction. Rather, the women’s groups welcomed the transformation because they recognized that the role of the WB in the MOL to improve women’s status in society from an independent agency was at an end, and a new comprehensive agency for women within a powerful ministry was indispensable.

6.5.2. Institutional Weakness: Ineffective Advice, Guidance or Recommendation

Although bureaucratic tactics generally have no legal enforcement power, bureaucrats “seek to make the behavior of regulated parties conform to broad

administrative goals” (Lam 1993, 117). All compliance with administrative guidance is voluntary; an agency cannot employ the legal system or an administrative enforcement body to compel a regulated party to obey the government’s directive. In some situations, government agencies tend to use a broad array of devices to accomplish their goals such as threatening to withhold services or encouraging compliance by rewarding those who do (Young 1984). Some Japanese scholars indicate that this type of administrative guidance can sometimes be quite effective (JERC 61-2, 1987). However, whether the agency could threaten to withhold services or reward with something of value to them determines the effectiveness of the administrative guidance. The Women’s Bureau possessed no ability to make the companies concerned comply with the administrative guidance. Accordingly, the effectiveness of administrative guidance has been lower than that in other powerful agencies within the government.

The lack of enforcement power in the WB relating to the EEOL allowed employers to continue discriminatory practices, although recognizing what the EEOL and its guidelines attempted to stop. If the WB had possessed the institutional power to supervise employers by forcing employers to submit information of hiring, promotion, wages and so on, the administrative framework could have worked. Thus, the institutional weakness of the WB prevented acceptance of the EEOL in society.

6.5.3. Relations with Women’s Groups

The WB attempted to reflect a wide range of opinions in the process of the decision-making for the 1999 EEOL, although informal relationships between the WB and members of women’s groups were weak. In 1996, the WB adopted a new policy called the ‘Public Comment System’, which asked the public to send through fax

machine or mail their opinions about the interim report on the amendment of the 1986 EEOL created by the Subcommittee of Women's Problems (Asahi Shimbun, 25 September 1996). From a middle of July to September 30, the WB received more than 21000 opinions. Half of the opinions were for the removal of the general protective measures under certain conditions, while 600 opinions were against the removal (Kyoto Shimbun, 25 October 1996). Seventy-five percent (15,500 opinions) came from individuals, while 25 percent were from organizations such as enterprises, labor unions, and women's groups (Ibid.). 80 percent of opinions came from workers of local governments including teachers at public schools, demanding a more effective EEOL (Ibid.). However, the WB never revealed how far the opinions reflected the discussion of the Subcommittee of Women's Problems for the amendment of the 1986 EEOL.¹⁵

In the 1990's, women professionals formed several women's groups, which carry out lobbied with the government and diet members rather than publicizing their demands outside the government. In particular, women lawyers concerned with women's working conditions formed women's groups with other workingwomen relating to litigation. In the early 1990s, 'the Working Women in Japan (WWJ) was created by women members of the '*Shosha ni hataraku onna tachi no kai*' (Group for Women Working for Trading Companies) and the women plaintiffs of the Sumitomo cases and their lawyers. The group submitted to the UN's CEDAW a counter-report, which refuted the formal report created by the government by complaining of gender inequality in the Japanese employment system (Yomiuri Shimbun, 24 August 1995). At the Beijing Conference, the group held a panel discussion about efficiency of the 1986 EEOL

¹⁵ When the author interviewed a section leader of the Equal Employment Policy in 2001, the woman bureaucrat did not respond the question how far the public comment system reflected policymaking.

in 'the NGO Forum of the Beijing Conference' (Nihon Keizai Shimbun, 29 August 1995). This group was renamed the Working Women's Network (hereafter WWN) after the conference and carried out massive lobbying activities during the decision-making process for the new EEOL. Also, working women and women lawyers formed other new women's group, "Let's Change the EEOL," and "A Group of Lawyers for Working Women" to lobby for amendment of the 1986 EEOL.

Moreover, the NGO groups participating in the Beijing Conference created a network, the Beijing Japan Accountability Caucus (hereafter Beijing JAC) during and after the fourth conference. The group is an aggregation of a large number of small women's groups. By creating a nation-wide network, the Beijing JAC attempts to reflect their opinions toward the women's policies formulated by the Japanese government. The group actively held meeting with women diet members and bureaucrats relating to women's issues. According to a woman bureaucrat of the WB, the members of the Beijing JAC were the most active to come into contact with the women bureaucrats (Muraki 2001). Despite the emergence of the new type of women's groups, there was no place for them to participate in the decision-making process for the 1999 EEOL. Only women leaders of *Rengō* participated in the decision-making process. Therefore, the roles of the representatives of *Rengō* in the Subcommittee of Women's Problems became more and more important.

The emergence of the new groups represented the transformation of individuals' gender consciousness from dimorphic to bimorphic. The workingwomen's and women lawyers' groups consisted of members who had a bimorphic gender consciousness and self-identity as independent workers. Also, the members of the Beijing JAC included

full-time housewives, although the purpose of the group is not based on identity as mothers and housewives. The emergence of the new women's groups represented the transformation of gender consciousness.

6.6. Conclusion

This chapter demonstrated the weak power of the women bureaucrats of the WB in implementing the gender equality policies such as the formulation of guidelines and issuing administrative guidance, while they took a relatively strong initiative in agenda setting and policymaking process. Ineffectiveness of the 1986 EEOL without enforcement power and the weak bureaucratic ability of women bureaucrats in the WB prevented rectification of gender inequality in employment and created other types of discriminatory activity. Yet, a series of litigations and international influence pressured the WB to set the amendment of the 1986 EEOL as a significant political agenda.

In the meantime, the 1986 EEOL had a strong impact on individual's gender consciousness and increased the number of people with a more bimorphic gender consciousness. Consequently, the labor union, although having opposed the removal of the general protective measures based on the bimorphic idea that women possessed the double burden of family and working responsibilities, changed its the policy orientation to removal of the general protective measures. The change of its policy orientation made the decision-making process smoother than the 1986 EEOL. However, the 1999 EEOL was also a product of compromise by the WB exchanging the removal of the hortatory provisions by omitting the punitive statutes. The 1999 EEOL lost its effectiveness.

Through the processes of the 1986 and 1999 EEOL, the WB focused on dealing

with betterment of working conditions for women rather than improvement of women's social status. The limited scope of policy orientation caused the change in jurisdiction for dealing with women's issues from the WB to the Office for Gender Equality in the PMO in January 2001, which can formulate more comprehensive women's policy beyond betterment of working conditions for women. The WB was reorganized to the Equal Employment, Children and Families Bureau within the Ministry of Health, Labor and Welfare, which focuses on policy to enable compatibility between work responsibility and family responsibility for women and men workers.

CHAPTER 7 CONCLUSION

This dissertation has examined whether the state per se has the intention and the ability to improve gender relations in society by using the case of post-World War II Japan. Political scientists in Scandinavia, Australia, and recently the United States have established activity of state institutes on women's policy in cooperation with feminist groups as the theory of state feminism. Using the theory of state feminism, they have examined the activity of the various state institutes for women and variations of their activities in western democratic and industrial nations where both a state institute for women and feminist movement have developed (Borchorst 1995; Bystydzienski 1995; Calloni 2001; Celis 2001; Dahlerup 1987; Eisenstein 1990; 1995; Elman 1995; Franzway, Court, & Connell 1989; Ferree 1995; Geller-Schwartz 1995; Guadagnini 1995; Haussman 2001; Hernes 1987; Kamenitsa 2001; Köpl 2001; Lovenduski 1995; Mahon 1995, 2001; Mazur 1995; Outshoorn 1992, 1995, 2001, 1995; Pingle & Watson 1992; Robinson 1995, 2001; Sawer 1990, 1993, 1995; Sawer and Groves 1994; Siim 1991; Stentson 1987, 1995, 2001; Valiente 1995, 2001; Yeatman 1990; Warker 1990).¹ Yet, there is no study of state feminism in Asia and Africa where state agencies for women have existed, but a feminist movement has not yet developed strongly enough to improve gender relations in society. The theory of state feminism is important for us in knowing how a state absorbs feminist ideas, goals, and the energies of feminist activists. Yet, the

¹ For discussion of the successes and failures of state feminism in Australia (femocracy), see Eisenstein 1990, Franzway, Court, & Connell 1989; Pingle & Watson 1992; Sawer 1990, 1993, 1995; Sawer and Groves 1994; Yeatman 1990; Warker 1990. For similar discussion about Europe, see Borchorst 1995; Bystydzienski 1995; Calloni 2001; Elis 2001; Dahlerup 1987; Elman 1995; Ferree 1995; Geller-Schwartz 1995; Guadagnini 1995; Hernes 1987; Kamenitsa 2001; Köpl 2001; Lovenduski 1995; Mahon 1995, 2001; Mazur 1995; Outshoorn 1992, 1995, 2001; Robinson 1995, 2001; Siim 1991; Stentson 1987, 2001; Valiente 1995, 2001. For similar discussion about the United States and Canada, see Haussman 2001; Stetson 1995, 2001.

state feminism theory should have a stronger capability to analyze whether and how a state can absorb feminist ideas and goals without a strong feminist movement in society. In other words, the study of state feminism in western industrial and democratic states focuses on how democracy is made more democratic (Mazur 2001), while the study of the state feminism in other regions examines how a state makes the society more democratic.

This is the first study of state feminism in a non-western nation state. It has examined the roles of the state institute for Japanese women, focusing on activity of the Women's Bureau of the Ministry of Labor in Japan for enacting the new gender equality laws in employment. In order to apply the theory of state feminism to the case study of the women's bureau in Japan, I needed certain new analytical factors to enable me to analyze its activities in the non-western nation where the feminist movements tended to be apathetic or antagonistic to the state, and the state per se also tended to create a vertical relationship with feminist groups. The new factors I created were domestic and international master frames. The domestic master frame means the schematic conception that is the basis for a policy objective that both policymakers and activists share. The International master frame refers to a schematic conception provided by international organizations to domestic policymakers and feminists in order for them to collaborate with each other on policymaking for a women's policy. The analysis of the international master frame shows us how and where the state institute obtained the legitimacy for enacting the new gender equality law. This foreign legitimacy, to which the women's bureau utilized, compensated for the lack of a policy alliance with women's movement activists and promoted its activities, although indigenous reluctance forced the

bureau to create compromised gender equality laws and posed obstacles to state feminism in Japan. In this concluding chapter, I review and analyze the activities of the women's bureau and then clarify the theoretical and substantive contributions of the dissertation, implications of the state-centered approach, and future implications for state feminism in Japan.

7.1. Theoretical Problems of State Feminism

The state feminism theory has been constructed on the assumption of reciprocal relations between state and society. That is, while society affects state's policy through social movements, the state also influences society through policy and law. Further, it predicts that the institutionalization of feminist interests within public institutions by establishing a policy agency for women staffed by feminist activists or at least those who share feminist interests or increasing the number of women politicians advocating gender equality could improve gender equality in society. In other words, the state feminism theory, as developed in Europe and Australia, assumes the pre-existence of a nation-wide and powerful liberal feminist group or groups in the society that can represent women's demands.

This assumption of the pre-existence of a huge liberal feminist group leads us to conclude that the lack of such a huge liberal feminist group causes an absence of policy and decision-making activities in the state institutes for a women's policy. This implies that the state feminism theory cannot be applied to cases of Asian and African states where women's movement has not yet developed, and liberal feminist groups have not yet been nurtured. Moreover, while having a strong capability to examine relationships between state and society in terms of gender issues, the state feminism theory might lead

readers to misunderstand, to believe that the state feminism theory suggests authoritarian policymaking. The theory of state feminism might be misunderstood to justify a state agency for women arbitrarily selecting a group among many small women's groups as its partner in a policy- and decision-making process for an alleged feminist policy. Such a group will turn out to be only a cheerleader for the agency and avoid criticizing the content of a policy formulated by the agency, even though it may have obtained access to the decision-making process. The state feminism theory also might be misunderstood to rationalize the state's activity in patronizing a women's group to empower the group to represent the women's voice. Such a group also loses its critical attitude toward state's activities. These misunderstandings of the state feminism can be prevented, if the domestic or international master frame factors are used. The Domestic master frame can show how the state institute for women collaborates with activists on women's policymaking, while international master frame can demonstrate how the state institute for women promotes women's policy with feminist goals without strong feminists' support. Thus, the two factors of the domestic and international master frame are important for the theory of state feminism in analyzing activities of a state institute for women.

7.1.2. International Master Frame and International Influence

To apply the theory of state feminism to a state's activity in Japan, I added an international master frame factor in the analysis of the state's activity for improving gender relations. The influence of the international master frame is different from 'external pressure' that forces a national government to implement a certain policy that the government does not intend. More importantly, no international society can exert

international influence on Japan without domestic actors' consent. For instance, violence against women has become an important issue and received much attention in international society since the second World Women's Conference in 1980 took up the issue. Nevertheless, the issue had not been set as a significant political agenda in Japan until the late 1990s when several women members of the House of Councilors took up this issue as a subject of discussion in response to activists against domestic violence. Thus, unless domestic actors utilize the influence of the international master frame to persuade their counterparts, the international master frame would not produce any fruit.

Influence from international master frame involves two functions when domestic actors utilize it: political opportunity and de-genderization of a women's issue. Emergence of a new international master frame provides domestic actors a political opportunity to achieve their goals. For instance, one of the slogans, 'equality' of the UN's International Women's Year (the year of 1975) produced three political opportunities for the BWM in setting the issue of gender equality in employment as a political agenda. First, a concept of equality as an international master frame allowed the women bureaucrats to use the term 'equality' within the government as Chapter 4 shows. Second, the content of the UN's Action Plan turned the attention of the government and public from the necessity of special protection for working women to guarantees of gender equality in employment and opened the way to enact the gender equality law. Consequently, the position of the BWM within the government was secured and its policymaking power was strengthened. Third, the UN's event of 1975 allowed the BWM to attempt reestablishment of a relationship with women's groups in Japan, while there were still discrepancies between them. Moreover, the informal

policy alliance between the BWM and activists created the new women's agency within the Prime Minister's Office. These effects of the influence of an international master frame are not the result of external pressure, which unwittingly affects internal politics, but are the outcome of the BWM's deliberate efforts to transform policy orientation from the protection of women workers to the guarantee of gender equality.

An international master frame makes the related gender issue de-gendered. Domestic actors make use of an international master frame as an international standard, which implies that a majority of nations have adopted it. Political elites, reluctant to adopt the related domestic master frame, were persuaded to do so, because not to adopt the frame meant deviation from the international standard. Japanese women bureaucrats, who lacked strong support from activists, persuaded the conservative political elites to enact the new gender equality law in employment by using the discourse of shame that implies that Japan would be shamed if it did not adopt the global standard. Moreover, international influence from the United Nations' events frequently transforms a gender issue to a foreign policy issue. As Chapter 5 shows, the Ministry of Foreign Affairs had been supportive to the activities of the BWM in participating in the world women's conferences and in ratifying the CEADAW because such activities could be interpreted as indicative of the positive attitude of the Japanese government toward gender equality, as a most advanced nation in the world. In other words, the MOFA had used the participation in the women's conference and ratification of the CEADAW as means of achieving one of their foreign policy objectives, which aimed at not only participation in the international society but also being recognized as a most developed state. Thus, international influence transformed the gendered issue to a de-gendered issue of foreign

policy and consequently, made it more acceptable for conservative political elites.

7.2. Three Hypotheses and Japanese State Feminism

I have created three hypotheses including international influence to analyze activity of the state institute for women: 1) if a state institutionalized a women's agency having feminist ideas and sufficient resources and institutional capacity for enactment of a gender equality law; 2) if the state agency for women created a master frame in domestic or utilized an international master frame, which the women's bureau can share with women's groups; and 3) if the state agency for women provided women's groups access to a political decision-making process for a new gender equality law (creating mobilizing structure), the state could intervene in gender relations in the society through their policy. The first hypothesis is similar to the 'independent variables of organization' proposed by Dorothy Stetson and Amy Mazur (1995) in their book, *Comparative State Feminism*. What kind of organizational form a state has is also determined by the pattern of politics surrounding the establishment of the women's policy machinery. Therefore, the examination of the first hypothesis entails a historical review of the establishment of such machinery.

I submitted the second hypothesis to examine how the state agency for women cooperates with women's groups without a nation-wide liberal feminist group. More important, the hypothesis implies that the international master frame constructed by international organizations and accepted by a majority of nations in the world could help the women's bureau create the domestic master frame of a new policy that it can share with women's groups. Also, the hypothesis implies that if women's policy machinery produced and acquired neither domestic master frame nor international master frame in a

domestic political decision-making process for a new gender equality law or policy, the machinery and its activity cannot be categorized as state feminism. Thus, this hypothesis examines whether or not the machinery attempts to mobilize women for the sake of interests of the state, capitalists, and those who detest improvement of women's rights.

The third hypothesis is also comparable to the independent variables of movement type and conception of state in the Stetson and Mazur's hypotheses. To the extent that the women's agency incorporates women's groups in the decision-making process depends on how the women's group considers a state—benign or evil, and whether the women's group seeks to enter policymaking. To test these hypotheses, this dissertation has examined the activities of the women's bureau of the Ministry of Labor and cooperation with women's groups in decision-making process for the two equal employment opportunity laws of 1986 and 1999.

The activities of the state agency for women in Japan in the decision-making processes for the 1986 and 1999 EEOLs have been examined by using the three hypotheses. A study of activity in a decision-making process has been important for my study of state feminism. In this dissertation, scrutiny of the activities of the participants in the process has informed me of the reasons for the ineffectiveness of the gender equality laws in employment. Thus, the examination of the activities of the women's bureau and its linkage with women's groups expands our interest from the topic of state feminism to the issue of civil society.

7.2.1. First Hypothesis and Japanese State Feminism

This dissertation has examined the activities of the state agency in Japan during

1947-2000 by using the three propositions. The first hypothesis asks whether the state assigned the women's policy machinery duties of improvement of women's status and rights, and whether the machinery possessed the resources and institutional capability sufficient for formulation and decision-making on a gender equality law. In order to examine this hypothesis, this dissertation has adopted the comprehensive definition of the feminist idea, an advocacy of improving women's rights and status, as Chapter 2 shows. The first part of the hypothesis seems to be applicable to the cases in not only Japan but also a majority of nations in the world.²

The purpose of the American occupation forces in establishing the Bureau of Women's and Minors of the Ministry of Labor was to determine whether Japanese women could obtain *de facto* equality, since SCAP achieved only limited success to the extent that Japanese women obtained *de jure* equality, but left *de facto* inequality intact. While being reluctant, the Japanese government formally charged the BWM with improving Japanese women's status in the society under Article 3 (3) of the Law of Establishment of the Labor Ministry. Hence, it is reasonable to assert that the BWM had held a feminist goal—improvement of women's status in the society. Moreover, the dissertation included evidence that shows the enthusiasm of women bureaucrats in the BWM for improvement of the Japanese women's status and rights, although their passion did not originate from the feminist movements, but from their own experience as Japanese female bureaucrats, who were marginalized within insignificant agencies or positions.

² According to Berkovitch (1999), an agency for women could not found in 15 countries: Albania, Bahrain, Burma, Cayman Islands, Comoros, Monaco, Namibia, Nauru, Saudi Arabia, Singapore, South Africa, Tonga, Tuvalu, and Yemen (163).

Moreover, I heard dissatisfaction of the women bureaucrats with the 1986 EEOL. Akamatsu Ryoko, then director of the Women's Bureau in 1985, told me in 2001 that she expected more rapid revision of the 1986 EEOL to strengthen its enforcement power and expand its scope of prohibition against discrimination (Akamatsu 2001). A female bureaucrat told me that Akamatsu Ryoko was covered with mud herself (means that she took the blame on herself for the defective law—1986 EEOL without blaming others) in order to enact the equal employment opportunity law in 1986 at least (Kawahashi 2001). Moriyama Mayumi, the fifth director of the BWM, also told in 1985 that the law included all interests because of the hot debate about the content of the law from every perspective (Asahi Shimbun May 1 1985). In this interview, she never mentioned effectiveness of the law, but emphasized its influential power to individual gender consciousness (Ibid). These women's bureaucrats' comments on the 1986 EEOL demonstrate frustration in their ambition to reach their feminist goals. Therefore, I conclude that the women's bureau of the MOL had possessed feminist ideas, while the ideas did not include radical objectives such as destruction of capitalism and resistance to authority and power.

The latter half of the proposition is concerned with whether the women's bureau possesses the resources and capability sufficient at least for enactment of a gender equality law. As the Chapter 2 shows, the American occupation forces took the initiative in installing the women's agency with minimum resources and capability for enactment of a new law in the MOL in spite of the fierce opposition from the Japanese male political elites. Owing to the resources and capability, the BWM could formulate the two equal employment opportunity laws in 1986 and 1999 for themselves at least. Simultaneously, the marginalized position of the BWM within the MOL, which had been

also marginalized within the government, decreased its political power in setting the gender equality issue as a political agenda. The Japanese case shows that lack of political power and minimal resources and capability hindered the women's bureau of the MOL in the formulation and implementation of a more desirable gender equality law.

7.2.2. Second Hypothesis and Japanese State Feminism

The second hypothesis is related to whether and how the state agency fabricates the master frame. In this dissertation concerning the policymaking activities of the Japanese state agency for women, there is rich evidence that supports the hypothesis. This evidence can be divided into two groups: 1) evidence that shows that the domestic and international master frames facilitate the women's bureaucrats' policy and decision-making activities and 2) evidence that proves that the lack of a domestic or international master frame caused the failure of the women's bureau in incorporating women's groups in the decision-making process. Both sets of evidence show the validity of the second hypothesis in the theory of state feminism. Moreover, this hypothesis gave me clues to examining why the women's bureau enacted the defective laws, having loopholes and without any enforcement power.

The evidence that shows the acquisition of the master frame caused the successful activities of the women's bureau including the establishment of the BWM, the participation in the international events, the activity for agenda setting, and the smoother decision-making process for the 1999 EEOL. Chapter 2 has revealed that the master frame concerning establishment of a women's bureau was created among the female officers of the American occupation forces and Japanese women activists. This master frame brought about the formation of 'the informal policy alliance' named by Susan

Pharr and the successful persuasion of not only the American military elites but also Japanese conservative political elites to found the BWM in 1947. This evidence supports the significance of the use of the domestic master frame by policymakers to obtain societal support for the policy. Moreover, Chapter 4 also clarified that participation in the various U.N.'s events of the Decade for Women resulted from the accordance of the frames among the BWM and women's groups and their successful collaborative actions on obtaining the budget for dispatching the delegates.

This participation in international events became a medium of transportation for an international master frame in Japan. This significant frame is a discourse of gender equality that means to remove special protective measures for women and to provide protection for only maternity. The international master frame, which has been used by a majority of nations and has become an international standard for gender equality policy except for certain countries like the United States, South Africa and Switzerland, was created by and originated from the international organizations such as the International Labor Organization and the United Nations and was imported and utilized by the women bureaucrats in the women's bureau in Japan. Chapter 4 clarifies how the women bureaucrats of the agency utilized the international master frame to set the enactment of the new gender equality law as a significant political agenda without strong support even from the women activists, who agreed on the necessity of the enactment but disagreed on the removal of the protective measures for women. As already explained, the influence of the international master frame as a global standard made a women's policy into de-gendered foreign policy. Moreover, the international influence generated the discourse of shame that forced the male conservative political elites to accept the

enactment as Chapter 4 examined. The lack of a domestic master frame could be remedied by acquiring an international master frame in a political agenda-setting process, although it takes a long time to transform the international master frame to a domestic master frame. This time lag caused the debate of difference-versus-gender equality in 1970s and 80s in Japan.

The international master frame transformed the policy orientation of the *Rengo*, the biggest labor union in Japan, from demanding preservation of protective measures for women to the removal of them. Consequently, the effective framing process between the labor unions and the women bureaucrats of the agency caused a more smooth decision-making process. Yet, many women activists of other labor unions, feminist activists and scholars have maintained the discourse of difference or the demand of expanding the protection to male workers. The variety of frames of policy orientation to a gender equality law in employment resulted in enacting the 1999 EEOL, which aimed at only eliminating gender discrimination toward women workers, not at prohibiting all forms of gender discrimination in employment, and had only weak enforcement power.

This dissertation includes rich evidence that the lack of a domestic master frame hinders the women's bureau from effective policymaking. Chapter 3 has discussed the reason for failure in the creation of the domestic master frame of a gender equality law. Strong maternal identity of Japanese women (identity as a mother) hindered them from transforming their gender consciousness from dimorphism to bimorphism and from creating the domestic master frame for the new gender equality law. Even a majority of women activists and labor union leaders had been almost indifferent to issues of gender discrimination in employment that increased as the Japanese economy achieved rapid

development because of their attention to the other issues from the perspective of a mother. The lack of a bimorphic gender consciousness caused by the maternal identity brought about the debate of difference-versus-gender equality in employment as Chapter 4 shows. Moreover, the conflicting framing processes between the women bureaucrats advocating removal of the general protection for women and the women activists demanding the preservation of the protection caused a dearth of support from society to the women's bureau that had confronted the business elites, who had attempted to retain the gender discriminatory employment system intact. Consequently, the content of the 1986 law became a weak compromise and was rendered ineffective.

The other reason for the failure in acquiring a domestic master frame is the vertical and one-sided framing process that the women's bureau created to obtain the support from women activists which is analyzed in Chapter 5. The lack of strong support from the women's groups caused by the failure in creation of the dominant frame put the women bureaucrats in the position of a mediator who made compromises with the counterparts to obtain a minimal outcome. Thus, this evidence in this dissertation has revealed that the major reason for not enacting a more effective law in the 1980s and 1990s is the failure of the women bureaucrats in creating the master frame of the policy orientation in spite of acquisition of the international master frame. The lack of the master frame in the domestic field strongly impacts the cooptation of women's groups in the decision-making process of gender equality law in employment.

7.2.3. Third Hypothesis and Japanese State Feminism

The last proposition is concerned with 'mobilizing structure' and leads to deducing that if the state agency for women incorporated the feminist idea for

policymaking for a gender equality policy, the state could intervene in gender relations in society through the policy. The evidences in this dissertation also proved the proposition by showing that the lack of a mobilizing structure was against women's interests and reduced capability of women's groups to represent women's voices. Both the processes of the decision-making for the 1986 and 1999 EEOL included only women leaders of labor unions, who tended to be socialist idealists drawing upon a traditional maternal ideology and persistently demanded protection for women workers. On the contrary, women activists of feminist groups had been excluded from the decision-making processes. There are two reasons for the exclusion of women activists from the decision-making processes. One of the reasons is that the women bureaucrats did not invent a new political decision-making process, but utilized the political decision-making process for labor policy employed by the other bureaus in the MOL, that is, the tripartite system of a deliberative council (*shingikai*) as Chapter 5 and 6 show. The tripartite system has a fixed composition, which consists of representatives of public interests (retired bureaucrats, lawyers, and scholars), business circles, and labor unions. The composition has been created in order to 1) reflect public opinions, 2) introduce expertise of specialized and fragmented administrative activity in policymaking, and 3) coordinate interests among members (Sakamoto 1997). Yet, did the deliberative council that excluded the women activists reflect the women workers' opinions?

The ratio of unionization of women workers was 29.0 percent in 1975, 24.6 percent in 1980, 22.0 percent in 1985, 18.3 percent in 1990 and 17.2 percent in 1995 (MOL 1999). Even the average ratio of the women's unionization was only 25 percent. The union leaders represented only one-fourth of women workers. Moreover, 13.2

percent of women workers in the service industry and 9.2 percent of women workers in the wholesale trade business and retail shops were unionized. Therefore, the women leaders of labor unions represented only some groups of women workers but not a majority of women workers. A director of the Women's Bureau of a labor union mentioned necessity of inclusion of women's groups in the deliberative council to reflect more women workers' voices when I interview her (Takashima 2001). In spite of the absolute appointment power, the women's bureau had failed in reflecting representation of a majority of women workers in the deliberative council and creating a new mode of political decision-making, which can incorporate women's demands comprehensively.

This necessity of a new mode of decision-making also reminded us of the difficulty that the women's bureau faced. Chapter 5 showed that cooperative activity of the women's bureau with feminist groups was impossible because a majority of the women's groups in Japan had been opposed to the removal of the protection for women in the 1980s. Even the Liaison Group founded by Ichikawa Fusae, the biggest women's group in Japan having liberal feminist ideology, had difficulty in reaching a consensus on whether protection measures should be removed or not (Yamaguchi 1992). Therefore, it was extremely difficult for the women bureaucrats to find women's groups who shared the same framing of the problem. Therefore, although the dissertation did not have any concrete evidence that the cooptation of women's groups in the decision-making process leads the women's agency to formulate and implement feminist policy, it has a variety of evidence that giving access to the political decision-making processes to women activists necessitates the preexistence of the effective framing process between the women bureaucrats and activists.

In spite of the exclusive decision-making process, the Women's Bureau had adopted a new system, the Public Comment System in the 1990s. The Office of Gender Equality of the Prime Minister's Office invented and introduced the open system, which aimed at taking up public opinion more comprehensively, in the political decision-making for the Basic Law of Gender Equality in the early 1990s (Bando 2001). The Women's Bureau also began adopting the Public Comment system during the process of decision-making for the 1999 EEOL, although how effectively the system impacted the content of policies is questionable. Thus far, the section above shows that the lack of the cooperation of the women's groups in the decision-making process prevented the women's bureau from effective policymaking activity.

7.2.4. Japanese State Feminism?

Yet, the question whether the Japanese women's bureau is state feminism remained to be answered. This dissertation found that this case study has fitted the first and second propositions, the third proposition only partially. Therefore, the activities of the Women's Bureau of the MOL can be categorized as state feminism, although the policymaking activity for enacting effective gender equality laws was unsuccessful. Therefore, Japanese state feminism involves severe limitations such as lack of resources and capabilities in policymaking and the domestic master frame of gender equality. How did the women's bureau overcome these weaknesses?

The activities of the women's bureau did not progress without political opportunity structure and political opportunity. One of the findings of the dissertation is the significance of political opportunity structure that allows the women's bureau to pursue feminist goals more effectively. In the Scandinavian cases, the Social

Democratic Governments took the initiative in implementation of women's policies having feminist goals. Similarly, the emergence of the labor government in Australia triggered the creation of 'femocracy.' The most significant political opportunity structure in the case of the women's bureau in Japan is the emergence of the Katayama cabinet that mainly consisted of socialist politicians and consented to the establishment of the BWM, while the conservative Yoshida cabinet had opposed to it, as Chapter 2 shows. The other example of the political opportunity structure for enacting the gender equality law in employment is the collapse of the 1955 political system, in which the conservative Liberal Democratic Party lost its dominant power in the parliament and government as Chapter 6 examined. Compared with the decision-making process for the 1986 under the 1955 political system, the process for the 1999 EEOL seems to be more liberal and feminist friendly, although the political elites were not the main actors in this process. During most of the decision-making process for the 1999 EEOL, the coalition governments—consisting of the LDP, the Japan Socialist Party, and Sakigake—controlled the government, although after the lower-house election in October 1996, the JSP and Sakigake, which suffered devastating losses from the election, withdrew from the cabinet but remained allies of the LDP. Thus, this dissertation demonstrates that political opportunity structure has influenced effectiveness of activity of the women's bureau.

Political opportunity is more significant for state feminism in Japan, since it substantially facilitated the political decision-making processes for the two laws of equal employment opportunity. For instance, the UN's events were political opportunities that produced three beneficial effects on the BWM in setting the issue of gender equality in

employment as a political agenda, as Chapter 4 and 5 analyzed. First, the proposal for the Women's conference in Mexico informed the Japanese government of the significance of the women's policy agency and it recognized the policymaking process of women's issues within the government. Moreover, the ratification of the CEADAW strengthened the position of the BWM within the government and facilitated the women's bureau's policymaking for the equal employment opportunity law in 1986. Second, the UN's events turned the attention of the government and public from the necessity of removal of protection for women to provision of protection for only maternity women and expansion of child- and family care to both sexes to guarantee gender equality in employment. Third, the UN's event allowed the BWM to attempt reestablishment of a relationship with women groups in Japan, while there were still discrepancies between them. These effects of international influence are not the result of external pressure, which unwittingly affects internal politics, but are the outcome of the BWM's deliberate efforts to transform policy orientation from the protection of women workers to the guarantee of gender equality. Moreover, the fourth World Women's Conference in Beijing also gave the women bureaucrats the chance to start the revision of the 1986 EEOL. Thus far, the dissertation has revealed the significance of political opportunity structure and political opportunities for the feminist policymaking activity of the state agency as the third proposition predicted. The other significant political action was a series of legal cases favoring the women plaintiffs. The accumulation of the cases legitimated the women bureaucrats' activities to set gender equality issue as a significant political agenda within the political circle despite the adverse social, economic and political climates as Chapter 3 and 4 show. The other and more important political opportunity originated from

international events organized by the United Nations.

State feminism in Japan involves the institutional limitations. In order to avoid absorbing male-dominant bureaucratic modes of actions and thoughts, the women bureaucrats have to invent feminist modes of actions and thoughts in a political decision-making process as the hypothesis of mobilizing structure shows. While appointment of feminist activists to the top-ranking positions of the women's bureau is impossible under the parliamentary system, cooptation of feminist activists in the political decision-making process is one of the ways to change the male dominant mode to the feminist one. In the Japanese case, the women bureaucrats failed in introducing the new mode of actions and thoughts. For state feminism in Japan, it is necessary to invent new feminist modes of actions and thoughts that enable women bureaucrats to pursue feminist goals and to make less compromise with conservative political and business elites. Yet, such actions will not be taken spontaneously. Women bureaucrats necessitate a certain political opportunity to allow them to install the new feminist mode of actions and thoughts in political practices. Therefore, this dissertation concludes that Japanese state feminism necessitates political opportunity from either abroad or domestic to provide linkage between the bureau and feminist activists and to remedy its defects.

7.3. Theoretical and Substantial Contributions of the Dissertation

This dissertation is the first study of the activity of the state institute for women in Japan, casting light upon its critical roles and limited results of the women's bureau in improving gender equality in the Japanese society. While the theory of state feminism has been applied to the study of women's policy machinery in western democratic and

industrial nations, it has never been applied to the state machinery in any other regions. However, I deem that state feminism possesses strong capability to examine the women's policy machinery in Asian strong-state societies, in which individuals tend to be influenced by Confucius idea that what a state performs aims at improving societal life and the people leave the state to deal with solution of social problems.³ The consciousness of the state dominance makes the individuals indifferent in taking initiative in solving the societal problems and thereby the social movement tends to be inactive. Under the situation, a state becomes a most powerful source of remedy for gender discrimination, but simultaneously lacks cooperative relationship with women's groups. The study of activities of a state institute to solve women's issues in Asian nations provides a missing part of the study of state feminism in the western democratic and industrial nations. Moreover, this study of the women's policy machinery based on the state feminism theory undermines not only feminist theories, which are generally applied to examine the cause of remedies for gender inequality, but also theories of Japanese politics, which are usually used to analyze political decision-making process.

7.3.1. Contribution of State Feminism in the Case of Japan

A most significant theoretical contribution is that this dissertation demonstrated that the theory of state feminism, rather than other feminist theories such as Liberal, Marxist, Socialist, and Radical feminism, is appropriate to examine the causes and remedies for gender inequality in Japan. State feminism, arguing that a part of the state can affect gender relations through its policies and law, indicates the significance of a state's action and its interaction with society for improvement of gender equality.

³ The political culture is not same as militant authoritarian strong-state society, in which state oppresses societal demands to control the society.

Unlike the state feminism theory, the other feminist theories underestimate the significance of the mutual relationship between state and society by only focusing on issues of society. Liberal feminism put strong stress on the significance of acquisition of rights that promote women's political participation, and thereby aims at changing policies toward more women-friendly from outside of the government. Liberal feminism is an important partner for state feminism because it is indispensable for the state feminism to create a bridge between society and state by advocating the necessity of cooperation with a women's policy machinery and participation in a political decision-making process for women's policies to pursue their demands. Yet, an examination of transformation of gender relations toward equality from only a societal perspective of liberal feminism tends to neglect policymaking activity of the women's policy machinery and to consider such machinery as only a recipient, not as a dynamic actor. Unlike liberal feminism, state feminism provides us the more comprehensive framework combined society- and state-centered studies of policymaking for women. In other words, state feminism has already co-opted liberal feminism inside.

The other three feminist theories attribute gender inequality to capitalist economic, patriarchal social, or both systems and indicate the difficulty of women bureaucrats in escaping from masculine ideas, rules, and styles to carry out real change (Elshtain, 1983, 1990; Ferguson 1984; MacKinnon, 1989; Mikanagi 1999). These feminist theories are well applied to examine causes of gender inequality in a society and propose the remedies in a weak-state-society, in which women's movements have direct impact on state's activities. However, they have undervalued the state's initiative in attempting to rectify sexual discrimination in a strong-state society that entails

undeveloped feminism movement.

Furthermore, this dissertation has proposed the factor of international master frame to analyze activity of the women's policy machinery in a strong-state society in order to compensate for the lack of liberal feminist movement, which should have bridged a gap between state and society. The international master frame created by global feminism has the two implications of the activity of the women's policy machinery: 1) de-genderization of a women's issue to a foreign policy, and 2) creation of a domestic master frame as a global standard. By adding the new factor, the theory of state feminism strengthened its power to analyze the women's policy machinery in a strong-state society. Thus far, this dissertation has proved the validity of state feminism in examining women's policy machinery in an Asian strong-state society.

The other theoretical contribution of the dissertation is to demonstrate that the theories of corporatism, bureaucratic supremacy, and rational-choice, which are usually applied to Japanese politics by American scholars, are inappropriate to analyze the critical roles of the women bureaucrats of the agency for women. The theory of corporatism emphasizes the sharing of power by a triumvirate of the LDP, employers, and the bureaucracy in the decision-making process for industrial policy (Pempel 1974, 1977, 1978, 1982, 1986, 1990, 1992; Sone 1986). The theory of bureaucratic supremacy focuses on the dominance of the bureaucracy over politicians and the business circle in implementing industrial policies, which brought about rapid economic growth, through administrative guidance (Johnson 1982). As an antithesis of these theories, the rational-choice theory highlights the relationship between politicians, as the principle, who adopts policies aiming at obtaining electoral votes, and bureaucrats, as the agent,

who carries out the policies assigned to them by the political principle (Ramsayer and Rosenbluth 1993). Kent Calder (1988) emphasizes a role the Japanese conservative politicians to stabilize Japanese politics and society by compensating for loss of those who had been protected by state policies and then, suffered from removal of the protection. Yet, in the case of the gender equality law, none of these theories can explain the critical roles of the women bureaucrats who had weaker political power than male bureaucrats in the Ministry of International Trade and Industry, faced the explicit opposition of the LDP to the gender equality policy, and lacked support from society.

Japanese and American political scientists pay attention to the plural nature of the state by focusing on interactions between bureaucrats and politicians of the Liberal Democratic Party. Inoguchi Takashi (1983) proposes a model of “bureaucratic and mass inclusionary pluralism,” which stresses increasing the roles of politicians and the declining monopolistic nature of bureaucracy in the policy-making process. Ellis Krauss and Michio Muramatsu (1987, 1988, 1989) offer a “patterned pluralism” model, which highlights a plural relationship between the LDP politicians and bureaucrats. Similarly, Sato Seizaburo and Matsuzaki Tetsuhisa (1986) provide a model of compartmentalized pluralism, which stresses competitiveness within a certain boundary of accommodation of the LDP and bureaucracy. None of these theories neglect to examine the cooperative interaction between bureaucracy (state) and civil groups (society) and the critical roles of the state to incorporate the interests of the groups in a political decision-making process.

The framing and mobilizing structure frameworks of state feminism could be also applied to examine political decisions on various foreign aid and environment

policies in Japan that involve activities of Non-Profit Organizations (hereafter NPO), though some modifications are needed. As a matter of fact, the incorporation of the NPOs in a decision-making process has turned into a most significant political agenda in Japan when the Ministry of Foreign Affairs was severe criticized because of the exclusion of two NPOs from the formal meeting of the Afghanistan Rehabilitation Conference in January 2002 (Asahi January 21, 2002). How to construct a cooperative interaction between bureaucrats and the NPOs in a political decision-making process in Japan will be a most significant issue in Japanese politics, and further studies of state feminism will make theoretical and substantial contributions.

In sum up, this state feminism theory, focusing on both the problems of state (structural weakness of the women's bureau) and society (the mode of the women's movement in Japan based on a dimorphic gender consciousness), is of great use in examining how the women bureaucrats, having feminist goals, absorbed the demands from the society, adjusted those demands to their own feminist values as much as possible, and produced the policies in response to them. In other words, the state feminism theory, indicating the significance of the state institution for women and its cooperative interaction with women's groups, helped me analyze the gradual and sinuous path toward gender equality in Japan.

This dissertation includes the following substantive contributions. First, this dissertation, the first academic research in the United States and even Japan on the activities of the Japanese women's bureau and its women bureaucrats, offers the empirical evidence to refute the argument that the efforts of the Japanese government to improve gender inequality would never have the effect of changing individuals'

perception of gender and rather put Japanese women in more vulnerable positions because such state's intervention would be minimal in order to prevent social turmoil (Brown 1988; Buckley 1994; Cannings 1994; Cook 1980; Edwards 1994; Knapp 1995; Parkinson 1989; Pharr 1990; Suzuki 1996; Upham 1987). Although the 1986 EEOL was ineffective in rectifying gender inequality in employment, the law had the announcement effect of showing the public the government's legitimate concern on the necessity of gender equality in the Japanese society. Consequently, despite a lack of a strong feminist movement that is usually considered a necessary tool for changing gender relations, the legitimacy of the government's actions induced a change in the individual's gender consciousness in Japanese society to bimorphic, and thereby increased Japanese women's participation in politics and in professional jobs. This change was not revolutionary and steady. Even the government has admitted that the dimorphic gender consciousness and customs still remain in society (PMO 1999). Yet, the women bureaucrats of the agency for women determined the political orientation of the government and the social orientation toward gender equality through the implementation of the 1986 EEOL. Thus, this dissertation shows that the women bureaucrats in the Women's Bureau were critical to change not only in the individual gender consciousness but also the political and social orientation toward gender equality.

Second, the dissertation provided substantive evidence to counter a conventional argument by American scholars that external pressure was required to force the women bureaucrats to legalize gender equality in Japan (Buckley 1994; Mackie 1999). The scrutiny of the activities of the women' bureau in Japanese documents has showed autonomous actions of the women's bureau to utilize international influence mainly from

the United Nations in political decision-making processes for the equal employment opportunity laws. For the Japanese women's bureau, international influence was a political opportunity to facilitate policymaking for removing the obstacles for promoting a gender equality policy in the situation of persistent dimorphic gender consciousness in the society. Without these international influences, the women bureaucrats would have faced more difficulty in rectifying gender inequality in society.

Third, this dissertation revealed the flaws in the women's agency that prevented a straightforward path to gender equality, flaws which no other study has indicated. The reasons for these flaws derived from the lack of structural strength, resources and capability of the women's bureau and cooperative relationship with women's groups. The structural vulnerability, which stemmed from the peripheral location of the women's bureau within the government, was one of the obstacles for the women's bureau in implementing straightforward policies for women. The indifference of conservative political elites to the women's bureau not only marginalized the agency within the government but also provided it only weak institutional power. The marginalization of the women's bureau affected its policymaking activities in the decision-making processes for the 1986 and 1999 EEOL. Consequently, its isolation within the government forced the bureau to concentrate on issues of betterment of women workers' welfare rather than gender equality issues. Thus, the marginalized women's bureau having minimal resources and capability failed to implement a comprehensive gender equality policy and law, which could bring about a more straightforward path toward gender equality.

Fourth, the state feminist analysis of this dissertation presented the significance of the relationship between the WB and women's groups. The existing literature

focused on the activities of the women's groups, but ignored the relationship with the women's bureau as Alice Lam asserts. The cooperative interaction between them could be found in the decision-making process for the establishment of the Bureau of Women and Minors' in the MOL between the American women officers and the Japanese women leaders of the women's groups, in the participation in the Mexico Women's Conference, and in the signing of the Convention on Elimination of All Forms of Discrimination against Women. Yet, the dissertation demonstrates the failure of the women's bureau in obtaining the support of the women's groups and the labor unions in the process of the decision-making for the 1986 EEOL, which caused the enactment of the compromised law, more reflective of the employers' interests.

Fifth, the dissertation provides a substantive contribution in shedding light upon conflicting frames of equality in Japan. The difficulties of the women's bureau in acquiring support from the labor unions and the women's groups resulted from the debate of difference-versus-gender equality. Since the early 1970s the Japanese women's bureau, having a window on the international trend toward more bimorphic gender consciousness, made efforts to legalize gender equality based on bimorphic consciousness with only small support from society. On the other hand, the lack of a strong feminist movement and popularization of the full-time housewife feminism made the Japanese people lose an opportunity to transform gender consciousness from dimorphic to more bimorphic as Chapter 3 and 4 show.

Consequently, the debate on 'equality based on the bimorphic idea versus differential treatment based on the dimorphic concept' fragmented the women activists of the labor unions as well as women's groups and decreased their influence over the

decision-making process for the 1986 EEOL. The declining influence of the labor unions and the women's groups decreased the women's bureau's power to persuade political and economic conservative elites and resulted in enactment of the compromised laws. The decision-making process for the 1999 EEOL became smoother than that for the 1986 EEOL, because the transformation of the individual gender consciousness to more bimorphic after the enactment of the 1986 EEOL induced the majority of the labor unions and the women's groups to embrace the concept of equality based on the bimorphic idea.

Thus, this dissertation shines a new light on the critical roles of the women's bureau and its female officers by providing these substantive contributions. These findings demonstrate why state feminism in Japan, having its good and its bad sides, created a slow and sinuous process toward gender equality. Although the women's bureau carried out limited effects to improve gender equality in Japan, without the women's bureau within the Japanese government, the pace of gender equality in Japan would have been slower than it has been.

Implication for Future State Feminism in Japan

Women bureaucrats in Japan have attempted to create more comprehensive women's policy machinery. Their efforts produced a fruit, that is, a new women's policy machinery, which has located at a center of the government. A Council for Gender Equality and a Gender Equality Bureau within the Cabinet Office headed by the Prime Minister were established when the national government implemented an administrative restructuring in January 2001. The Gender Equality Bureau, having formal jurisdiction to deal with women's issues instead of the Women's Bureau of the

Ministry of Labor, is in charge of the formulation and overall coordination of policies to create a gender-equal society. The emergence of the new women's policy machinery has three implications.

First, the Japanese government has still maintained the concept of 'equality of opportunity'. Prior to the reorganization of the political machinery for women, in 1999, the Office for Gender Equality in the Prime Minister's Office enacted "the Basic Law for Gender Equality," which stipulates the Japanese government's desire to create a gender equal society and to promote national, local and citizens' measures appropriate to create a gender equal society (PMO 1999). In this law, the concept of gender quality has clearly been defined as equal opportunity, not on equality of result. According to the law, a 'gender-equal society' is considered a "society in which both men and women, as equal members, have the opportunity to participate in all kinds of social activities at will, equally enjoy political, economical and cultural benefits, and share responsibilities" (PMO 1999). The concept of equality based on opportunity has been maintained in 2002. Consequently, invisible and indirect discriminations such as promotion and treatment of part-timers that the EEOL in 1986b and 1999 failed in rectifying cannot be considered as gender inequality. Moreover, although the government documents in English use the term of 'gender equality,' the women's bureau still avoids using the term of '*byōdō*' and instead, utilizes '*danjo kyōdō sankaku*,' which means cooperative participation in decision-making by the two sexes. Also, the law includes terms of 'equivalence' [対等] and 'equal opportunity' [均等], but no 'equality' [平等] (Ōsawa 2001, 18). In the Japanese political setting, the term 'gender equality' is still a taboo word (Nuita 2001; Ōsawa 2001).

Second, the effectiveness of the Basic Law to influence gender relations in the society is questionable because addition to the hostile environment to gender equality, there has been discrepancy between the content of the law per se and the idea of political elites, who have persistently opposed to legalization of married women's right to use their surname to protect traditional family value. The law has clarified that the Japanese government adopted the discourse of gender equality not of difference despite the fact that the taboo of gender equality has remained in the political circle. This law also transformed jurisdiction of women's policymaking from the small bureau of the weak ministry to the small bureau of the mainstream ministry. The bureaucrats have called this as mainstreaming of the women's policy (Ōsawa 2001). The mainstreaming of women's policy could be found in the Basic Law, which provides the Bureau of Gender Equality power to intervene women's policies of the other ministries, although it provides it no enforcement power. Related to the mainstreaming, the Basic Law has provided the local governments to motivate enactment of an ordinance of gender equality at a village, town, city, and prefecture levels. This discrepancy between the Basic Law and conservative political elites generated from a new political decision-making process for the Basic Law that included a number of feminist scholars and activists.

The third implication is that the emergence of Establishment feminists [体制内フェミニスト] in Japan (Ueno 2001). The cooptation of feminist activists caused to generate the term of 'Establishment feminists'. This phenomenon poses a question of the theory of state feminism. The state feminism theory might justify that a state agency for women can arbitrarily select a group among many small women's groups as its partner in a policy- and decision-making process for an alleged feminist policy. Such a

group will turn out to be a cheerleader of the agency and avoid criticizing the content of a policy formulated by the agency, even if it will obtain access to the decision-making process. Moreover, the theory of state feminism might rationalize the state's activity to patronize a women's group to empower the group to have enough size to represent a women's voice. Such a group also loses its critical attitude toward the state's activities. The further study of Japanese state feminism will provide remedies of these shortcomings of the state feminism theory. Therefore, although the pace of progress toward gender equality has been gradual, it will be academically interesting to observe in the years to come how the new bureau for women within the Cabinet Office will change gender consciousness of the public, rectify gender inequality in society, and have an affect on the lives of Japanese women. The further study of the decision-making for the Basic Law will show that the new mobilizing structure facilitates formulation and decision of the Basic Law and advances state feminism in Japan.

Thus far, this dissertation has found the following focal points: 1) the significance of a state-centered approach to analyze transformation of gender relations in a society, 2) the domestic master frame necessary to construct a mutual relationship between the women's bureau and women's groups, most importantly 3) international master frame from international organization that could be mobilized to reinforce a domestic master frame. These three points suggest a great relevance of state feminism in analyzing other women's policy machinery in Asian nations. This analysis using state feminism is generally suggestive about a state taking the initiative toward gender equality. It shows that gender equality can be promoted if a state agency in a male-dominant society is institutionalized having structural strength and the ability to

form policy alliances with women's groups, and able to utilize international influence to change women's issues to mixed issues. The pace will be gradual and sometimes unsteady, but the direction will be moving toward gender equality. The majority of developing nations share the following common characteristics: a lack of a state agency for women, a weak feminist movement, and the persistence of a dimorphic gender consciousness of both the sexes. This examination of the action of the Japanese women's bureau has the potential to be extended to the examination of gender politics in the developing nations.

This dissertation has presented a detailed study of the activities and roles of the Japanese women's bureau as an initiator and facilitator toward gender equality in the process of agenda setting for the equal opportunity laws and as an interest mediator in the process of decision-making for them. The empirical evidence presented in the previous chapters also demonstrates that the change of the roles arose from lack of the following factors: 1) limited resources and institutional capability caused by the marginalization of the women's bureau within the government, 2) the dearth of the master frame of the issue of gender equality between the women's bureau and women activists, and 3) the lack of mobilizing structure that provides women's groups the access to political decision-making to reflect their opinions. The combination of these factors hindered the policymaking of gender equality and created a gradual and incremental progress toward gender equality in Japan. The way toward gender equality in Japan is quite different from the western nations. Yet, this is a one way that other non-western nations have also advanced and will follow in.

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