

RETHINKING MEASURES OF IMPLEMENTATION OF LABOUR LAWS AND POLICIES

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I. INTRODUCTION

Importance of Measures of
Implementing Labour Laws

Need for New Measures

II. TRADITIONAL MEASURES OF IMPLEMENTATION OF LABOUR LAWS

(1) Criminal Punishment

Not often utilized in Japan

Not Always Appropriate

(2) Administrative Enforcement and Assistance

a. Labour Inspection Systems in Japan

Violations Are Often Found

(Scheduled Inspection: 68.4% of Workplaces)

When Violations Are Found

→ Administrative Recommendation

Staff Shortage

b. Assistance and Incentives

E.g., Employment Adjustment Subsidy
in Japan

(Subsidy for Avoiding Dismissal)

Utilized for Non-mandatory Provisions

(3) Civil Dispute Resolution

Increase in Individual Labour Disputes
in Japan

→ Introduction of Labour Tribunal System

Burden for Filing Complaints

Decisions and Awards

→ Limited to Parties to Procedure

III. New Measures of Implementation of Labor Laws

1. Necessity For New Measures

Problems of Traditional Measures

Complex Nature of Today's Labour Problems

Value of Compliance and Prevention

2. Implementation of Labor Policies through Other Measures than Labour Laws

Tax Incentives

E.g., Employment Tax Reduction in
Japan

Conditions for Government Contracts

E.g., Affirmative Action Programs in
USA

3. Implementation of Labour Laws through New Measures

(1) Promotion of Recognition and Monitoring in the Market Mechanism

a. Public Notification of Name of Employers Who Violate Labour Law
E.g., Disability Law in Japan

b. Raising Good Employer's Reputation

"Kurumin" Mark in Japan
(Childcare-friendly Employer)



c. Promotion of Monitoring in the Labour Market through Providing Employer's Information

E.g., Public Employment Office in Japan

Support of Good Employers

Exclusion of Law-violating Employers

(2) Increasing Awareness of Labour Law

Labour Law Education for Students

Dissemination of Rules Under Labour Law through Posters etc.

EEO Poster in the United States

Equal Employment Opportunity is **THE LAW**

Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

DISABILITY

Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

AGE

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

SEX (WAGES)

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.

GENETICS

Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

RETALIATION

All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful employment practice.

WHAT TO DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED

There are strict time limits for filing charges of employment discrimination. To preserve the ability of EEOC to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, you should contact EEOC promptly when discrimination is suspected:

The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at www.eeoc.gov or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at www.eeoc.gov.

(3) Incentive for Compliance by
Giving Immunity for Vicarious Liability

(4) Encouragement of Using Dispute
Resolution Systems to Promote
Public Interests

Double Damages in USA & Japan
Order to Pay Attorney Fees in USA

(5) Requirement, Regulation and Assistance of Self-Regulation

E.g., Mandatory Action Plan in Japan
(Pending Legislation: Positive Action for Women and Young Workers)

IV. CONCLUSION

Need For Considering New
Measures of Implementation

Policy Mix

Sharing Information on Each
Country's Experience

THANK YOU

