
A Study for Effectiveness Enhancement of Women and Family-Related Legislations(V): Achievements and Challenges of the Equal Employment Opportunity Act for the Last 30 Years

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For the 30th anniversary of 'the Equal Employment Opportunity and Work-Family Balance Assistance Act'(the Act hereafter), this study aims to examine the achievements and limitations of the Act and to explore various legislative challenges to be solved.

The Act, originally called 'the Equal Employment Act' was enacted in 1987 with the goal of “enhancing women workers' status and welfare by guaranteeing equal opportunities and treatments for both men and women in employment, protecting women workers' maternity and developing women's job competence, according to the principles of equality in the Constitution.” By the 8th amendment in 2007, the Act was renamed as 'the Equal Employment

Opportunity and Work-Family Balance Assistance Act' in order to strengthen the responsibilities of the government and the employers for supporting men and women workers' family life as well as to include further related provisions in the Act. Under the amended Act, gender discriminatory practices in the entire course of employment, from recruitment to dismissal, have been prohibited, and sexual harassment has been regarded as a violation of labor rights. Employers are obliged to practice preventive measures against sexual harassment, and to take action to rectify when any act of sexual harassment happens in the workplace. The amended Act also introduced an affirmative action to reduce gender inequalities in the labor market. Maternity leave for fathers, shorter working hours and family care leave were also introduced to enhance work-family balance.

Despite the multiple amendments of the Act, however, women workers still face a lot of discriminations in the labor market. Women are less likely to be employed, and more likely to be irregular workers than men. Women get paid a lot less than men do, and face the thick glass ceiling.

Taking these into consideration, this study examines the women workers-related changes in the labor market for the last 30 years and how the Act has been applied, analyzes the achievements and limitations of the Act, and then makes several suggestions to enhance the effectiveness of the Act.

This study consists of six chapters.

The first chapter includes the backgrounds, purposes, the contents and the research methods of this study.

In the second chapter, we discuss the changes in the labor market conditions for women workers since the Act was enacted in 1987, including employment and unemployment rates of both men and women, women's career breaks, gender division of occupations, forms of women's employment, gender pay gap, and pay gap by the forms of employment. We also make legislative and policy suggestions necessary to improve labor market conditions for women.

Chapter III examines specifically how the Act has been applied, mainly focusing on regulations on gender discriminations in employment, regulations on sexual harassment in the workplace, affirmative action in employment, assistance to maternity protection and work/family balance, and conflict solutions and relief systems.

Chapter IV discusses the results of the experts opinion survey on the achievements and limitations of the Act, and legislative tasks for the future. We conducted the survey to use it as key references for the revision of the Act. The survey was conducted in two ways including an online questionnaire and focus group interviews. The questionnaire provided not only the experts' general assessments on the Act, but also their evaluations on specific areas covered by the Act(regulations on gender discrimination in employment, regulations on sexual harassment in the workplace, affirmative action in employment, assistance to maternity protection and work/family balance, and conflict solutions and relief systems). The focus group interviews helped draw specific directions of how the Act should be revised.

In Chapter V, we analyzed legislative examples of other countries regarding regulations on gender discrimination in employment, regulations on sexual harassment in the workplace, affirmative action in employment, assistance to maternity protection and work/family balance, and conflict solutions and relief systems. We particularly examine the legislative cases of the US where legislations against gender discrimination have been well developed, and also the cases of Britain and Germany where equality-related legislations have been highly improved especially since the late 2000s.

In Chapter VI, we made various suggestions for revision of the Act and its effectiveness enhancement.

In the course of this research, we analyzed a variety of raw statistics(economic activity census, additional data on workers by forms of work, data on workers by forms of employment, etc) and also looked into diverse national and

international legislative references. Other data and materials from previous research on equal employment and from the related government offices were also used for analysis. We conducted an experts survey and focus group interviews the results of which were utilized as references for our legislative and policy suggestions.

To conclude, the regulations on gender discrimination in employment stipulated in the Act have led the employers, as well as the workers, to be aware of the gender discriminatory practices and therefore have helped reduce gender discriminations at least on the formal levels. Nevertheless, women workers still suffer implicit, indirect discriminations in the whole course of employment. In order to improve the situation, the parties responsible for the fulfillment of the obligation defined in the Act should be more inclusive.

Regarding the regulations on sexual harassment in the workplace, achievements include normalization of preventive training, improvement of awareness from both employers and workers, operation of grievance machinery, and disciplinary actions against the harassers. But several issues should still be dealt with, such as the definition and scope of sexual harassment, weak punitive measures, and the secondary victimization of the harassed. Our suggestions include the expansion of the parties with liability and also of the employer's obligatory measures when sexual harassments take place in the workplace.

As to the affirmative action in employment, although the employers' awareness of women workers' issues has been improved to some extent with the introduction of the Act, the scope of the businesses to which the Act is applied is very narrow, and there are problematic criteria based on which women workers and managers are employed.

As to the assistance to maternity protection and work-family balance, the major achievements are the maternity leave, maternity leave for fathers, parental leave, effective sanctions when violated, increased awareness of maternity leaves, and installment of daycare centers in the workplace. However, those achievements

are limited to businesses with more than certain numbers of employees. That is, only regular employees working for large companies or in public sectors enjoy those benefits of the Act. And few male workers have actually taken maternity leave for fathers. In order to solve these problems, workers taking maternity leave should be fully paid from the Employment Insurance. The period of maternity leave for fathers should be extended and their pay should be increased. Also, more groups of workers should be entitled to family care leave. Lastly, regarding the conflict solutions and relief systems, achievements include the increased number of counselling centers, assistance to the workers of the counselling centers, and the introduction of autonomous conflict solutions in the workplace. However, most of the victims of discriminatory practices are still not helped fully enough, the honorary equal employment supervisor system is almost useless, and the autonomous conflict solution system does not work well. Therefore we suggested that the Labor Relations Board introduce a rectification system of gender discrimination in employment, and remedy the current provision on burden of proof.