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“How International Gender Norms Change the Gender Equality Landscape in Japan?
Analysis of the Laws on Women’s Economic and Political Participation”

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**How International Gender Norms Change the Gender Equality Landscape in Japan?
Analysis of the laws on women’s economic and political participation**

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Gender equality and women’s empowerment is taken as an important pre-condition and driver for the achievement of all the Sustainable Development Goals (SDGs). Despite its highly developed economy and policy efforts, Japan’s record of gender equality, in particular in women’s political and economic leadership, has been stalled for long years. The government passed legislations promoting the economic and political activity of women in reforms aimed at improving gender equality: namely the Act on Promotion of Women’s Participation and Advancement in the Workplace (2015) and the Act on Promotion of Gender Equality in the Political Field (2018). However, its global ranking on gender equality even got lowered, driven by a widening of the political gender gap and remaining dearth of female managers. This study aims to analyse the effectiveness of the legal framework aimed at improving gender equality, through assessing their regulatory design, compliance and implementation (See Y.S. Lee 2018). It also highlights how international gender norms underlining the SDGs and international human rights law affected engrained social and cultural norms in the course of development, and implementation of those legal frameworks, as legal development may not be effective without changing cultural practice (See Cao 2016). The paper concludes the interactions among global and local stakeholders including the State, global and local civil society, and the international entities would give the momentum to drive the acts to work effectively for gender equality in economic and political participation and leadership.

Keywords: international law and norms, sustainable development agenda, gender equality, women’s economic and political participation and leadership, law and development, Japanese women

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1. Introduction

Gender equality and women’s empowerment is taken as an important pre-condition and driver for the achievement of all the Sustainable Development Goals (SDGs) whose subject extends to all countries and their people under the principle of universality. At the level of political messaging, Japan seems to be taking the issue seriously. Advancement of women called “*Jyosei-katsuyaku*” in Japanese for economic revitalization under the banner of “*Womenomics*” has been adopted as a key plank of the government’s programme since 2013.¹ In addition to several policy measures, Japan enacted laws for promoting the economic and political activity of women including the 2015 Act on Promotion of Women’s Participation and Advancement in the Workplace and the 2018 Act on Promotion of Gender Equality in the Political Field. However, it is still placed low at 121th among 153 countries in the World Economic Forum’s Global Gender Gap Index for 2020 which benchmarks countries on their progress toward gender parity, driven by a widening of the political gender gap and remaining dearth of female managers.² Why does Japan have yet to substantially move the needle on gender equality outcomes despite these efforts? While multiple factors are responsible for Japan’s low rankings and lack of advancement for women, in particular the poor results with regards to economic and political opportunities for women, it begs the question as to the effectiveness and impact of the abovementioned laws for promotion of gender equality in workplace and political representation in Japan.

In this context, this study aims to analyze the efficacy of legal frameworks aimed at improving gender equality, in particular women’s leadership and participation, through assessing the regulatory design, compliance and implementation of those newly installed laws.³ In particular, for the purpose of analysis of their design and effects, this paper analyses how international gender norms underlining the international human rights treaties and the SDGs affected engrained social and cultural norms in the course of development, and implementation of those legal frameworks, as legal development may not be effective without changing cultural practice.⁴ In this regard, it highlights, based on the theory of internalization of international norms through transnational social movement,⁵ the interactions among

¹ This paper focuses on recent development of laws on women’s participation, but the analysis of the reasons why gender equality policy has not advanced since its establishment of national machinery for gender equality, see W. Chida, *Policy formation process for gender equality: Enactment of basic law and national machinery*, 15 Hokkaido University Graduate School of Law Junior Research Journal (2008), 115-150; M. Iwamoto, *National machinery of gender equality in Japan*, 24 Mie University Journal of Law and Economics, no. 2 (2007), 1-40.

² World Economic Forum, *Global Gender Gap Report 2020*, available at:

³ See Y. S. Lee, *Law and Development: Theory and Practice* (London: Routledge, 2018).

⁴ See L. Cao, *Culture in Law and Development: Nurturing Positive Change* (Oxford: Oxford University Press, 2006).

⁵ H. H. Koh, *How Is International Human Rights Law Enforced?*, 74 Indiana Law Journal (1999) 1397-1417; T.

Risse, S. C. Ropp, and K. Sikkink (eds.), *The Power of Human Rights: International Norms and Domestic Change* (Cambridge, Cambridge University Press, 1999); R. Goodman, and D. Jinks, *How to Influence States: Socialization and International Human Rights Law*, 54 Duke Law Journal (2004), 621-703; R. Goodman, and D. Jinks, *Incomplete Internalization and Compliance with Human Rights Law*, 19 European Journal of International

global and local stakeholders including the State, global and local civil society, and the international entities such as the Committee on the Elimination of Discrimination against Women (CEDAW) and International Labour Organization (ILO) which have strongly recommended Japan to take measures against gender discrimination in align with SDGs.

2. Global norms and Standards on Women’s Leadership and Political Participation

There are numerous internationally agreed norms and standards relate to women’s economic empowerment and political participation. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted at the General Assembly of the UN in 1979, states in its preamble that “Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity”.⁶ As for political and public participation, the CEDAW includes commitments under Article 7 on political and public life, and Article 8 on representation.⁷ The Nairobi Forward-looking Strategies were adopted in 1985 at the UN conference and provided guidelines for the advancement of women by the year 2000 and beyond to achieve/accelerate the economic and Political emancipation of women at all levels.⁸ The UN Economic and Social Council resolution 1990/15 on the Recommendations and conclusions arising from the first review and appraisal of the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women to the year 2000 calls on governments, political parties, trade unions, and professional and other representative groups to adopt a 30 percent minimum proportion of women in leadership positions, with a view to achieving equal representation.⁹ The 2003 UN General Assembly resolution on women’s political participation (A/RES/58/142) stipulates that Member States should take

Law, no. 4 (2008), 725-748; R. Goodman, and D. Jinks, *Socializing States: Promoting Human Rights Through International Law* (Oxford: Oxford University Press, 2013); P. Levitt, and S. Merry, *Vernacularization on the Ground: Local Uses of Global Women’s Rights in Peru, China, India and the United States*, 9 *Global Networks* (2009), 441-461.

⁶ Office of the High Commissioner for Human Rights, *Convention on the Elimination of All Forms of Discrimination against Women*, New York, 18 December 1979, available at: <<https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>>, accessed February 9, 2021.

⁷ Ibid.

⁸ “United Nations. Economic Commission for Africa. African Centre for Gender and Development; United Nations. Economic Commission for Africa (1994-11). *The African woman today : an overview of the implementation of the Nairobi forward-looking strategies for the advancement of women*. UN. ECA African Regional Conference on Women (5th : 1994, Nov. 16-23 : Dakar, Senegal). Addis Ababa :. © UN. ECA., <http://hdl.handle.net/10855/2622>”

⁹ See the United Nations Economic and Social Council resolution 1990/15 of 24 May 1990. United Nations, *Resolutions and Decisions of the Economic and Social Council: Official Records 1990*, p.13, available at: <<https://digitallibrary.un.org/record/196840/files/e-1990-90-e.pdf>>, accessed February 15, 2021.

broad and concrete steps to enhance women’s political participation.¹⁰ The 2011 UN General Assembly resolution on women’s political participation (A/RES/66/130) stresses its critical importance in all contexts.¹¹ Further, Beijing Declaration and Platform for Action adopted in 1995 reiterates the resolution 1990/15 and calls for removing barriers to equal participation to increase in women’s representation.¹² In regards to women in workplace, the International Labor Organisation (ILO) has been working since its establishment in 1919 for gender equality and elimination of discrimination at workplace, including realization of equal pay for men and women through promotion of various ILO conventions and policies for decent work.

Alongside with those initiatives of advancement of women centering their rights and dignity, since around 2000s, more discourses were observed which focus on women’s participation for economic growth and development from neoliberal perspective. For example, international financial institutions such as the World Bank and the International Monetary Fund (IMF) have implemented policies, programs, and research regarding gender and development, contributing a neoliberal and smart economics approach to the study. The 1999 Womenomics report by then-Goldman Sachs strategist Kathy Matsui can be situated in this trend as it highlighted Japanese economy could benefit from enhancing female consumption and fostering female employment, arguing an increase in Japan’s female labor participation rate from the prevailing rate of 50 percent to 59 percent could boost the country’s real GDP growth.¹³ In the meanwhile, the Millennium Development Goals (MDGs) was adopted and called for the promotion of gender equality and the empowerment of women, including equal participation with goals and targets.¹⁴ However, there is a criticism that many key issues needed to achieve gender equality and women’s empowerment were left out of MDGs and more strong and comprehensive guidance was necessary to be agreed.

Against this background, in September 2015, 193 Member States of the United Nations unanimously adopted a global agenda for sustainable development and future for all with 17 goals to be achieved by 2030 (Sustainable Development Goals, SDGs).¹⁵ This 2030 Agenda for Sustainable

¹⁰ It includes monitor progress in the representation of women; ensure that measures to reconcile family and professional life apply equally to women and men; develop mechanisms and training programmes that encourage women to participate in the electoral process and improve women’s capacity to cast informed votes in free and fair elections; promote the participation of young people, especially women, in civil society organizations; and develop programmes to educate and train women and girls in using the media and information and communication technologies.

¹¹ United Nations, *Resolution adopted by the General Assembly on 19 December 2011*, available at: <https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/66/130>, accessed February 9, 2021.

¹² United Nations, *Beijing Declaration and Platform for Action*, available at: <https://www.un.org/en/events/pastevents/pdfs/Beijing_Declaration_and_Platform_for_Action.pdf>, accessed February 9, 2021.

¹³ Goldman Sachs, *Women-omics: Buy the Female Economy*, August 13, 1999, <https://www.goldmansachs.com/insights/pages/womenomics-5.0/>

¹⁴ United Nations, *Millennium Development Goal 3: Promote gender equality and empower women*, available at: <<https://www.un.org/millenniumgoals/gender.shtml>>, accessed February 9, 2021.

¹⁵ United Nations, *Sustainable Development Goals: 17 Goals to Transform our World* (New York, September 25, 2015), available at: <<http://www.un.org/sustainabledevelopment/sustainable-developmentgoals/>>.

Development includes a specific goal to achieve gender equality, SDG5 which includes a sub-goal aiming to “Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life” (SDG Target 5.5), with the indicator 5.5.1 of the proportion of seats held by women in (a) national parliaments and (b) local governments and the indicator 5.5.2 of the proportion of women in managerial positions, given their limited participation and opportunities under the current circumstances. The gender lens is one of the 2030 Agenda’s guiding principles which are observed throughout the goals. Other than the SDG Goal 5, which is dedicated to gender equality and women’s empowerment, there are some targets with a gender focus. For instance, SDG Goal 10, which aims to reduce inequality within and among countries, has the target 10.3 to “Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard”. Likewise, SDG Goal 16 Target 16.7 has “Ensure responsive, inclusive, participatory and representative decisionmaking at all levels” and 16.b “Promote and enforce non-discriminatory laws and policies for sustainable development”.¹⁶ Furthermore, unlike the MDGs, which only targets the developing countries, the SDGs apply to all countries regardless of their income level. Thus, high income countries including Japan are also committed to achieve the target of SDGs by 2030 which reflect human rights obligations and commitments implemented and protected by all UN member States under the banner of “leave no one behind”. Next section will overview the Japanese Government’s effort on realizing those international standards at domestic level.

3. Japanese Government’s efforts to achieve “*Josei-katsuyaku*”

3.1 Internalization of international standards into domestic law and policy

The idea of targets for women in leadership positions came from the declarations of international UN conferences in the 1980s and 1990s. After the 1975 International Women’s Year, pressure from the UN helped push gender equality policy at the domestic level in Japan with legal backing took place during the time of the 1995 World Conference on Women in Beijing. The Basic Act for Gender-Equal Society went into effect in June 1999 to clarify basic concepts pertaining to formation of a gender-equal society and outlined the provisions and responsibilities necessary to carry it out.¹⁷ The Basic Law formally established the national machinery for Japan in the form of a Council for Gender Equality and the Gender Equality Bureau in the Cabinet Office. The Gender Equality Bureau (GEB) was tasked with the planning and coordination of Japanese government policies regarding gender equality in order to carry out the vision enshrined in the Basic Law. The First Basic Plan for Gender Equality, formed in 2000,

¹⁶ *Ibid.*

¹⁷ Government of Japan, *Basic Act for Gender Equal Society*, available at: <http://www.japaneselawtranslation.go.jp/law/detail_main?re=01&vm=04&id=2526>, accessed February 9, 2021.

acknowledged the importance of international influence when it stated, “based on international instruments adopted at world conferences on women and other fora, Japan formulated a national plan of action and promoted comprehensive and systematic measures based thereon” which already included the 30% leadership target.¹⁸ This target remains a centerpiece of Japanese gender equality policy, as it was adopted in response to recommendations in the 1985 Nairobi Forward-Looking Strategies that were subsequently officially ratified in the 1995 Beijing Platform for Action.

Along with this discourse, Japanese government is proud of itself to have contributed to promoting women’s empowerment and gender equality agenda in the development process of SDGs.¹⁹ In May 2016, the Government of Japan has launched the SDGs Promotion Headquarters to effectively achieve the SDGs.²⁰ The Headquarters established the SDGs Implementation Guiding Principles in December 2016.²¹ Based on the Guiding Principles, and its revision in 2019²², they set out the SDGs Action Plan every year since 2018. Women’s participation in decision-making processes has been mentioned throughout all the Action Plans to date.²³

3.2 Women in managerial positions

Women’s economic empowerment has been at the top of the government’s agenda under the administration of Japan’s Prime Minister Shinzo Abe. In April 2013, the Prime Minister announced a policy to strongly promote the expansion of employment of women as a growth strategy, which is part of the so-called ‘third arrow’ of his economic fiscal policies nicknamed “*Abenomics*” to lift Japan out

¹⁸ Gender Equality Bureau, Cabinet Office, *Basic Plan for Gender Equality*, available at: <http://www.gender.go.jp/about_danjo/basic_plans/1st/index.html>, accessed December 5, 2019.

¹⁹ Gender Equality Bureau, Cabinet Office, *Demonstrating international leadership in the field of gender equality*, available at: <https://www.gender.go.jp/about_danjo/whitepaper/r02/zentai/html/honpen/b2_s13_02.html>, accessed February 9, 2021.

²⁰ The Headquarters, which is headed by Prime Minister, is to ensure a whole-of-government approach and aims to take a lead in implementing the SDGs both domestically and internationally. Ministry of Foreign Affairs, *SDGs Promotion Headquarters*, available at: <<https://www.mofa.go.jp/policy/oda/sdgs/effort/index.html>>, accessed 25 October, 2020.

²¹ Prime Minister’s Office, *supra* note 17. Ministry of Foreign Affairs, *SDGs Implementation Guiding Principles* (Tokyo, December 22, 2016), available at: <<https://www.mofa.go.jp/mofaj/gaiko/oda/sdgs/pdf/000252819.pdf>>.

²² Ministry of Foreign Affairs, *SDGs Implementation Guiding Principles Revised Version (temporary translation)* (Tokyo, December 20, 2019), available at: <https://www.mofa.go.jp/policy/oda/sdgs/pdf/Revised_implementation_guideline_EN_2.pdf>.

²³ SDGs Promotion Headquarters, *The Expanded SDGs Action Plan 2018* (Tokyo, June 2018), available at: <<https://www.kantei.go.jp/jp/singi/sdgs/dai5/siryou1.pdf>>; SDGs Promotion Headquarters, *The Expanded SDGs Action Plan 2019* (Tokyo, June 2019), available at: <<https://www.kantei.go.jp/jp/singi/sdgs/dai7/siryou1.pdf>>; SDGs Promotion Headquarters, *The SDGs Action Plan 2020* (Tokyo, December 2019), available at: <<https://www.mofa.go.jp/mofaj/gaiko/oda/sdgs/pdf/actionplan2020.pdf>>. In its SDGs Action Plan 2018, “Empowerment of the Next Generations and Women” is emphasized as one of the three pillars of the “Japan’s SDGs Model” along with Society 5.0 (Business Innovation) and Regional Revitalization. In December 2019, the government issued a revised edition of the principles as an effort to accelerate its work to realize the SDGs in Japan and around the world. In this version, “Empowerment of the Next Generations and Women” remains one of the three pillars.

of decades of economic stagnation.²⁴ This initiative following international neoliberal discourse and addenda on women and development was called “marriage of neoliberalism and feminism” by skeptical feminists.²⁵ Since then, Abe repeatedly emphasized the importance of women’s economic empowerment and has launched initiatives to achieve ‘a society where women shine’. The background to this is the big gender gap that still remains in the Japanese labor market and Japan’s shrinking workforce with low birthrate and aging population. This initiative is called “*womenomics*” inspired by the abovementioned report of Kathy Matsui and indicating the idea behind the policy that the advancement of women and economic development are necessarily linked.²⁶ Abe has repeatedly pledged that by 2020, 30 percent of leadership positions in the country would be held by women and led the establishment of the Headquarters for Creating a Society in which All Women Shine in October 2014.²⁷ During the first meeting of the Headquarters, Abe announced the Policy Package for Creating a Society in which All Women Shine. The Headquarters publishes the Intensive Policy to Accelerate the Empowerment of Women every year since then.²⁸ As an effort to promote gender equality and women’s empowerment, the government also shows its commitment that, based on the 4th Basic Plan for Gender Equality approved by the Cabinet in December 2015, they enhance systems for promoting gender equality in the priority fields including expansion of women’s participation and advancement in all fields of society.²⁹

²⁴ The first two arrows are monetary easing and fiscal stimulus. Center for Strategic and International Studies, *Resolved: Abenomics Is a Viable Growth Strategy for Japan*, available at:

<<https://www.csis.org/analysis/resolved-abenomics-viable-growth-strategy-japan>>, accessed February 9, 2021.

²⁵ A. Kano, *Womenomics and Acrobatics: Why Japanese Feminists Remain Skeptical about Feminist State Policy*. 2 *Feminist Encounters: A Journal of Critical Studies in Culture and Politics*, no. 1 (2018), 1-13.

²⁶ Cathy Matsui, a then-strategist of the Goldman Sachs and her colleagues published Goldman Sachs Research report “Womenomics: Buy the Female Economy” in 1999 and launched a multiyear series of reports that cement “Womenomics” which became part of the pillar of the Japan’s policy on women’s empowerment to revive economic growth. They included “Womenomics: Japan’s Hidden Asset” (2005), “Womenomics 3.0: The Time Is Now” (2010), “Womenomics 4.0: Time to Walk the Talk” (2014), and “Womenomics 5.0” (2019). See Goldman Sachs, “*Womenomics*” Reveals The Power of the Purse in Japan, available at: <<https://www.goldmansachs.com/our-firm/history/moments/1999-womenomics.html>>, accessed February 9, 2021.

²⁷ Prime Minister’s Office, *Headquarters for Creating a Society in which All Women Shine* (Tokyo, October 10, 2014), available at: <https://japan.kantei.go.jp/96_abe/actions/201410/10article1.html>. This headquarters was established under the initiative of Prime Minister’s Office in October 2014, with Prime Minister as a head and ministers as members in parallel with the existing national gender machinery, Gender Equality Bureau at the Cabinet Office and Council for Gender Equality under the Headquarters for the Promotion of Gender Equality set in 2001. Cabinet Secretariat, On the establishment of the Headquarters for Creating a Society in which All Women Shine, available at: <<https://www.cas.go.jp/jp/seisaku/kagayakujosei/pdf/konkyo.pdf>>, accessed February 15, 2021.

²⁸ Prime Minister’s Office, *Headquarters for Creating a Society in which All Women Shine*, available at: <http://www.kantei.go.jp/jp/headline/brilliant_women/>, accessed October 25, 2020.

²⁹ Gender Equality Bureau, Cabinet Office, *The Fourth Basic Plan for Gender Equality*, available at: <https://www.gender.go.jp/english_contents/pr_act/pub/pamphlet/women-and-men16/pdf/2-4.pdf>, accessed February 15, 2021.

With the aim of steadily pushing forward initiatives aimed at promoting the advancement of women³⁰, the Act on Promotion of Women’s Participation and Advancement in the Workplace (Act No. 64 of 2015; hereinafter “2015 Act”) was enacted in September 2015 and came into full effect in April 2016. This act obligates the national government, local governments, and private sector corporations with more than 300 employees to (1) analyse the situation and challenge on the advancement of women in each workplace and (2) draft and publish “action plans by business owners” which incorporate numerical targets and concrete initiatives for solving the challenges. They are also required to (3) disclose information on female participation in their workplaces.³¹

3.3 Women in political leadership

However, these efforts were largely focused on women in the economic sphere and there was little attention paid to the issue of women’s political participation. For example, in the Policy Package for All Women to Shine in 2014 mentioned above, there are six “challenges identified from the perspective of women” including: 1) want to be able to have a safe pregnancy, childbirth, childcare and nursing care; 2) want to unleash professional capacity in workplace, 3) want to play an active role in the community and start businesses; 4) want to live a healthy and stable life; 5) want to live a safe and secure life, and; 6) want to connect with people and information, however, it does not contain any reference to women’s political participation.³² Some argue the Policy Package can be seen as implying that it is at least perceived by the policy makers that women’s primary concern is to take care of family in a better way, not to engage in decision making in political (and maybe even economic) field. This prompted arguments that the government is still trying to confine women into the private sphere where they are primarily responsible for unpaid work or ask women to play double role in and outside of the household.³³ The priority policy following this Policy Package issued every year since 2015 have touched on women’s economic advancement and increase of employment at the national and local

³⁰ There was no specific act for promoting women’s economic and political participation, except Equal Employment Opportunity Law enacted in 1985 and the Basic Act for Gender-Equal Society of 1999 to clarify basic concepts pertaining to formation of a gender-equal society and indicate the direction these should take. Government of Japan, *Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment*, available at: <<http://www.japaneselawtranslation.go.jp/law/detail/?re=2&ky=request&ia=03&page=582&la=01&ja=04>>, accessed February 9, 2021; Government of Japan, *Basic Act for Gender Equal Society*, available at: <http://www.japaneselawtranslation.go.jp/law/detail_main?re=01&vm=04&id=2526>, accessed February 9, 2021.

³¹ Government of Japan, *Act on the Promotion of Female Participation and Career Advancement in the Workplace*, available at: <<http://www.japaneselawtranslation.go.jp/law/detail/?id=3188&vm=04&re=01>>, accessed October 11, 2020.

³² Prime Minister’s Office, *supra* note 18.

³³ M. Levonian, *Contemporary Women's Employment in Japan: The Effects of State-Mandated Gender Roles, Wars, and Japan, Inc.*, 618 CMC Senior Theses (2013), available at: <http://scholarship.claremont.edu/cmc_theses/618>, accessed February 9, 2021.

government and private sector, however, it is not until 2020 version that the policy package refers to women’s political participation.³⁴

This is against this backdrop that in May 2018, the Act on Promotion of Gender Equality in the Political Field (here after “2018 Act”) was also enacted, which requires political parties to “make the numbers of male and female candidates as even as possible in elections”.³⁵ According to article 1 of the Act, this act aims to effectively and positively promote gender equality in the political field by laying out the fundamental principles and clarifying the responsibilities, etc. of the State and local governments. In order to achieve this purpose, the Act proposes three basic principles under article 2: 1) making the numbers of male and female candidates as even as possible in the elections of the members of the House of Representatives, the House of Councillors, and the councils of local governments; 2) ensuring that men and women are able to fully display their individuality and ability regardless of their gender, and; 3) making it possible for men and women to realize the smooth and continuous balance of activities as those in elected public office, etc. and family lives. Based on these basic principles, the Act mandates the State and local governments to formulate necessary policies for the promotion of gender equality in the political field and to implement them while securing the freedom of political activity of political organizations under article 3, while urging political organizations such as political parties to endeavor to voluntarily work on the promotion of gender equality in the political field, including setting a goal for the number of male and female candidates for public office under article 4. The Act also has provisions on key measures, such as: 1) research and collecting information on relevant efforts in Japan and abroad (article 5); 2) public awareness activities (article 6); 3) developing an enabling environment (article 7), and; 4) human resources development (article 8). Based on the results of the research, the State is to take measures necessary for the promotion of gender equality in the political field, such as legislative or financial measures (article 9).³⁶

³⁴ Headquarters for Creating a Society in which All Women Shine, *2020 priority policy for accelerating the active participation of women*, available at: <https://www.kantei.go.jp/jp/headline/brilliant_women/pdf/20200701honbun.pdf>, accessed February 15, 2021; Prime Minister’s Office, *supra* note 18.

³⁵ Government of Japan, *Act on Promotion of Gender Equality in the Political Field*, available at: <<http://www.japaneselawtranslation.go.jp/law/detail/?id=3294&vm=04&re=01>>, accessed October 11, 2020. This legislation is aimed at realizing parity in Japan and called Japanese parity law, which means gender parity in politics in French by having the same numbers of men and women candidates.

³⁶ Prior to its enactment, the House of Councillors’ Committee on Cabinet adopted a supplementary resolution calling for supplementary measures by the Cabinet Office and the Ministry of Interior to support the implementation of the key measures under articles 5 to 8 of the act. House of the Councillors, *Summary of the bills and supplementary resolutions for the 196th session*, available at: <https://www.sangiin.go.jp/japanese/gianjoho/old_gaiyo/196/1962400.pdf>, accessed October 25, 2020.

4. Review of the advancement of women’s economic and political participation and leadership

Previous sections overviewed the legal development for advancing women’s economic and political participation and leadership in Japan. Then, what has been a consequence or effect of these policy and legal measures?

The data show that in several years after the promulgation of the laws on women’s economic and political participation, women are still lag behind the world in terms of female leadership in politics and business. As shown in the table below, the numbers of women in managerial position and leadership slightly increased but far behind to achieve target. According to the Basic Survey of Gender Equality in Employment Management in FY2019, only 11.9% of managerial positions in the companies surveyed were taken by women.³⁷ It is notable even though the percentage of women in employment has constantly increased up to almost 78 percent in 2019, the wage gap still remains high at 23.5 percent, the second largest among Organisation for Economic Co-operation and Development (OECD) nations, which reflect the majority of women in employment are likely to fall into the category of non-regular workers due to a lack of gender equality in career opportunity and long work hours. This persisting male-centered working style even perpetuates wage differences between men and women, even among regular workers.³⁸ This situation leads assessment of achievement towards SDGs³⁹ indicating the stagnation of the progress in gender equality in Japan. In November 2020, it is confirmed in the report of the Council for Gender Equality to Prime Minister that the government failed to achieve the target of 30 percent for women as political candidates and managerial positions which government had retained since 2003.⁴⁰

Political participation also remains one of the most concerning areas with huge and persistent gender gaps in Japan. In the national Diet, just 46 women hold seats in the House of Representatives (9.9 percent of the total 465 seats) and 56 of the 245 seats (22.9 percent) in the House of Councilors as of October 1, 2020.⁴¹ According to the Inter-Parliamentary Union, Japan ranks 167 among 193 countries

³⁷ Ministry of Health, Labour and Welfare, *Basic Survey of Gender Equality in Employment Management in FY2019*, available at: <<https://www.mhlw.go.jp/toukei/list/dl/71-r01/02.pdf>>, accessed 11 October 2020.

³⁸ OECD, *Gender wage gap*, available at: <https://www.oecd-ilibrary.org/employment/gender-wage-gap/indicator/english_7cee77aa-en>, accessed February 15, 2021. See K. Yamaguchi, *Japan’s Gender Gap*, 56 Finance and Development, no. 1 (2019), 26-29.

³⁹ Sustainable Development Report, *Japan*, available at: <<https://dashboards.sdindex.org/profiles/JPN>>, accessed February 16, 2021.

⁴⁰ In a report submitted to Prime Minister Yoshihide Suga on 11 November 2020, the Council for Gender Equality recommended that targets of up to 30 percent for women as political candidates and managerial positions be pushed back 10 years at maximum. Asahi Shimbun, *Gender equality goals face delay of up to 10 years to be reached* (November 12, 2020), available at: <<http://www.asahi.com/ajw/articles/13924170>>. Telegraph, *Japan to delay "womenomics" target for female leaders by up to a decade* (June 30, 2020), available at: <<https://www.telegraph.co.uk/news/2020/06/30/japan-delay-womenomics-target-female-leaders-decade/>>, accessed October 11, 2020; Nikkei Asia, *Japan women hold 8% of manager jobs, far from 2020 goal of 30%* (August 19, 2020), available at: <<https://asia.nikkei.com/Business/Business-trends/Japan-women-hold-8-of-manager-jobs-far-from-2020-goal-of-30>>, accessed October 11, 2020;

⁴¹ Inter-Parliamentary Union, *Monthly ranking of women in national parliaments*, available at: <<https://data.ipu.org/women-ranking?month=10&year=2020>>, accessed October 25, 2020.

in terms of the number of women in the lower house.⁴² The Global Gender Gap Report 2020 also highlights that female representation in the Japanese parliament is one of the lowest in the world (135th), and 20% below the average share across advanced economies.⁴³ Women’s participation at Japan’s municipal level also is much lower, and it seems obvious that Japan’s gender equality in politics has still lagged behind that of other countries. This women’s participation in politics in Japan has markedly trailed most other countries in the world.

This trend is seen in the records in the World Economic Forum’s Global Gender Gap Report. In 2014, Japan was ranked 102nd in the World Economic Forum’s Global Gender Gap Report⁴⁴ which deteriorated to 121st among 153 countries surveyed in 2020. Its score also worsened from 0.658 in 2014⁴⁵ to 0.652 in 2020⁴⁶. In the rankings by subindex, Japan’s performance is somewhat better in health and survival (though dropped from 37th in 2014 to 40th in 2020 with the same score of 0.979 in both years), but it is underperforming in educational attainment (0.983, or 91st, in 2020, slightly up from 0.978, or 93rd, in 2014), economic participation and opportunity (down from 0.618, or 102nd, to 0.598, or 115th) and political empowerment (down from 0.058 at 129th in 2014 to 0.049 at 144th in 2020), which has made its rank lower than any other G20 or OECD countries.⁴⁷ It should be noted that its rank in political empowerment has constantly dropped since 2014. It is also noteworthy that the economic participation index has slightly improved since 2016 while the political participation has deteriorated even after the legal measures. The report pointed out that the increased gender gap in politics offset the some improvement in the economic field.⁴⁸ To be fair, the scores of Japan has advanced gradually, however, as it lags behind the speed of progress in other countries, its ranking has dropped. SDGs assessment report also indicates that goal 5 for gender equality is marked as the area where “major challenges remain” in Japan.⁴⁹

Table 1: The change from 2014 to 2020 on women’s participation

The figures concerning the 2020 targets set forth in the 4th Gender Equality Plan in 2015.

	Before the goal was set	Most recent data	2020 goal

⁴² Inter-Parliamentary Union, *Global and regional averages of women in national parliaments*, available at: <<https://data.ipu.org/women-averages?month=10&year=2020>>, accessed October 25, 2020.

⁴³ World Economic Forum, *supra* note 1.

⁴⁴ World Economic Forum, *Closing the Gender Gap in Japan*, available at: <<https://jp.weforum.org/reports/closing-gender-gap-japan>>, accessed February 15, 2021.

⁴⁵ World Economic Forum, *Global Gender Gap Report 2014*, available at: <http://www3.weforum.org/docs/GGGR14/GGGR_CompleteReport_2014.pdf>, accessed February 14, 2021.

⁴⁶ World Economic Forum, *supra* note 1.

⁴⁷ World Economic Forum, *supra* note 1.

⁴⁸ World Economic Forum, *supra* note 1.

⁴⁹ Statistics Bureau, Ministry of Internal Affairs and Communications. Labour Force Survey 2019. <http://www.stat.go.jp/data/roudou/2.html>. Accessed February 1, 2020.

Number of women in managerial positions at private companies (section chief level) ⁵⁰	9.2% (2014)	11.4% (2019)	15%
Number of female government officials in managerial positions (section chief level) ⁵¹	3.5% (2015)	5.3 (2019)	7%
Percentage of women as Lower House candidates ⁵²	16.6% (2014)	17.8% (2017)	30%
Percentage of women as Upper House candidates ⁵³	24.2% (2013)	28.1% (2019)	30%
Percentage of women who continue working after giving birth to their first child ⁵⁴	40.3% (2010)	53.1% (2015)	55%
Hours that a father that has a child younger than 6 spends on household duties and child rearing ⁵⁵	1 hour and 7 minutes (2011)	1 hour and 23 minutes (2016)	2 hours and 30 minutes
Employment rate for women aged between 25 and 44	70.8 % (2014)	77.7 % (2019)	77%
Gender wage gap (men = 100) ⁵⁶	72.2 (2015)	74.3 (2019)	NA

Table 2: Trend of Global Gender Equality Index of Japan

Year	Number of countries Surveyed	Overall		Politics		Economy		Education		Health	
		Rank	Index	Rank	Index	Rank	Index	Rank	Index	Rank	Index
2020	153	121	0.652	144	0.049	115	0.598	91	0.983	40	0.979
2019	153	121	0.652	144	0.049	115	0.598	91	0.983	40	0.979
2018	149	110	0.662	125	0.081	117	0.595	65	0.994	41	0.979

⁵⁰ Ministry of Health, Labour and Welfare, *supra* note 35, at 3.

⁵¹ Gender Equality Bureau, Cabinet Office, *On the situations of women’s participation in policy and guidance making process and efforts concerning gender equality in local governments* (December 25, 2019, updated on August 24, 2020), p.2, available at: <<https://www.gender.go.jp/research/kenkyu/sankakujokyo/pdf/191225.pdf>>, accessed February 14, 2021.

⁵² Gender Equality Bureau, Cabinet Office, *White Paper on Gender Equality 2020*, p. 89, available at: <https://www.gender.go.jp/about_danjo/whitepaper/r02/zentai/pdf/r02_genjo.pdf>, accessed February 14, 2021.

⁵³ *Ibid.*

⁵⁴ Gender Equality Bureau, Cabinet Office, *Work-Life Balance Report 2018*, front cover, available at: <http://www.cao.go.jp/wlb//government/top/hyouka/report-18/h_pdf/zentai.pdf>, accessed February 14, 2021.

⁵⁵ Cabinet Office, *2016 Survey on Time Use and Leisure Activities: Summary of Results (Questionnaire A)*, p.31, available at: <<https://www.stat.go.jp/english/data/shakai/2016/pdf/timeuse-a2016.pdf>>, accessed February 14, 2021.

⁵⁶ Japan Institute for Labour Policy and Planning, *Chart: Gender Wage Gap*, available at: <<https://www.jil.go.jp/kokunai/statistics/timeseries/xls/g0406.xls>>, accessed February 14, 2021.

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2017	144	114	0.657	123	0.078	114	0.580	74	0.991	1	0.980
2016	144	111	0.660	103	0.103	118	0.569	76	0.990	40	0.979
2015	144	101	0.670	104	0.103	106	0.611	84	0.988	42	0.979
2014	142	104	0.658	129	0.058	102	0.618	93	0.978	37	0.979
2013	136	105	0.650	118	0.060	104	0.584	91	0.976	34	0.979
2012	135	101	0.653	110	0.070	102	0.576	81	0.987	34	0.979
2011	135	98	0.651	101	0.072	100	0.567	80	0.986	1	0.980
2010	134	94	0.652	101	0.072	101	0.572	82	0.986	1	0.980
2009	134	101	0.645	110	0.065	108	0.550	84	0.985	41	0.979
2008	130	98	0.643	107	0.065	102	0.544	82	0.985	38	0.979
2007	128	91	0.645	94	0.067	97	0.549	69	0.986	37	0.979
2006	115	80	0.645	83	0.067	83	0.545	60	0.986	1	0.980

Source: National Federation of Business and Professional Women’s Clubs of Japan, *Activities* ⁵⁷

Though it seems women lag behind both in politics and business, when we look at the numbers a little bit closer, they seem to be reflecting some different attitudes of the stakeholders towards women’s economic and political participation. Namely, some numbers represent the progress of advancement of women at the workplace. For example, the percentage of women hired from the national civil service employment examination for FY 2020 achieved 36.8%. Women accounted for more than half of the new hires in several organs, such as the Personal Information Protection Commission (66.7%), Japan Fair Trade Commission (55.6%) and the Ministry of Foreign Affairs (52.4%).⁵⁸ In the meantime, Keidanren (Japan Business Federation), the nation’s most powerful business lobby, set a goal in November 2019 for 30 percent or more of top managerial positions to be held by women by 2030 as part of its growth strategy which reflects the campaign of ‘30% Club Japan’, which is part of the global movement established among business circles by managers of large companies that calls for efforts to ensure that 30 percent female in managerial positions in large companies.⁵⁹ It is the first time for the business group to announce a numerical target to increase the number of female executives in corporate

⁵⁷ National Federation of Business and Professional Women’s Clubs of Japan, *Activities*, available at: <<https://www.bpw-japan.jp/japanese/gggi2015.html>>, accessed February 14, 2021; World Economic Forum, *supra* note 1.

⁵⁸ Cabinet Bureau of Personnel Affairs, *Follow-up to the situation of recruitment of women government officials* (May 29, 2020), available at: <https://www.cas.go.jp/jp/gaiyou/jimu/jinjikyoku/files/200529_followup.pdf>, accessed February 14, 2021.

⁵⁹ In 2019, 30% Club Japan was officially launched with the goal of having women constitute 30% in senior management of TOPIX100 companies. 30% Club, *Japan*, available at: <<https://30percentclub.org/about/chapters/japan>>, accessed February 14, 2021.

Japan. The percentage of female executives among 100 leading listed companies averaged 12.9 percent as of July, up 2.4 points year-on-year. But Keidanren aimed its target at all companies, including small and midsized ones, which could make the goal harder to achieve. There is a reflection that Japanese business needs to revitalize itself in a rapidly changing global environment and pressing needs for increasing diversity for innovation. “Diversity is necessary for businesses to survive”, Hiroaki Nakanishi, the federation’s chairman said, “Without setting a specific goal, it’s hard to move forward.”⁶⁰

Compared to the changing momentum for women’s leadership in business, the landscape on political leadership of women after the 2018 Act does not seem promising. To be fair, the following year after the promulgation of the 2018 Act for an equal representation of male and female candidates in a legislative election, the percentage of female candidates running in an Upper House election in 2019 reached 28.1 percent, the highest ever with increase of female candidate in several parties. But it was still far from having an equal number of male and female candidates on the ballot. Notably, the attitude of the Liberal Democratic Party to the equal political participation is rather negative despite its support for gender equality in general at surface. The LDP’s female candidate only represents 14 percent as in the selection of candidates, incumbents who are mostly male are prioritized over fielding new faces. The following comments of big political figures of LDP may also represent negative attitude of the party to equal candidates. The party Secretary-General Toshihiro Nikai made a comment that “It’s not what the party says. People decide (such things).” Seiko Noda, a Lower House member of the LDP, even told “Let opposition parties run more and more female candidates.....It is regrettable but our party has no capacity to (do so)” .⁶¹ This negative attitude of the party in power makes it not easy to increase female candidates. Contrary to Abe’s call for women’s empowerment, the number of women ministers in the cabinet has been stagnant. In the current cabinet of Prime Minister Yoshihide Suga, only two out of 20 ministers are women, one less than in the previous cabinet led by Abe.⁶² Furthermore, the largest opposition Constitutional Democratic Party of Japan has discussed a plan to increase female candidates, but the party’s head, Yukio Edano, suggested it will be hard to reach numerical targets.⁶³

5. Why legal framework not progressing well for promoting women’s participation?

This section analyzes the regulatory design, compliance and implementation of the 2015 Act and the 2018 Act to explore the reasons behind the efficacy of the laws.⁶⁴

⁶⁰ Mainichi, *Japan Business Federation, labor organization chiefs see need for wage hikes* (January 27, 2021), available at: <<https://mainichi.jp/english/articles/20210127/p2g/00m/0bu/085000c>>, accessed February 15, 2021.

⁶¹ Asahi shimbun, *supra* note 34.

⁶² See M. Rich, *Japan’s New Leader Picks His Team: Familiar Men, and Fewer Women*, *The New York Times* (September 16, 2020), available at: <<https://www.nytimes.com/2020/09/16/world/asia/japan-yoshihide-suga-cabinet.html>>.

⁶³ Asahi Shimbun, *supra* note 34.

⁶⁴ Y. S. Lee, *General theory of law and development*, 50 *Cornell International Law Journal*, no. 3 (2017), 415-472.

(1) Regulatory Design – anticipated policy outcome, legal framework and its adaptability

The 2015 Act and the 2018 Act established the fundamental principles on the promotion of gender equality in business and politics, but both of them have been criticized weak as they impose no sanctions against non-compliance. However, an important difference to note regarding the design of legal framework is that the 2015 Act includes the obligation for companies with more than 300 employees of developing concrete plans including data collection and analysis of rates of female employees hired, gender gaps in years of employment, working hours, and rates of female managers, to be revealed to the public (article 9 of the 2015 Act). The plans must further include concrete objectives and measures to improve the situation. This specificity is not seen in the 2018 Act and more importantly this is the “obligation”, not “an encouragement of voluntary effort” of the employers. In 2019, the 2015 Act was revised to expand the target of the law to companies with over 100 employees, and to address issues such as sexual harassment in the workplace. On the other hand, the 2018 Act imposes no legal obligations on political parties or other political organizations to increase their numbers of women members or candidates for public office. The 2018 Act consists of 9 articles, which is much shorter and simpler than 34 articles of the 2015 Act. As prescribed by article 4 of the 2018 Act, political parties or other political organizations are only requested to make “voluntary efforts” to tackle the problem of promoting gender equality in politics. The following provisions on Research on Actual Situation and Collection of Information (Article 5), Enlightenment Activity (Article 6), Development of Environment (Article 7), and Development of Human Resources (Article 8) are general and not as concrete as the 2015 Act.

These differences between the laws can be understood in the different level of enthusiasm of the party in power towards those topics which is reflected in drafting process of those acts as well. The drafting process of both the 2015 Act and the 2018 Act dated back to 2003 when the Headquarters for the Promotion of Gender Equality, established by the Cabinet in July 1994, determined to increase the share of women in leadership positions to at least 30 percent by 2020 in “all aspects of society” to conform with the international norm to promote women's leadership. However, the regulatory design for enhancing economic participation of women has been advanced more quickly under the government prioritizing economic liberalization. In 2004, then-prime minister Koizumi started to outline a policy that would oblige all local governments and employers with 300 people or more to create their own plans outlining measures for supporting the upbringing of the next generation.⁶⁵ As early as 2009, in a special committee working group on women’s active promotion proposed efforts such as disclosing company names with higher ratios of female board members and making lists.⁶⁶ Additionally, the idea

⁶⁵ Gender Equality Bureau, Cabinet Office, *For an Accurate Understanding of a Gender Equal Society* (January 28, 2004), available at: <http://www.gender.go.jp/kaigi/danjo_kaigi/siry/pdf/ka13-2-1.pdf>, accessed April 15, 2020.

⁶⁶ Gender Equality Bureau, Cabinet Office, *Basic Issues/Planning Expert Study Group Women's Active Participation Working Group* (November 17, 2009), available at: <<http://www.gender.go.jp/kaigi/senmon/kihon/wg/josei/jo-y2.html>>, accessed May 3, 2020.

of “visualization” in which companies must disclose their activities regarding the recruitment and appointment of women, as well as detail future efforts to improve, was included in the 2012 Democratic Party of Japan (DPJ) policy document and such efforts were promoted within a working group on positive action in that year.⁶⁷ Notably, when the DPJ was in power in 2010, they were chided by the UN CEDAW Committee for the lack of Japanese women in leadership positions, hence the government responded by pledging to take more positive actions to promote women.⁶⁸ Although the DPJ fell from power shortly thereafter, Abe’s LDP government continued in this line of linking international norms to domestic promotion of women, which Kano (2018) claims makes sense as the percentage of women in leadership positions directly affects Japan’s standing in global rankings.⁶⁹

It should be noted that the development process of the 2015 Act was primarily led by the Ministry of Health, Labour and Welfare (MHLW), not by the Gender Equality Bureau of the Cabinet Office. The MHLW made a deliberative council composed of academic, business, and labor union representatives—among whom only one academic had any research specialization in gender and women’s labor.⁷⁰ Even though members at the Council for Gender Equality meeting in October 2014 made comments to the draft bill regarding the lack of consideration for issues of discriminatory bias and the moral hazard of promoting women to symbolic leadership positions without any substance,⁷¹ and the public comments were collected for the bill, the contents of the bill were decided within the MHLW deliberative council without substantive engagement of women’s organisations. Those organization expressed their lack of satisfaction with the law. For example, groups like Japan Women’s Watch (JAWW) noted in their Beijing +25 report issues like the persistence of placing women into the secretarial track upon hiring, a lack of disclosure on wages to highlight the gender wage gap, no addressing of the issue of sexual harassment, and a disagreement with the framing that continued to utilize women as economic resources rather than emphasizing equality and human rights.⁷²

In regard to women’s participation in the political field, the Third Basic Plan of Gender Equality, approved by the Cabinet in December 2010 recognized that “the government has tackled this issue to date by setting specific numerical targets in fields where the government can take direct action to meet

⁶⁷ Gender Equality Bureau, Cabinet Office, *Economic Revitalization by Promoting the Success of Women*, (December 2012), available at: <http://www.gender.go.jp/kaigi/senmon/kihon/kihon_eikyoku/jyosei_koudou.html>, accessed May 3, 2020.

⁶⁸ A. Kano, *Womenomics and Acrobatics: Why Japanese Feminists Remain Skeptical about Feminist State Policy*. 2 *Feminist Encounters: A Journal of Critical Studies in Culture and Politics*, no. 1 (2018), 1-13, at 4.

⁶⁹ *Ibid.*

⁷⁰ Ministry of Health, Labour and Welfare, *Equal Employment Subcommittee Member List* (October 25, 2013), available at: <<https://www.mhlw.go.jp/file/04-Houdouhappyou-11902000-Koyoukintoujidoukateikyoku-Koyoukintouseisakuka/0000059758.pdf>>, accessed May 4, 2020.

⁷¹ Gender Equality Bureau, Cabinet Office, *Council for Gender Equality 44th Meeting Minutes*, available at: <http://www.gender.go.jp/kaigi/danjo_kaigi/gijiroku/pdf/ka44-g.pdf>, accessed May 4, 2020.

⁷² Japan Women’s Watch, *JAWW NGO Report for Beijing +25* (December 2019), available at: <https://jaww.info/pkobo_news/upload/71-0.pdf>, accessed March 31, 2020.

the 30% by 2020 target..... such as for women who are national public servants or on national advisory councils and committees. However, it has not been enthusiastic in requesting political parties, private enterprise and other bodies to implement specific measures” and thus, “expanding women’s participation in policy-making and planning processes is a pressing issue for Japanese”.⁷³ This was emphasized in the Fourth Basic Plan of 2015 which states that it is essential in democratic societies that men and women share responsibility through active participation in political decision-making processes so that political and social policymaking and planning will fairly and impartially reflect diverse opinions and men and women will enjoy equal benefits.⁷⁴

However, the gap between political commitment and the actual deeds was obvious to be addressed. The target fulfillment date of 2020 was decided by the gender equality promotion headquarters in June 2003 during the then administration of Prime Minister Junichiro Koizumi,⁷⁵ and Abe during the World Economic Forum 2014 emphasized his commitment to this target. Nevertheless, the current situation is far from what the government had pursued. In 2012, Prime Minister Abe reemphasized this goal before the lower house election. Yet, in his first cabinet, Abe appointed only two women. Moreover, in the 2013 upper house election, the LDP fielded only 9 women out of 79 candidates, nowhere near the 30% candidate goal.⁷⁶ In September 2014, Abe appointed five new women in his cabinet reshuffle, two of whom were forced to resign a month later due to scandals and ends up to four women sitting on the cabinet due to one female replacement.⁷⁷

Against this backdrop, the actual drafting process of the 2018 Act started in February 2015, when a supra-partisan parliamentary group was established to promote women’s participation and engagement in politics particularly for elected officials. Compared to the weak engagement of civil society group in the development process of the 2015 Act, it should be noted that the Association

⁷³ Gender Equality Bureau, Cabinet Office, *The Third Basic Plan for Gender Equality, Part 2: Basic direction of measures and concrete measures*, available at: <https://www.gender.go.jp/about_danjo/basic_plans/3rd/pdf/3-04.pdf>, accessed February 16, 2021.

⁷⁴ Gender Equality Bureau, Cabinet Office, *The Third Basic Plan for Gender Equality, Area 2: Expanding women's participation in policy and policy-making processes*, available at: <https://www.gender.go.jp/about_danjo/basic_plans/4th/pdf/2-02.pdf>, accessed February 16, 2021.

⁷⁵ Mainichi, *Japan gov't to push back 30% target for women in leadership positions by up to 10 years* (June 26, 2020), available at: <<https://mainichi.jp/english/articles/20200626/p2a/00m/0fp/014000c>>, accessed October 11, 2020. In the 2005 Lower House election, in which a major issue was whether to privatize the postal system, then-Prime Minister Junichiro Koizumi backed a number of female candidates, who were dubbed “assassins” in their bids to challenge incumbents opposed to the privatization plan. These candidates were not able to secure the support of Koizumi’s Liberal Democratic Party headquarters and formed new parties, ran as independents or received only local LDP support. Japan Times, *Women in Japanese politics: Why so few after so very long?* (March 6, 2020), available at: <<https://www.japantimes.co.jp/news/2020/03/06/reference/women-in-japanese-politics/>>, accessed February 14, 2021.

⁷⁶ Japan Daily Press, *Abe's Vow to Elevate Women in Japanese Society Being Undermined by Male-Dominated Politics* (June 18, 2013), available at: <<http://japandailynews.co/bes-vow-to-elevate-women-in-japanese-society-being-undermined-by-male-dominated-politics-1830752>>, accessed February 15, 2021.

⁷⁷ New York Times, *Two Women Exit Japan's Cabinet in Crisis for Abe* (October 20, 2014), available at: <<http://www.nytimes.com/2014/10/20/orl/si/wo-women-resign-japan-cabinet-a-blow-to-abe.html>>, accessed October 29, 2014.

Promoting the Quota System, or the Q Association for short, has played an active role in development process of the 2018 Act. The Q Association was established in June 2012 by Ryoko Akamatsu, a former Minister for Education who had been actively working to increase the number of women Diet members and incorporation of global gender equality agenda in Japan. In the fall of 2011, she called on major women's groups across the country to work on the quota system. Nine organizations, including the Japan’s Association of International Women's Rights, became the core members of the association at the request of Akamatsu. The association has enthusiastically engaged in lobbying activities while meeting with Diet members. It was in one of their meetings on the occasion of International Women’s Day in 2014 that MP Masaharu Nakagawa called for the establishment of the Non-partisan League on the Promotion of Gender Equality in the Political Field, which led the drafting process for the 2018 Act.

Although the group initially studied and discussed the possibility of introducing a quota system, it changed direction after recognizing a need for further investigation and the difficulty of accommodating the differences among political parties regarding reforms to the electoral system and ways to impose legal obligations on political parties and other political organizations. The Non-partisan League on the Promotion of Gender Equality in the Political Field organized eight working group meetings before the summer of the year and drafted the outlines of the Act as well as the revised Public Offices Election Act. The former was a law on principle while the latter was to bring actual changes in the proportional representative system. The ruling Liberal Democratic Party (LDP) was against the original text that called for having the “same numbers” of men and women candidates to run for office, and they suggested a “balanced composition” of men and women candidates as an alternative, which faced a backlash from opposition parties saying that it did not make sense. While four opposition parties submitted the bill calling for the same numbers in May 2016.⁷⁸ In response to the opposition parties’ bill, the LDP submitted their own bill calling for the balanced composition seven months later in December 2016. As a result, there were two almost identical bills to be discussed during the Diet session in January 2017. The agreement was reached after lengthy complex negotiations⁷⁹ and the Act on Promotion of Gender Equality in the Political Field was passed in May 2018 with unanimous vote without questions.⁸⁰ While some researchers referred to this legislation as groundbreaking, it has its own limits. As like other legislation that is introduced by a member of the Parliament, not by the ruling party, this legislation has been compromised in negotiation which is reflected in its provision 2: “the promotion of gender equality in the political field is to be undertaken with the aim of making the numbers of male and female candidates as even as possible in the elections of the members of the House of Representatives, the House of Councillors, and the councils of local governments, while securing the

⁷⁸ Y. Kawahashi, *The Bill on Promotion of Gender Equality in the Political Field and the History of the Association Promoting the Quota System*, 31 *International Women* (2017) 115-119.

⁷⁹ Faced by the disagreement, Masaharu Nakagawa, a member of the House of Representatives and the Chairman of the League, initiated talks to unify the two different bills by gaining support of opposition parties for the LDP’s bill.

⁸⁰ Kawahashi, *supra* note 62.

freedom of political activity, such as the freedom of selection of candidates of political organizations such as political parties, or the freedom of candidacy of candidates.” (underlined by the author). The Act requests the two houses of the Diet and the councils to make efforts to achieve gender equality in terms of the number of candidates, but it is not intended to impose any punishment or sanctions in case of non-compliance.

(2) Regulatory Compliance – institutional and cultural barrier?

There seems to be a difference between the compliance situation of the two acts. As for the 2015 Act, Japanese companies seem to make a good effort in compliance of the law, promoting women’s empowerment and participation in workplace. In 2019, Ministry of Internal Affairs and Communications carried out a corporate survey to analyze the situation of women’s empowerment in workplace. Having compared data from 2015 and 2017, the survey highlighted that the companies surveyed have taken steps in compliance with the 2015 Act. The results show that businesses are more likely to publish certain info concerning women’s empowerment as required by the Act, such as the share of women in recruitments, average overtime hours per month, a gender gap in average length of continuous service, and the share of women in managerial positions, as show in the table below:⁸¹

Table 3: Share of businesses publishing information concerning women’s empowerment

Information	End of FY2015		End of FY2017	
	(before the 2015 act)		(after the 2015 act)	
	Large enterprises	SMEs	Large enterprises	SMEs
1. Share of women in recruitments	8.3%	7.4%	51.8%	17.1%
2. Average overtime hours per month	5.8%	5.8%	38.4%	15.0%
3. Gender gap in average length of continuous service	5.9%	3.3%	40.7%	8.6%
4. Share of women in managerial positions	6.5%	4.2%	47.2%	14.4%

Source: Ministry of Internal Affairs of Japan

The survey also highlighted positive changes for gender equality have actually taken place. The share of women has increased in the numbers of applicants, recruitments, people at managerial positions (team leader and director levels). Average years of continuous service for women also showed an increase.

In regard to the 2018 Act, it was 6 months after the enactment of the Act that the Abe administration only got one female minister at the Cabinet reshuffle of Prime Minister Abe in November

⁸¹ Ministry of Internal Affairs and Communications, *Policy evaluation on the promotion of women's advancement: Results report*, available at: <https://www.soumu.go.jp/main_content/000630779.pdf>, accessed February 1, 2020.

2018 though one more female minister got in the cabinet by the end of his tenure in 2020.⁸² The first election under the 2018 Act was the April 2019 local elections held nationwide. Six out of 59 mayoral races were won by women. About 12.7 percent of those who ran for prefectural assembly elections were women, and women won 10.4 percent of the seats. This was just a slight increase over the 9.1 percent of prefectural assembly seats that went to women in 2015. The second election was the Upper House vote in July 2019. A total of 104 women — 28.1 percent of the candidates — ran for seats. That was by 3.4 point up from 24.7 percent in the 2016 election. Female candidates won 28 out of the 124 seats up for election — 22.5 percent — in both district and proportional elections. However, large part of the increase came from opposition parties, particularly the Democratic Party of Japan (DPJ) and the Democratic Party for the People (DPP), both of which derived from the Democratic Party (DP). For this election, they had 29 female candidates in total, including 19 from the DPJ and 10 from the DPP, which is 2.6 times more than the DP did for the previous election. In terms of percentage of women in all candidates, the Social Democratic Party had the highest percentage of 71%, followed by the Communist Party (55%), the DPJ (45%), the DPP (36%), and the Japan Innovation Party (32%). The share for ruling Liberal Democratic Party was 15%, significantly lower than the opposition parties but still better than the 8% of the Komeito Party. Further, as is stated above, the 2019 Upper House election has seen the greatest number of female candidates in its history.

The reasons that women’s participation in political life has been very low in Japan are complex with a combination of historical, social, legal, economic, and even cultural factors. Not all factors, particularly norms, preventing women’s participation in politics take the written forms. Both tangible and intangible factors must be looked upon so as to get the whole picture of the situations surrounding women, who cannot or just do not participate in politics. Japanese feminism political theory scholar Eto Mikiko (2010) highlighted four factors which affect women’s representation: the electoral system; socio-political culture; electoral quotas; and the activities and attitudes of women concerning their own representation.⁸³ Among all, she highlights that the traditional male-dominated framework and culture surrounding politics and society in Japan makes it difficult for women to demand the equal representation enjoyed by women in other countries. Modern political practices conducted in accordance with norms defined by men without care burden further alienate women and limit women’s representation, including a working style possible only if the parliamentarians’ partners take complete responsibility for all aspects of family life. Japanese political science scholar Miura’s analysis of more

⁸² Prime Minister’s Office, *List of Ministers etc. in the Fourth Abe Administration (Reshuffled)*, available at: <https://www.kantei.go.jp/jp/98_abe/meibo_b/index.html>, accessed October 11, 2020; Prime Minister’s Office, *List of Ministers etc. in the Fourth Abe Administration (Second Reshuffled)*, available at: <https://www.kantei.go.jp/jp/98_abe/meibo/index.html>, accessed October 11, 2020.

⁸³ M. Eto, *Women and Representation in Japan*, 12 *International Feminist Journal of Politics*, no. 2 (2010), 177-201.

recent political scene is compatible with Eto’s.⁸⁴ Miura points out that the imbalanced work-life balance and working style to require employee to work long hours has not been changed since decades before and obstacle of women’s engagement in politics. Miura says the only way to improve work-life balance is to move forward with working style reforms and strengthen social support for childcare. It is also argued that women themselves, as well as political parties and the general public, have typically thought of politics as men’s business which leads to no strong support on positive action for equal political representation, nor their participation in politics.⁸⁵ Miura also agrees this point concerning low motivation for women’s participation in politics, attributing their low confidence of engaging themselves in politics to gender norms. Women are more likely to be valued for their appearance and attractiveness to the opposite sex than for their studies and work, and this leads to a lack of confidence in their activities to engage in public discourse. The low social and financial valuation and appreciation of childcare and domestic work, which is considered to be the role of women, also contributes to women’s low self-esteem. Addressing this issue requires efforts to be sensitive to and penetrate the harmful gender stereotypes spread by advertising and media.⁸⁶ Indeed, repeated sexist remarks of big political figures have proven that the legacy gender roles can still be seen widely in the public sphere. For example, in February 2021, Yoshiro Mori, then president of the Tokyo Olympics committee, said women have an annoying tendency to make meeting run unnecessarily long due to their competitive nature and encouraged women not to speak up by “understanding their place”.⁸⁷ The 83-year-old former prime minister’s remarks are one of the examples that show how deep-rooted sexism is in Japanese society.

There are some prominent women politicians in LDP who support increased women’s participation in politics, but their individual efforts are reportedly not well coordinated yet. Some of them call for more radical measures such as establishing quotas of Diet seats reserved for women members, while others are more inclined toward more modest approaches such as respecting the *parité*.⁸⁸ As a result,

⁸⁴ M. Miura, *How to increase women political leaders: get scalpels to cut into male-centred society that discourages women* (Tokyo, April 6, 2020), available at: <<https://www.mita-hyeron.keio.ac.jp/features/2020/04-3.html>>.

⁸⁵ *Ibid.* According to the opinion poll by the Gender Equality Bureau in 2004, the respondents were more receptive to positive measures for women in the labour market than in politics, and the proportions of men and women showed similar trends. Eto suggests three possible explanations for why Japanese women tend to be reluctant to speak out for equal representation. The first is a remnant of traditional behavioural expectations: Japanese people tend to avoid what may be construed as aggressive or assertive behaviour, and women in particular are under greater social pressure to be reserved and not speak out, a role contradicted by active political participation. Second, Japanese women have become less trustful of party politics. Although Japanese people in general have been becoming increasingly wary of politics since the 1990s, women are more suspicious of parties than men are. Finally and most seriously, a backlash movement. M. Eto, *Vitalizing Democracy at the Grassroots: A Contribution of Post-War Women’s Movements in Japan*, 25 *East Asia: An International Quarterly*, no. 2 (2008), 115–124, 117.

⁸⁶ Miura (2020), *supra* note 32.

⁸⁷ Washington Post, *Tokyo Olympics chief says women talk too much at meetings, calls it ‘annoying’*, available at: <<https://www.washingtonpost.com/sports/2021/02/03/yoshiro-mori-tokyo-olympics-sexist-comments/>>, accessed 7 February 2021.

⁸⁸ *Ibid.*

though there seems to be a general and obscure agreement on the importance of increasing the number of women politicians, it may not be very soon before they take specific actions to make it happen. It may mean that social and cultural barriers are particularly difficult to overcome in Japan and women are struggling to break the glass ceiling, especially in their leadership in economy and politics.

This low engagement of women in politics gives the policy and law makers a space for an excuse of conservatives that “Even though I wanted to engage more women in political activity, there were not suitable female candidate for it” under the legal framework with no strong measures of enforcement.

(3) Implementation– need of socio-cultural transformation?

The compliance rate of the 2015 Act is actually high following rather concrete design for implementation. However, the fact that the number of women in managerial position remains low may indicate that simple compliance of the 2015 Act is not enough to address the root cause such as male-centered working style and cultural hindrances. However, the 2015 Act is not a mere powerless child of unhappy marriage of feminism and neoliberalism. Fortunately, there are further external incentives for business to take actions for women’s empowerment to progress towards the achievement of targets behind the 2015 Act. In fact, SDGs has begun to be seen not only something to be forced to comply but also as opportunity for good reputation which attract more customers at global and local level and for a public-private partnership in alignment with SDG17.⁸⁹ Those companies who are partnering or seek for partners and customers in global market become more sensitive for gender equality in their governance which is made public and directly affect their reputation and possible income and growth. In addition, there is an acute need for Japanese business to respond to the global financial market which has been in the trend towards Principles for Responsible Investment. A top Keidanren official said, “Environmental, Social and Governance (ESG) investments that value the way of management have spread rapidly, and the percentage of female executives in a company will become a criterion for judgment.” There is a momentum in the Japanese business community to support women’s empowerment. In 2017, the Government Pension Investment Fund started ESG investment and revised their investment principles so their future investment would be 100% ESG-supportive. One of the indices they use to select stocks is the MSCI Japan Empowering Women Index (WIN) which is calculated for each company based on female employment data disclosed in compliance with the 2015 Act.⁹⁰ Moreover, data show that the recent college graduates are more concerned about social contribution of the employer when they seek for job which drive the company for more sustainable and decent employment and social contribution

⁸⁹ SDG Business Hub, *SDGs & Sectors: A review of the business opportunities*, available at: <<https://sdghub.com/project/sdgs-sectors-a-review-of-the-business-opportunities/>>, accessed February 15, 2021.

⁹⁰ Government Pension Investment Fund, *GPIF Selects Two ESG-Themed Foreign Equity Indexes* (December 18, 2020), available at: <https://www.gpif.go.jp/en/investment/esg_selection03_EN.pdf>, accessed February 15, 2021.

for securing good human resources.⁹¹ On the other hand, it is not only economic rationality that drives business towards quality implementation of the 2015 Act. In the discourse of human rights, the responsibility of business has been highlighted under the UN Guiding Principles on Business and Human Rights, endorsed in 2011 as a set of guidelines for States and companies to prevent, address and remedy human rights abuses committed in business operations. Japan’s National Action Plan (NAP) on Business and Human Rights, developed as a result of consultation with civic groups, international organizations such as OHCHR and ILO, and human rights and business lawyers, launched in October 2010 to implement the Guiding Principles. The NAP includes that “steady implementation of the 2015 Act” with strengthening awareness raising of the revised contents and support for small and medium-sized enterprises, which will be followed up by monitoring, reporting and review during the five years period of the action plan.⁹² This situation can be summarized that at its development stage, there is not enough civic engagement in designing the 2015 Act, however, development and spread of the international framework of sustainable development as well as business and human rights engaging global financial market, consumers, customers and partners calling for structural and fundamental change makes it possible for companies to work for more ardent implementation of the 2015 Act.

Regarding the enhancement of female political leadership, it is more difficult for international instruments to influence the substantial change at the domestic level as there is a less incentive in the government which consists of people who do not want to give their seats and power to some new face of women in particular under the weak regulatory design of the 2018 Act. In addition, compared to the economic agenda, it is not perceived that female engagement in politics is directly relevant to the revitalization of economy and solve demographic issues.

However, there seems to be some momentum for quality implementation of the 2018 Act. First, as a “push factor” to induce more women for political engagement, there are emerging initiatives to support women’s political participation in civic groups. Miura, with another Japanese politics scholar Ki-young Shin, launched the Academy for Gender Parity in March 2018. The mission of the Academy is to develop and provide training based on academic insights to increase and support women Diet members.⁹³ Their activities are characterized by three keywords: inclusion, respect and justice. They aim to create a society that does not exclude anyone (inclusion), build relationships that respect each other’s differences (respect), and achieve a non-violent world where the dignity of women is protected (justice). It has not been straight external pressure that has led to success for the women’s movement, rather a form of indirect pressure has been utilized such that international norms and frames have been repurposed by domestic actors. Their training has been proven effective in that it raises women’s

⁹¹ Insource, *The key to deciding where to work for 2021 graduates is contribution to society*, available at: <<https://www.insource.co.jp/contents/hr-article-no47612.html>>, accessed February 16, 2021.

⁹² National Action Plans on Business and Human Rights, *Japan*, available at: <<https://globalnaps.org/country/japan/>>, accessed February 15, 2021.

⁹³ Academy for Gender Parity, *About*, available at: <<http://parity-academy.org/about/index.html>>, accessed October 24, 2020.

motivation to take steps to participate in politics through combination of changing the perception on politics and deepening and strengthening their motivation.⁹⁴ Prior to the establishment of the Academy, Miura and Shin visited 14 organizations that offer women's political leadership training programs in the US. For them, all of these organizations were very impressive in developing and offering unique programs based on the political science knowledge on why it is difficult for women to run for office. That experience led them to launch the Academy with a clear concept and philosophy to bridge the gap between academia and practice and provide the training that is essential to achieve its mission.⁹⁵ It reminds us that historically the international influence has played an important role as a resource and strengthening mechanism for women’s movement actors in Japan in order to frame issues in accordance with their demands.⁹⁶

Second, as a “pull factor” for women to politics, it is noteworthy that ‘gender equality’ is becoming a hot topic or one of the important political agenda among people with voting power. Within a weak compliance framework promoting “voluntary efforts” of the parties and the government, the domestic social pressure which may come by engagement of civil society group which translated global norms into their local context would be a key, as it is in the end people in Japan to choose politician in elections and to decide whether prioritize the gender equality in politics in their electoral decisions. Not only formally organized group, but social movement formed more promptly and casually on the Internet gain powers to formulate public opinions towards gender equality, in particular breaking the long-stalling patriarchal culture in political decision making. For example, it has been symbolic that a former prime minister and the head of the Tokyo 2020 Olympic organizing committee Yoshiro Mori has come under increasing pressure after his above-mentioned derogatory comments about women speaking too much at meetings and making them too long and ended up in resignation. It is a clear result of social pressure as in his initial interview after his remark, Mori clearly mentioned he does not have any intention to step down with further sexist attitudes. But it sparked further furious outrage at home and abroad. The voices against his remark and attitudes have got bigger and called for the need to address structural and systemic gender inequality in Japan, which became viral through social media on the Internet.⁹⁷ The International Olympic Committee once commented they considered the matter closed,

⁹⁴ Miura (2020), *supra* note 32.

⁹⁵ Academy for Gender Parity, *supra* note 78.

⁹⁶ Initiatives to empower women entering the political arena can also be seen within political parties. In April 2018, the ruling Liberal Democratic Party (LDP) launched the Preparatory School for Future of Women. This program is targeted at women who are aged 18 and above and interested in politics, and provide opportunities of lectures, discussions and workshops on various policy topics such as environment or foreign affairs. The program will eventually help the LDP identify new women candidates for the Diet as well as municipal and prefectural assemblies. K. Nakamura, *Women are always judged by their competency*, The Huffington Post (Tokyo, October 5, 2020), available at:

<https://www.huffingtonpost.jp/entry/story_jp_5f717c24c5b6cdc24c1b5b98>.

⁹⁷ His remarks faced severe backlash from women not only in Japan but also in other parts of the world, some of whom launched and participated in a social media campaign using the hashtag #wakimaenaionna (women who stand out of the line) to speak up against Mori’s remarks which they perceived was enforcing gender stereotypes.

but then said the remarks were "completely inappropriate" as the backlash grew, after which Mori’s decision of resignation was reported.

6. Conclusion

Despite long commitment for gender equality under international influence in Japan, the progress has been stalled in particular in the area of women’s leadership in politics and business. For economic revitalization and populist appeal, the government commitment to the women’s advancement called “*Josei-katsutaku*” under the banner of “*womenomics*” led to the 2015 Act on Promotion of Women’s Participation and Advancement in the Workplace which are claimed to be part of the efforts to achieve SDGs. Then the civic group led the development of the 2018 Act on Promotion of Gender Equality in the Political Field.

However, developing these frameworks for enhanced women’s leadership and implementing them to make changes in reality are two distinct things. There may be invisible factors that are preventing the implementation such as gender stereotypes, persistent male-oriented working style, or low general interest in participating in politics that persist in society. The government and the ruling LDP have developed vehicles to promote women’s empowerment, but they have no intrinsic driving force for these vehicles other than making use of women as a means to curb the decline in Japan’s working population and birth rate, which resulted in the push back of 30% target for women in leadership positions by up to 2020.

However, the engagement of business and civic sector in international realm in the framework of SDGs, PRI/ESG investment and Business and Human Rights, give the 2015 Act a chance to be as instrumental vehicle to bring the result with engagement of powerful business sectors which face pressing needs to change their modality to the global standards. On the other hand, the change of political landscape may depend rather than voluntary move of existing politician, but more on the domestic movement of people to push gender equality as critical political agenda in their choice of person to be elected for fair representation. In this regard, it is critical to acknowledge that more and more people recognize the change of meaning of development, from solely economic growth to sustainable and inclusive growth encompassing the legal and social design for enhancing structural and cultural change under the banner of no one left behind.

Continuous efforts of multiple stakeholders are needed to this end of making the laws effective on the ground, and it is particularly essential for people, not only women but also men and other genders, to monitor and pressure stakeholders regarding adoption and implementation of concrete measures to promote gender equality in business and politics. It draws to the conclusion that the interactions among global and local stakeholders including the State, global and local civil society, and the international entities would give the momentum to drive the acts work effectively on the ground.

The Council for Gender Equality, in its report of 2020 which assessed the implementation of the Fourth Basic Plan for Gender Equality, concluded that the past goals “have not necessarily been shared among the entire society and necessary reforms have not progressed.”⁹⁸ The report then suggested that political and economic fields, in particular, need to facilitate the participation of women. To increase the percentage of women in national elections, the report recommends the government to urge political parties to institute a “quota system” to field a number of female candidates. The pressing needs to speed up the gender equality for not only nation’s reputation and economic development, but for sustainable society with inclusion, has been gradually recognized among people in Japanese society, which would facilitate the gender equality laws for quality implementation for structural change.

⁹⁸ *Ibid.*

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