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**The Politics of Balancing Flexibility and Equality:
A Comparison of Recent Equal Pay Reforms in
Germany and Japan**

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Abstract

In Germany and Japan, like in most OECD countries, the equal pay for equal work principle and other regulations related to equal treatment have been strengthened recently through reforms. These have been justified and promoted as measures to address gender wage gaps as well as discriminatory practices regarding non-standard workers. Yet, observers remain sceptical as to whether these reforms will be effective. Previous research has argued that Germany and Japan as “socially conservative welfare states” (Gottfried and O’Reilly 2002) face particular institutional and value-related obstacles for achieving equal treatment in practice. This paper argues that, while these factors remain important, gaps between policy output and persisting inequalities are increasingly the result of a strategically motivated politics of balancing. Policymakers in both countries use existing institutions such as collective bargaining and labour-management consultations to balance conflicting policy goals, i.e. improving equal treatment and maintaining employment flexibility, which crucially relies on differentiated treatment of workers by, for example, distinguishing between standard and non-standard workers. By resorting to strategies of balancing policymakers hope to console both objectives while mitigating the political risks of controversial structural reform.

Keywords:

The Politics of Balancing Flexibility and Equality: A Comparison of Recent Equal Pay Reforms in Germany and Japan

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Introduction

Were it only for the number of laws, achieving equal treatment of workers, regardless of gender, status or age should only be a matter of time. In many OECD member states law has obliged employers to treat employees equally for many decades but in the last 5 years, most have implemented measures to strengthen them even further (OECD 2017). Even governments with traditionally close ties to organised business such as the current Japanese one, have called achieving equal pay a central policy objective. However, despite the increase in regulatory initiatives there is little doubt that many unjustified wage disparities persist. For example, despite a steep increase in female labour market participation, still relatively few women achieve a salary and level of social security status comparable to men. Even in those cases where the same status is achieved nominally, surveys suggest that in Germany and Japan a considerable wage gap remains. These gaps largely coincide with the dual structure of labour markets that separates standard and non-standard employment (henceforth NSE)¹ and where the latter tends to offer lower earnings, worse career prospects as well as less social protection in comparison to the former.

The growing interest in equal treatment legislation mirrors in part growing concerns in both countries about these gaps. In response to this new pressure, policymakers have passed numerous legislative reforms, which seek to address inequalities in the labour market, i.e. between different types of workers and between men and women. Previous research suggests, however, that such measures will have a limited impact. In particular, Gottfried and O'Reilly (2002) have argued that the “socially conservative welfare states” of Germany and Japan combine traditional gender roles with a welfare state that favours the permanent employment of male workers and a “peripheral” labour market participation of women. Together, this creates high hurdles for any kind of effective equal treatment regulation.

In contrast, this chapter argues that the gap between growing regulatory action for equal treatment and persistent inequality is increasingly the result of a politics of balancing which tries to console conflicting policy agendas. The conflict arises from the fact that policymakers are under growing public pressure to support equal treatment, but at the same time are wary not to limit labour market flexibility, which crucially relies on the use of NSE or, put differently, differentiated treatment of workers. In Germany and Japan as elsewhere, labour market flexibility has been crucially enhanced in the last two decades through structural reforms, which have made it easier for employers to differentiate working conditions (Heinrich 2013). The dilemma for governments now is that choosing one side over the other is politically risky. If they choose equality over flexibility, they would face opposition from employers and may be blamed for negative effects such as a reduction in job openings. Prioritising flexibility by ignoring demands for equal treatment, however, may make them vulnerable to growing public unease over social and gender inequality.

¹ Non-standard (also atypical or non-regular) employment refers to temporary agency work (called worker dispatch in East Asia), part-time, fixed-term and marginal employment. Self-employment and family workers are excluded because they do not fall under the provisions discussed here. Standard (also typical or regular) employment refers to full-time and open-ended salaried employment.

This chapter argues that policymakers adopt balancing strategies in order to address both demands simultaneously. While they are ever more likely to pass legislation aiming at equal treatment as is visible in the growing number of reforms, they combine them with flexible implementation. Often this involves delegating rule-making authority to collective bargaining and corporate decision-making bodies or relying on soft law that encourages rather than mandates compliance (in Japanese often described as *doryoku gimu* or “obligation to make an effort”). This way, policymakers can signal commitment to equality while preserving some of the flexibility stemming from differential treatment of workers. Another consequence of this strategy is that employment institutions, that have emerged during the heyday of long-term and mostly male employment models and that are commonly described as being in a process of gradual demise, gain in relevance. In addition to their traditional role as providing a basis for long-term economic coordination, as political economists typically have been arguing, they now also provide strategic capacities to policymakers to resolve difficult policy choices. This conceptualisation of employment institutions of German and Japanese capitalism not only helps to explain the gap between policy output and but also sheds light on why Germany and Japan struggle to implement labour market policies that support gender equality and the current focus of family policy on enabling women and men to better balance work and family life.

The chapter is structured as follows: Section two compares the structure of wage inequalities in Germany and Japan and reviews the political case for equal pay reforms in each country. Section three reviews standard explanations for continuing gaps between policy output and outcome and then develops the argument of a strategic politics of balancing equality and flexibility. Sections four and five analyse the politics of balancing by evaluating the most recent equal pay initiatives in each country. Section six concludes with a brief comparison of the findings and an outlook on likely trajectories of future equality-related legislation.

The Case for Stricter Equal Pay Rules: Wage Inequalities in Germany and Japan

Germany and Japan are often described as similar regarding the fundamental structure of their political economies. They are known as prime examples of non-liberal or coordinated capitalism but also as countries where the male breadwinner model is still comparatively dominant. This section addresses another striking similarity regarding the dualistic pattern of employment. Roughly 40 percent of all salaried employees in both countries today are in NSE² and rising female labour market participation in recent years has been overwhelmingly in the NSE sector (see Figures 1 and 2). Moreover, labour market inequalities with regard to employment type and NSE largely overlap. Due to the increase in NSE these disparities have become more relevant and increasingly subject to criticism that they restrain the ability of such workers to reach a similar status of economic and social security as standard workers (for an overview cf. Emmenegger *et al.* 2012).

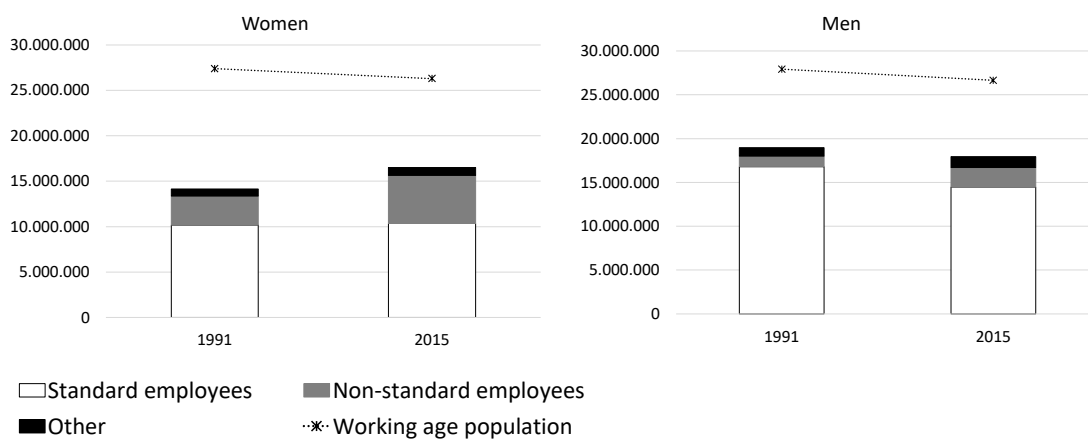
However, as this section will show, there are some differences that separate discourses on gender and employment type related inequalities. Whereas gender equality as a norm today is rarely

² For data on Germany see Seifert (2017), for data on Japan see MIAC (2017).

questioned, equal treatment rules are more controversial in the context of NSE. For many German and Japanese firms they constitute a major source of employment flexibility, which helps them to improve competitiveness. This has also been the official justification for many structural reforms since the late 1980s that have facilitated the use of various forms of NSE (Heinrich 2013). However, due to many overlaps it is often difficult to distinguish between the gender and economic dimensions of labour market disparities in practice. This is particularly true in Japan, where NSE was “implicitly designed for women” (Shire and Imai 2000). Female labour market participation has long been confined to routine work that does not require continuous or full-time employment but also does not offer career prospects or working conditions comparable to standard jobs. The considerable gap in social security coverage between standard and non-standard workers in Japan is partially the result of the belief that women workers do not need them as their participation is only temporary or restricted in other ways. Even today, part-time workers are much less likely to be covered by public pension insurance, corporate schemes such as those for severance pay (*taishokukin*) or to receive bi-annual bonus payments as around 80 percent of standard employees do (Heinrich 2017a: 74–78).

Figures 1 and 2 confirm that the vast majority of workers in NSE are women. Noticeable is also that despite a drop in the working age population, the number of workers in standard jobs has declined or remained stable. This implies that wage inequalities linked to employment type have become more widespread and affect a growing section of the workforce.

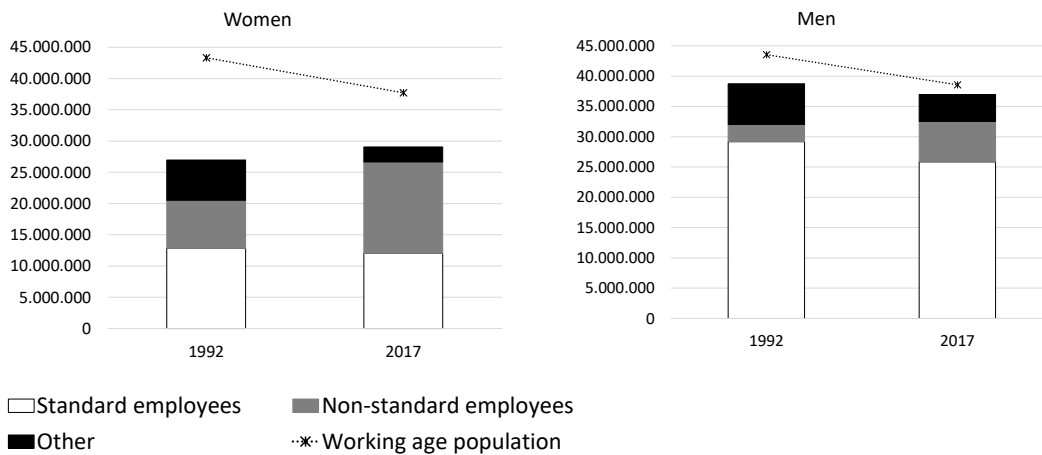
Figure 1 Changes in the Number of Workers by Employment Type and Sex (Germany)



Note: Category of standard employees includes part-timers who work more than 20h a week. Non-standard includes all other forms of part-time work (*Teilzeit*), fixed-term work (*befristet*), marginal employment (*geringfügig*) as well temporary agency work (*Leiharbeit*). Other includes self-employed and unpaid family workers.

Sources: OECD Labour Force Survey (2017) and Statistisches Bundesamt (2017), based on Mikrozensus. Refers to *Kernerwerbstätige*, i.e., excludes workers in training and outside working age.

Figure 2 Changes in the Number of Workers by Employment Type and Sex (Japan)

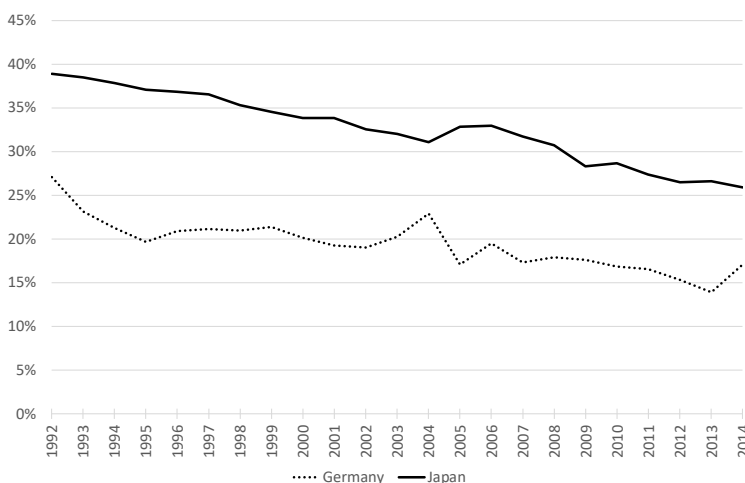


Note: Category of regular employees includes executives. Non-regular category includes part-time, fixed-term, temporary agency and marginal employment. Other includes self-employed and family workers.

Sources: MIAC (1993, 2018).

To estimate how these structures affect wage inequalities, typically wage gaps are calculated comparing median incomes (figure 3). However, they reflect the influence of several factors, such as individual differences in educational attainment, choice of occupation or field of study, working hours and others. Nevertheless, they do provide some hints at underlying inequalities as a recent study by the OECD argues. It finds that a substantial part of the gap remains unexplained and that the most likely explanatory factor is “discrimination in hiring, career progression and opportunities” (OECD 2017: 164).

Figure 3 Development of the Gender Wage Gap in Germany and Japan Since 1992



Sources: MHLW (2016a) and OECD employment database. Shows difference between annual median incomes.

A similar pattern can be observed in the case of wage gaps between standard and non-standard workers. According to the Japanese Ministry of Health, Labour and Welfare (MHLW 2016a), wages for non-standard workers in Japan are 36 percent lower than those for standard workers are. Here factors such as the often-probationary nature and shorter tenure of NSE play an important role (ILO 2016: 192). Yet, as with the gender wage gap, there are strong indications that discriminatory practices are also significant. For example, half of respondents in a survey of Japanese workers in NSE report that there were standard workers at their workplace performing the same tasks (JILPT 2014: 17). German research suggests there are similar patterns of wage differentials and discriminatory practices. For example, one study estimates that German temporary agency workers earn 50 percent less on average than standard workers performing similar work at client firms (RWI 2011: 25–30). The labour market expert Elke Jahn puts the gap at 20 percent (*Zeit Online* 13/05/2016) - which is still striking considering that equal pay has been mandatory since 2003 (see section 5). Wage discrimination is even a common feature of part-time work in Germany. Here gaps stem mostly from the fact that men and women doing similar work are grouped into different job categories, with women typically being associated with categories that offer lower pay (Lembke 2016 and section 5.). Discrimination also affects many so called “minijobber”, that is, workers in marginal employment with a maximum monthly pay of 450 EUR and only partial integration into the social security system (Keller and Seifert 2013: 55–77). Research indicates that employers frequently ignore equal pay standards when using mini-jobs and consider the special legal status of marginal employment as a form of implicit legitimisation of unequal treatment (Bosch and Weinkopf 2016: 3).

The growth in NSE together is also often blamed for a rise in the so-called working-poor. In 2014 in-work poverty affected 9.6 percent of all salaried employees in Germany up from under 5 percent in 2004 (Spannagel *et al.* 2017: 9). Similar arguments have been made for Japan (e.g. Sekine 2008).³ In comparison, patterns of labour market inequalities and wage inequalities therefore appear very similar in Germany and Japan. Hence, in both countries a strong case can be made for stricter equal pay.

The Promise of Equal Pay for Equal Work – And Why It Is Never Kept

Economic as well as gender-related justifications have always been relevant for equal pay regulations. The European Economic Community (now the European Union, EU) included in its founding document the 1957 Treaty of Rome, a clause that obliged all member states to adhere to the principle of equal pay. This was to reassure French workers that “poorer” member states would not be able to engage in social dumping practices (cf. Klein 2013). A few years earlier, in 1951, the International Labour Organisation (ILO) adopted Convention 100, which calls for “equal remuneration for men and women workers for work of equal value”. It was ratified by Germany (1956) and Japan (1967).

³ Cross-country comparisons are difficult due to differences in definitions and data sources. from the National Tax Authority (*kokuzeikyoku*) indicates that the annual earnings of 24% of all workers in Japan and 41.6% of female workers were below the poverty threshold of 2 million Yen in 2016. See NTA (2017), p. 20.

The current wave of regulations again draws from both motives. Advocates of more rigid equal pay regulations argue that they are necessary because many wage disparities remain hidden, not least due to a lack of transparency. Iceland has arguably gone furthest in this regard and since 2018 obliges firms with more than 24 employees to prove they are rewarding male and female workers equally. The economic argument for equal pay draws mostly from growing criticism of dualistic labour market structures and concerns over growing social inequality. That this argument matters is visible in the fact that German and Japanese governments have both justified several reforms in direct reference to NSE (see sections 4.3 and 5.3).

3.1 Conservative Values and Institutional Legacies

Given the long history of equal pay regulations, it comes as no surprise that most research on policies addressing gender and labour market inequalities has asked why they seem so ineffective. One strand in the literature argues that the relative dominance of conservative social values is at least partially to blame. Gottfried and O'Reilly (2002) describe Germany and Japan as countries where conservative social norms with regard to gender roles coincide with a welfare state that firmly ties the level of social security to employment status. With the dominance of traditional breadwinning models that take continuous employment until retirement as the norm, Germany and Japan put many workers in NSE at a severe and permanent economic disadvantage. The peripheral role in particular of female workers is reinforced further by traditional gender roles, which imply very different societal expectations of men and women. In such an environment, equal treatment policies are unlikely to exert enough power to uproot deeply entrenched practices. Parkinson (1989) makes a similar argument when she hails the much-criticised non-coercive approach of the first Japanese Equal Employment Opportunity Law (EEOL) of 1985 as appropriate because neither men nor women in Japan at the time were "ready" for gender equality, i.e. saw it as an important issue. In Germany, conservative values also seem to have led to the conspicuously late transposition of European directives on equal treatment of the 1970s into West German labour law. According to Klein (2013) this reflected the widespread disinterest of policymakers in the issue of gender equality.

Data from the International Social Survey Programme (ISSP) on gender roles indicate, however, that support for traditional gender roles has since declined considerably. The percentage of respondents agreeing to the statement that the household was women's work and salaried employment was the duty of men, dropped in West Germany from 37 percent in 1994 to about 17 percent in 2012 (unified Germany). In Japan, the respective rates are 40 percent and 24 percent. Although still noticeably more conservative in comparison to Scandinavian countries (only 5 percent of Swedish respondents agreed with traditional gender roles in 2012), this indicates a massive shift and decline in conservative values.

If values no longer seem to be a major issue, what about the shadow of employment and welfare institutions geared to permanent male and peripheral female employment? Indeed, women workers have traditionally been an important source of labour market flexibility in Japan. After the oil crises of the 1970s, for example, they were most likely to be made redundant (Osawa 2002),

whereas migrant workers played a similar role in Germany (Vosko 2010: 126). Overall, governments went to great lengths to protect male/domestic core workers by keeping them in employment at the expense of peripheral workers. Political economists typically argue that this division is strengthened further by the dependency of many German and Japanese firms on models of long-term skill acquisition (Estévez-Abe, Iversen and Soskice 2001). This requires workers to stay continuously employed in order to gradually improve and update their skills. Yet, it also means that anyone who leaves the job market even if only temporarily faces significant challenges when trying to secure a standard job later. In this institutional environment, Gottfried and O'Reilly argue, the process of regulating for equality "remains trapped within the policy legacy of the male breadwinner model." (2002: 51).

However, many scholars now argue that the institutional arrangements that once favoured a specific type of employment are undergoing a transformative process of liberalisation that results in more heterogeneous institutional arrangements, and much more diverse employment practices. Mechanisms that once provided a high degree of standardisation of working conditions such as the *shuntō* wage bargaining process in Japan or collective bargaining in Germany, have become more flexible since the 1980s and mostly apply to a shrinking core of manufacturing industries (Thelen 2014). This begs the question whether current disparities are indeed solely the result of legacies of traditional employment institutions or whether they are, at least partially, also a consequence of the gradual demise of these institutions as they no longer provide the level of standardisation of working conditions for which they used to be known.

3.2 The Politics of Balancing Flexibility and Equality

While institutional and value-based explanations remain crucial for understanding current regulatory processes in the countries, this chapter argues that one also needs to take into account the strategic dimension of policymaking and how existing institutions may be used to resolve regulatory dilemmas. In the case of equal treatment, the main balancing act for policymakers concerns curbing the impact such rules may have on the type of labour market flexibility Germany and Japan have cultivated for most of the post-war period and which they have enhanced further through reforms since the late 1980s. The reforms have tried to enhance the competitiveness of firms by expanding the use of NSE (see e.g. Eichhorst and Marx 2011; Watanabe 2015). As surveys indicate that employers value NSE not least for its association with lower labour costs and higher numerical flexibility, it is likely that reinforced equal treatment rules may be perceived as a threat to a key source of flexibility. The challenge for policymakers is therefore to pay justice to both demands without fuelling political discontent or—better still—while maximising political and electoral support by appealing to various constituencies.

The need for a politics of balancing is arguably increasing as the scope of equal treatment rules expands over time. Intended as well as unintended interaction with policies concerned with different objectives thus become more likely. Such interactions can vary widely, ranging from mutual reinforcement to mutual neutralisation. Yet even if some interactions may not be foreseen, policymakers are acutely aware of agenda conflicts as they are being constantly lobbied by

different interests and subject to electoral pressures. Consequently, balancing strategies are likely used by all governments regardless of their programmatic orientation. This does not mean that partisan differences are meaningless⁴, or that social coalitions, the influence of interest groups or legacies of institutions, which emerged in very different circumstances, exert no influence. Nor does it deny the relevance of other motives such as attempts to exploit the popularity of equality policies for pursuing other goals.⁵ However, all of these factors do not fundamentally alter the flexibility-equality dilemma German and Japanese policymakers face when devising equal treatment regulations. The following sections will demonstrate that institutions of long-term economic coordination between business and labour inhibit strategic capacities for policymakers and thus shape policy.

Equal Pay Reform and the Politics of Balancing in Japan

Despite its dismal ranking in the Global Gender Gap report published by the World Economic Forum (2017)⁶, the evolution of equality regulation in Japan resembles largely that of other economically advanced democracies. It has moved from soft to hard regulation and has been expanding to address an ever-wider range of discriminatory practices (Table 1). Article 4 of the Labour Standard Law (LSL, *Rōdō Kijun Hō*), the most important labour law with regard to the regulation of working conditions, bans discrimination based on gender. Since Japan ratified ILO Convention 100 and the UN convention on the elimination of all discrimination of women in 1979, this is now widely thought to establish the principle of equal pay for equal work (Nishitani 2003: 68). This section will show that one reason for the limited impact of these measures is that they have been moderated through various forms of balancing.

4.1 Balancing Through Soft Law and Flexible Implementation

Drawing from previous analyses of Japanese labour law four main ways of regulatory balancing can be distinguished: (i) using non-coercive provisions that encourage rather than mandate desired change; (ii) wording provisions vaguely to limit the practical implications of a legal change; (iii) delegating decision-making power to the level of the firm where exceptions to legal provisions can be negotiated; (iv) flexible implementation which can entail postponing the implementation of rules and administrative guidance in close consultation with stakeholders. The first legal vehicle is commonly referred to as *doryoku gimu* or obligation to make an effort in the Japanese context and

⁴ Studies on Japan (Heinrich 2017a), Germany and other European countries (Picot and Menéndez 2017) indicate similar partisan differences. Centre-right parties are more likely to frame NSE as opportunity for or deliberate of workers, implying that there may be good reasons for some differential treatment. Centre-left parties are considerably more critical of NSE, frequently linking it to precarity and calling for stricter legal provisions.

⁵ For example, Stratigaki (2004) argues that the EU embraced work-life balance policies through part-time work only once it considered them useful for expanding the pool of potential labour. According to Huen (2007) higher fertility rates have been an important motive for gender equality policies in Japan.

⁶ Japan scores particularly low in the employment and economic opportunity dimensions and, at rank 114 out of 144 countries, falls well below the “global weighted average.”

the first EEOL of 1985 as well as the 1994 law on the treatment of part-time workers (see Table 1) are considered classic examples of this approach. Both laws called for equal treatment between men and women and part-time workers and full-time workers respectively, but did not include any penalties in case of non-compliance. Advocates typically argue that *doryoku gimu* are nonetheless effective because they clearly communicate norms of desired behaviour, which in Japanese society is supposed to be a strong incentive for obedience. Others see them as a temporary measure in a still unreceptive environment that paves the way for hard law that is to follow later (Parkinson 1989; Araki 2006: 35). This argument seems to hold at least for the EEOL of 1985, which has since been reformed twice and whose provisions have become more detailed and concise (Table 1). However, there are many cases where *doryoku gimu* failed to establish effective norms (Araki 2006: 32). Moreover, such clauses may merely signal that disagreements among policymakers could not be effectively resolved (Tidten 2012: 115).

The main criticism, however, is that *doryoku gimu* renders the intention of provisions meaningless. After the introduction of the EEOL in 1985, for example, firms implemented the principle of non-discrimination in hiring by introducing a two-tier career system, consisting of an administrative and a career track. The former was designed exclusively for women and offered no career prospects, i.e. no significant wage rises in line with tenure, while the latter pretty much resembled standard male employment of the pre-EEOL era. This way firms managed to adhere to the principle of non-discrimination while effectively continuing discriminatory practices. Another form of balancing concerns using vague wording for provisions, which makes it difficult or even impossible for workers to “prove” that their rights have actually been violated. For example, the 2007 reform of the part-time worker law was widely welcomed as a much-needed hardening of equal treatment regulations (Morozumi 2009) by stating that all part-time workers must be treated equally to those who “should be regarded like normal workers” with regard to the content of their work and qualifications. However, so far there is not a single case in which a part-timer was able to sue for better working conditions based on this provision (Asakura 2016: 176–77).

The third form of regulatory balancing, the delegation of decision-making to labour-management bodies on the firm level or individual bargaining, is particularly common in the regulation of working time. For example, the LSL imposes clear restrictions on overtime and defines maximum working hours. Yet article 36 allows firms to negotiate longer working hours and a certain amount of unpaid overtime if they conclude an agreement with an elected representative for the majority of their employees or the company union. This explains why despite nominally harsh restrictions on overtime, Japanese full-time workers still work longer hours than most of their Western European peers. Another common characteristic of Japanese working time regulation is flexible implementation, the fourth form of balancing in Japan. Several Japanese governments used this strategy when a policy of reducing annual working hours to the overall OECD average was adopted in the 1980s. In the beginning, regulatory interventions resembled soft law that was to be followed by hard law later, including fines for non-compliance. However, when it became clear that in particular small and medium sized firms struggled to reach the goals set by the Ministry of Labour, the introduction of coercive rules was postponed several times. Eventually, average

annual working hours did fall, however, the main cause of this success was a massive increase in part-time jobs (MHLW 2016b: 3)⁷ whereas working hours of standard workers hardly changed.

Table 1 Main Reforms Concerning Equal Opportunity, Treatment and Pay in Japan

Year	Law	Contents
1972	Law Concerning Welfare Measures for Women Workers (勤労婦人福祉法)	<ul style="list-style-type: none"> Improve welfare of working women by calling on employers and all levels of governments to take appropriate measures
1986	Equal Employment Opportunity Law (EEOL) (雇用の分野における男女の均等な機会及び待遇の確保等に関する法律)	<ul style="list-style-type: none"> Replaces law concerning welfare measures for women worker Requires government to support gender equality and women's participation in the labour market
1993	Part-Time Worker Law (短時間労働者の雇用管理の改善等に関する法律)	<ul style="list-style-type: none"> Mandates that employers should make efforts to treat part-time workers (workers working reduced hours) equally to standard employees performing comparable work
1999	Revision of the EEOL	<ul style="list-style-type: none"> Abolishes all gender-specific protections, such as prohibition of work on holidays or night shifts as well as a cap on overtime Bans discrimination in recruitment, hiring and job placement Encourages the use of indirect discrimination concept Strengthens enforcement by publicly naming firms not complying with EEOL provisions
2006	Revision of the EEOL	<ul style="list-style-type: none"> Makes rules applicable both to men and women Extends protections to recruitment, hiring, jobs assignment and promotion; lists specific areas of discrimination Recognises indirect discrimination, i.e. requirements for career track jobs that de facto disadvantage women such as a requirement for geographical flexibility

⁷ Balancing may also happen through lax enforcement of rules although intent is usually difficult to prove.

2007	Revision of Part-Time Worker Law	<ul style="list-style-type: none"> ▪ Departure from doryoku gimu approach: employers obliged to inform about working conditions; non-compliance can be fined ▪ Part-time workers who should lawfully be treated equally to regular workers can claim illegal discrimination in courts
2014	Revision of Part-Time Worker Law	<ul style="list-style-type: none"> ▪ Expands the scope of part-time workers who may not be discriminated against; extends list of banned discriminatory practices
2016	Revision of the Employee Pension Insurance Law (社会保険審査官及び社会保険審査会法)	<ul style="list-style-type: none"> ▪ Part-timers who work at least 20h/week and earn above certain wage threshold in firms with more than 500 employees must join employee pension insurance (<i>kōsei nenkin hoken</i>)
2016	Law to Promote Women's Participation and Advancement of the Workplace (女性の職業生活における活躍の推進に関する法律)	<ul style="list-style-type: none"> ▪ Businesses with more than 300 employees are obliged to monitor situation of their female employees and report to employees on male-female differences with regard to working hours, tenure and share of management positions smaller firms are encouraged to take up similar measures
2020-2021	Work-Style Reforms (働き方改革実行計画)	<ul style="list-style-type: none"> ▪ Changes to temporary agency worker law, part-time worker law and labour contract law to strengthen principle of equal pay for equal work (adopted in June 2018) ▪ Equal pay rules apply to large firms from 2020 and SMEs from 2021

Note: Japanese titles refer to official names, English ones to commonly used short forms. Year indicates when provisions came/come into effect. Includes only change that directly address employment.

4.2 Why Japanese Policymakers Balance Flexibility and Equality

This raises the question why Japanese policymakers have felt compelled to adopt balancing strategies in the first place. One obvious reason is the massive increase in NSE since the 1980s, which has partially been motivated by structural changes, such as more women taking up paid employment instead of unpaid family work, as well as by changing personnel practices of Japanese employers. Already in the early 1990s, laws were adopted (Table 1) to ensure fair if not equal treatment of part-timers for instance (Heinrich 2017a). Legislative reforms such as the deregulation of temporary agency work in the late 1990s (Imai 2011) increased the need for such rules as NSE expanded further. This, however, also increased the political salience of labour policy overall. Especially after the global financial crisis of 2008, equal treatment rules and reinforced restrictions on NSE became important policy objectives under a centre-left government led by the Democratic Party of Japan (DPJ), which took over in 2009. According to Shinoda (2008) the historic election win of the DPJ can at least in part be credited to the fact that rising inequalities related to NSE had entered the mainstream of Japanese politics.

In the case of part-time work, which in the Japanese context can refer to forms of full-time NSE as well as to jobs where workers work reduced hours, the tension between flexibility and equality is also clearly visible. It has been long known that especially female part-timers who work full-time are particularly at risk of wage discrimination (Osawa 2001). The introduction of the part-time worker law in 1993 and its revision in 2007 are direct legislative responses to this problem. However, as mentioned before, both reforms balance equal treatment and flexibility by propagating balanced rather than equal treatment. The pressure for balancing is not least due to the resistance of employers to rules that impact their ability to control labour costs and use flexible personnel policies. They have increasingly used NSE to improve their cost structure and increase their competitiveness (Watanabe 2015). Employers have also rejected proposals for equal pay on the ground that the Japanese wage system was simply not compatible because it reflected different levels of commitment by different types of workers rather than discrimination (Heinrich 2017b: 134).⁸

These examples show that Japanese labour policy regarding NSE and women workers has long been characterised by the fundamental tension between flexibility and equality. If anything, the challenge to policymakers regarding the flexibility-equality dilemma has become bigger due to the growing political salience of the labour issues and social inequality.

4.3 'Work-style Reform': A Breakthrough for Equal Pay?

Seen against this background, the announcement of the so called "work-style reforms" (*hatarikata kaikaku*) by an LDP-led government in 2016, may seem like the accumulation of pressure that had built up over many years. Indeed, the package of reforms appears to break with several of the

⁸ In particular, standard workers are often expected to agree to frequent relocations, e.g. to branch offices, changes in tasks and long working hours whereas "part-timers" and other non-standard workers are usually bound to a specific location and work only on a limited range of tasks.

established approaches in Japanese labour politics just described. It also represents an unlikely departure for the LDP from its longstanding policy of labour market deregulation combined with soft law protections. In an action plan⁹ published in March 2017, the government emphasises in strong words that it seeks to “eradicate” discriminatory practices and in order to do so it seeks a consensus with business and organised labour. Unions are thus not only invited to contribute actively to all measures devised under the plan but that their consent is viewed as essential for all regulatory decisions. Furthermore, the action plan reads like an official acknowledgement of the government that the dualistic structure of the Japanese labour market is “irrational”. Last but not least, the process entails the publication of guidelines¹⁰ with the purpose of clarifying situations where equal pay is warranted. This addresses directly the problem of vague wordings common in existing provisions.

The reforms were passed in June of 2018 and will be phased in over several years. Most provisions will apply to large firms earlier than to SMEs. The proposals for legislative changes, published by the Labour Policy Council (*Rōdō Seisaku Shingikai, LPC*) in September of 2017¹¹ as well as the actual reform passed in the summer of 2018 contain changes regarding equal pay for part-time, fixed-term and temporary agency workers. To improve the effectiveness of the rules, firms will have to make transparent how they evaluate skill levels and other attributes that have an influence on pay. However, the plan does at the same time acknowledge the right of employers to consider a range of factors in wage setting such as tenure or differences in performance. This resembles the concept of balanced treatment of previous part-time worker acts, which finds differential treatment justified as long as it is “reasonable.” Kojima, North and Weathers criticise that the law does not actually mandate equal pay. Instead, the “proposal eschews the job evaluation processes successfully utilized to promote fair compensation in other countries in favour of employers’ subjective evaluation” (Kojima, North and Weathers 2017: 8). This implies that despite the stated intent to break with existing practices, the new rules will make it possible to stick with the principle of “balanced” rather than “equal” treatment.

With regard to the temporary agency workers, the 2018 reform introduces for the first time the principle of equal treatment for this group of workers. Fundamentally, their pay and working conditions have to be equal to those of comparable standard workers at the client firm. Firms who wish to “lease” agency workers must inform about the working conditions of its own standard workers, so the agency can adjust pay and other rules regarding the working conditions

⁹ Available at: https://www.kantei.go.jp/jp/singi/hatarakikata/pdf/honbun_h290328.pdf (accessed 08/08/2018). It is not the only policy shift by the LDP that has surprised observers. “Womonomics” which stands for the active promotion of female employment is another example. For a critical assessment see Dalton (2017) and Schad-Seifert in this volume.

¹⁰ Available at: <https://www.kantei.go.jp/jp/singi/hatarakikata/dai5/siryoushu.pdf> (accessed 08/08/2018).

¹¹ The LPC is officially an advisory council in the MHLW but has a long tradition as a key locus of labour policymaking where employers and trade unions participate. The text of the proposals is available at: http://www.mhlw.go.jp/file/05-Shingikai-12602000-Seisakutoukatsukan-Sanjikanshitsu_Roudouseisakutantou/0000177728.pdf (accessed 08/08/2018). Details on the legal changes entailed in the 2018 reform are available at: <https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/0000148322.html> (accessed 27/09/2018).

accordingly. In addition, any form of “irrational treatment” (*fugōrina taigū*) is declared illegal. Since no such regulation existed previously, this indeed seems like a big step toward equal treatment. Yet, it is questionable to what extent the reform will go beyond the established standards of the part-time worker law. Once again the exact mechanism to identify “rational” treatment is ambiguous and also the identification of a “comparable worker” may prove difficult in practice. To judge the actual implications it may thus be necessary to assess the envisioned oversight of implementation through the MHLW and labour inspectors. Nonetheless there are indications that standards of equal treatment may be handled flexibly. For example, the law establishes two mechanisms for wage setting, one where temporary agency workers are paid the same wage as a comparable worker at the client firm and another where temporary work agencies set working conditions by negotiating labour-management agreements either with a company union or an elected representative for the majority of workers. These agreements have to be “reasonable” in order to be deemed legal (a ministerial ordinance will provide details but the law holds that wages of temporary agency workers in such agreements must be above or identical with the “average” of standard workers in the same line of work). The official justification for this is that workers prefer income stability over equal pay, in particular if they frequently move from one assignment to another (Asahi Shimbun 07/06/2017). A more critical interpretation is that this constitutes a case of delegating actual decision-making to the level of the firm in order to mitigate the impact of stricter equal pay rules. It is also conspicuous in this context that the 2016 action plan refers to similar provisions in Germany, where a considerable gap between the norm and practice of equal pay for temporary agency workers exists (see next section).

In summary, it can be said that both legislative changes strengthen norms of equal treatment, but at the same time establish or sustain channels for maintaining flexibility through differentiated treatment. One motive for this may be that the key motive has always been about economic growth rather than equality. In fact, some observers see the current push for equal pay rules merely as an attempt to support “Abenomics” which aims at increasing economic growth by encouraging hikes in real wages (Kajimoto 2016). In this sense the work-style reforms serve merely as a signal to employers to consider raising wages.

Equal Pay Reform and the Politics of Delegation in Germany

As is the case in Japan, German legislation on equal pay and equal treatment has become stricter over time and has expanded in scope (Table 2). This is partially due to influence from European regulations, which have forced German policymakers to address gender equality despite longstanding disinterest in these issues, although this is rarely acknowledged in domestic debates (Klein 2013: 8). One important driver has been the emergence of the European Single Market, which is based on the four freedoms of services, capital, goods and labour. It allows European workers to work and firms to offer services anywhere in the EU. European integration has thus added urgency to the question of how competition based on differences in working conditions of workers from different countries can be resolved. Over the years, EU regulations have established a core of basic protections designed to prevent social dumping and ensure minimum standards of

equal treatment, but the issue remains highly contentious to this day.¹² These regulations, however still leave nation states considerable room for pursuing equality policies (i.e. that go beyond European standards) on their own, also because many aspects are not covered, such as social security (Fuchs and Bothfeld 2011: 16).

5.1 Social Partnership and the Politics of Balancing Through Delegation

Not least thanks to these European influences, German labour law may appear more comprehensive and advanced with regard to equal treatment than its Japanese counterpart. In the case of part-time work, for example, equal pay has been enshrined in law since 1985 (see table 2) and is widely considered to be effective. According to this clause, wage differentials may only reflect differences in working time. One reason for the relative effectiveness of equal treatment for part-time workers is that the German system of collective agreements provides a high amount of transparency and comparability with regard to pay scales, job classifications and other working conditions within industries and across firms.¹³ A closer look reveals, however, that the principle of equal treatment does not apply to all worker groups equally. For example, an equal pay provision for temporary agency workers was not included in law until a major reform in 2003. Before the focus of regulation had been (similar to Japan) on restricting the use of this employment form to minimise its impact on standard employment. The partial deregulation of temporary agency work through the so called Hartz reforms instead aimed at providing more employment opportunities in particular for the long-term unemployed. This also meant that policymakers now had to consider mechanisms that limited social dumping. As a result, an equal pay clause was included that obliges employers to raise pay levels to those of comparable standard workers at the client firm after 6 weeks of an assignment.

However, the law also introduced the possibility of deviations from equal pay if the temporary work agency signs a collective agreement with a union. This approach had been inspired by Dutch regulations which themselves had constituted an important pillar of the “flexicurity” reforms of the 1990s and 2000s, which had required the consensus of the social partners (Sol and Houwerzijl 2009). By giving unions and employers the chance to negotiate flexible regulations within the framework of collective bargaining, labour market flexibility was enhanced but full deregulation avoided. This also contained the electoral risk of controversial labour market reforms something that was particularly appealing to German policymakers before and during the Hartz reforms (cf. Vitols 2008). The change offered on the one hand the opportunity for unions to integrate more temporary agency workers into formal bargaining processes. On the other hand, it provided agencies with an instrument to institutionalise and legitimise wage differences through collective agreements. After the change, coverage of collective agreements was quickly extended to the vast

¹² A recent example is the controversy about the 2018 revision of the posted worker Directive. Positions of EU member states often diverge depending on whether they are mainly the recipient or origin of posted workers.

¹³ Although this does not necessarily apply to all workers in the same way. Agreements differ with regard to content and details and not all types of employees may be covered.

majority of German temporary agency workers, but that also exempted almost all of them from the equal pay clause.

The resulting arrangement was quickly criticised for cementing rather than alleviating inequalities between standard and temporary agency workers. Moreover, critics questioned the ability of unions negotiating the new agreements to legitimately represent the interests of these non-standard and most non-unionised workers, as they were representing sectors to which temporary agency workers were seconded to. The issue gained additional urgency due to a new European Directive on temporary agency work (2008/104/EC) which strengthened the principle of equal pay but left it to member states to decide whether they implement the rule through labour law or collective bargaining. The German government urged the social partners to strengthen the equal pay element in their bargaining as otherwise it would be forced to pass a legal equal pay clause (Voss *et al.* 2013: 43). In response, the social partners introduced a second bargaining process, which sets pay premiums for temporary agency workers (*Branchenzuschläge*) for each sector. These agreements are negotiated between unions in the user sectors and associations representing temporary work agencies. Instead of equal pay, they establish a principle of pay premiums, which increase in line with the length of an assignment.

Table 2 Main Reforms Concerning Equal Opportunity, Treatment and Pay in Germany

Year	Law	Important provisions
1980	Equal Treatment of Men and Women at the Workplace Law (Gesetz über die Gleichbehandlung von Mann und Frau am Arbeitsplatz)	<ul style="list-style-type: none"> ▪ Transposition of the 1975 and 1976 EC Directives into German law
1985	Employment Promotion Law (Beschäftigungsförderungsgesetz (BeschFG))	<ul style="list-style-type: none"> ▪ Equal pay for part-time workers who perform equal work
1994	Second Equal Treatment Law (2. Gleichberechtigungsgesetz)	<ul style="list-style-type: none"> ▪ Obliges government to promote women employment in ministries and other government institutions ▪ Protection from sexual harassment at the workplace
2000	Law on Part-Time and Fixed-Term Contracts (Teilzeit- und Befristungsgesetz (TzBfG))	<ul style="list-style-type: none"> ▪ Strengthens principle that pay and fringe benefits must be in accordance with working time ▪ Ban on any form of employment discrimination with regard to employment ▪ Full-time employees get right to part-time (reduced hours)

2001	Job-AQTIV Law	<ul style="list-style-type: none"> Supports equal participation of men and women through expansion of training measures
2003	Temporary Agency Worker Law (<i>Arbeitnehmerüberlassungsgesetz (AÜG)</i>)	<ul style="list-style-type: none"> Equal pay and treatment rules for temporary agency workers compared to standard workers at client firm (<i>Gleichbehandlungsgrundsatz</i>) Collective agreements may deviate from these rules
2006	General Equal Treatment Law (<i>Allgemeines Gleichbehandlungsgesetz (AGG)</i>)	<ul style="list-style-type: none"> Government to monitor equal opportunity Employers must install body to which employees can complain about discriminatory treatment
2016	Reform of Temporary Agency Worker Law	<ul style="list-style-type: none"> Equal pay for temporary agency workers mandatory after 9 months unless specified otherwise in collective agreement;
2017	Law on Pay Transparency between Men and Women (<i>Gesetz zur Entgelttransparenz zwischen Frauen und Männern</i>)	<ul style="list-style-type: none"> Employees in firms with more than 200 employees have the right to be informed about firm's pay structure Firm with more than 500 employees are obliged to regularly review their pay scales and to publish a report on equal treatment and equal pay

Note: German and English titles are not official but commonly used in media and research. Year indicates when provisions came into effect.

5.2 Why German Policymakers Balance Flexibility and Equality

The reasons for balancing in Germany are in many ways similar to those identified in the case of Japan, though there are some noticeable differences. In particular, rising unemployment after reunification dominated labour politics for many years arguably overshadowing questions of equal treatment. Structural labour market reform that promised to lower unemployment by expanding NSE became particularly popular during the 1990s and resulted, among other, in the deregulation of temporary agency work and fixed-term employment. Eichhorst and Marx (2011) have called this a shift in German labour politics from the ideal of establishing and protecting jobs with high standards to one of high labour market participation and low unemployment.

Similar to Japan, the global financial crisis led to new criticism of the social gaps associated with NSE. Surveys show that since the 1980s the percentage of respondents considering Germany becoming unequal has steadily grown to over 80 percent (Marx and Starke 2017: 566). This change in public opinion was fuelled by a number of high-profile scandals, many of which involved well-known and respected firms such as car manufacturer Daimler and which directed some of the growing public unease with inequality to the issue of NSE. The scandals demonstrated widespread abuse of NSE even in seemingly well-organised and profitable industries. Most criticism concentrated on so-called service contracts (*Werkverträge*), a form of subcontracting that allowed firms to pay in some cases extremely low “wages” as workers were paid for a specific service rather than per hour. Temporary agency work also came under the spotlight for similar reasons.

In the context of the scandals news emerged that that both employment forms together constituted a third of all employees in the automobile sector (*Spiegel Online* 17/11/2013), arguably Germany’s most important and prestigious industry and the sector where institutions of German capitalism and employer-labour coordination are still most widely in use. In the following months, reregulation of NSE became a major topic in the federal elections and in the coalition talks in the fall of 2013. Employers, however, swiftly and publicly voiced their opposition to any plan that would limit the use of either forms of employment. Daimler even hinted at offshoring production from Germany should the new coalition government decide to introduce a statutory minimum wage and implement restrictions on service contracts and temporary agency work (*Zeit Online* 17/11/2013). This example illustrates the political pressure policymakers face whenever they consider to intervene through legislation in work relations.

5.3 Equal Pay Reforms of 2017

The 2017 reform of the temporary agency worker law (*Arbeitnehmerüberlassungsgesetz, AÜG*) was the final measure of reregulation the coalition partners had agreed on in 2013. Along with new restrictions to the maximum length of individual assignments, the law introduced a reinforced equal pay clause, obliging agencies to pay equal wages from the first day of an assignment. This abolished the six-week waiting period that had been in effect before. However, the law maintains the provision that the social partners can negotiate alternative regulations through collective agreements. Only a few months after the revision came into effect, the influential IG Metall trade union (metalworkers) announced it had negotiated a new agreement with agencies (Specht 2017).

Henceforth, temporary agency workers will receive equal pay not from day one of an assignment – and contrary to the law and instead will receive pay premiums in line with tenure (*Tarifzuschläge*) below equity. Only temporary agency workers, whose assignment goes beyond the new legal limit of 18 months, will receive a salary that is higher than for comparable standard workers.

This agreement has been criticised on the ground that since the average length of assignments is only a few months, the reinforced equal pay rule will do little to lift the wages of most temporary agency workers. Some critics have explained this outcome with the organisational basis of the IG Metall, which consists of workers in client sectors who may profit from additional job security if temporary agency workers are used as a flexibility buffer. Only few temporary agency workers are in its ranks. This hints at a sometimes-ambivalent role of unions in the politics of balancing. In many respects collective bargaining in Germany seems to play a similar role as the options for negotiated deviations on the firm level in Japanese legislation.

The preference for collective bargaining over legislative interventions, similar to Japan, comes at a price, e.g. some sources of inequality are rarely addressed. According to Lembke (2016) many collective agreements entail provisions that amplify or even cause unequal treatment between men and women. This concerns especially wage disparities that emerge due to differences in job classification. Frequently, women and men fall into different job categories with different remuneration scales even when both perform similar work. Policymakers have been reluctant to address the issue through legislation, which is often credited to the constitutionally enshrined principle of *Tarifautonomie* (autonomy in wage bargaining). It is widely assumed that it creates high hurdles for legislative interventions. In principle, however, governments enjoy considerable leeway especially in cases where the social partners are unable to resolve issues of social hardships among themselves, which may well include cases of discriminatory practices. The fact that policymakers do not use this power, suggests that it stems from a general strategic reluctance rather than from legal constraints. The arrangement also limits the ability of social partners to address inequalities contained in collective agreements. For example, when the main union federation for workers in the service sector, Vereinigte Dienstleistungsgewerkschaft (Ver.di), pledged to implement the principle of gender mainstreaming for job classifications in all of the collective agreements it negotiated, it eventually abandoned the plan due to a lack of progress (Lembke 2016: 17, footnote 28).

The discussion has shown that public pressure on policymakers in Germany has grown in recent years to address gender discrimination more boldly. Nevertheless, they remain reluctant to intervene legislatively through hard law. The most recent example for this is the 2017 announcement of a dialogue between the Federal government and the social partners on gender discrimination in collective agreements. The dialogue would discuss all sorts of possible countermeasures but not any kind of legal change (*“auf untergesetzlicher Ebene”*).¹⁴

¹⁴ See: <https://www.bmfsfj.de/bmfsfj/themen/gleichstellung/frauen-und-arbeitswelt/lohngerechtigkeit/80398> (accessed January 2018). The section on the dialogue has been taken off the site since.

Conclusions

This chapter has analysed the legislative approaches the German and Japanese governments have adopted in recent years to support equal treatment of workers of different status especially for women in non-standard jobs. It has been argued that to explain the conspicuous gap between a growing number of equal-treatment oriented legislation and persisting gaps with regard to pay and other working conditions, research should also consider the electoral considerations and strategic options of policymakers to deal with policy conflicts. The comparison shows that equal treatment legislation in Germany and Japan entails a political trade-off between labour market flexibility through differentiated treatment and the equality though obliging employers to treat worker equally.

The shape of this flexibility-equality conflict is similar, not least because both economies draw from very similar sources of labour market flexibility. Due to the gradual demise of institutions of male breadwinning models described by Gottfried and O'Reilly and others and thanks to changing attitudes toward gender roles, policymakers in Germany and Japan are today arguably under more pressure than ever to support equal treatment through regulatory interventions. At the same time, they are also under pressure from employers who vehemently resist attempts at limiting the flexibility through differentiated treatment of workers they have gained in recent years. So long as policymakers find are strategic options at their disposal that allow them to balance both conflicting demands, they will use them. The discussion also suggests that arguments of institutional path dependency (especially in the sense of limiting options) or explanatory models that interpret policy as a direct response to public opinion are at least partially misleading. Instead, actual legislative reforms appear to be as much the product of electoral-strategic considerations and lobbying as of the strategic options available to policymakers for mediating conflicts. It is also interesting to note, that many institutions of labour-management coordination often described as fundamental elements of the variants of German and Japanese non-liberal capitalism (e.g. Hall and Soskice 2001), seem to provide most of these strategic capacities. This does not mean that regulatory change is impossible; however, it does suggest that exceptional political pressure is required to motivate policymakers to go beyond their latent preference for a politics of balancing.

References

- Araki, Takashi (2006): Rōdō-hō ni okeru hātorō to sofutorō: Doryoku gimu shitei wo chūshin ni [Soft and Hard Labour Law: Focus on the “Obligation to Make an Effort”]. In: *Sofutorō Kenkyū*, pp. 25–49.
- Asahi Shimbun* (07/06/2017): Haken rōdōsha no taigū: kimekata “sentakusei” de rōseiban. kakusa zesei e teigen [Treatment of Temporary Agency Workers: Implementing the “Choice System”. Recommendations for Reducing Inequality].
<https://www.asahi.com/articles/DA3S12975758.html> (accessed 12/03/2018).
- Asakura, Mutsuko (2016): *Koyō sabetsu kinshi hōsei no tenbō* [Prospects of a Ban of Employment Discrimination]. Tokyo: Yuhikaku.
- Bosch, Gerard and Claudia Weinkopf (2016): *Gleichstellung marginaler Beschäftigung. Vorschlag zur Reform der Minijobs. Expertise für den zweiten Gleichstellungsbericht der Bundesregierung* [Equality of Marginal Employment. Suggestions for Reforming the Minijobs. Expertise for the Second Equality Report of the Federal Government]. Duisburg: Institut Arbeit und Qualifikation (IAQ), Universität Duisburg-Essen. http://www.iaq.uni-due.de/aktuell/veroeff/2017/2017_Bosch-Weinkopf_Minijobs.pdf (accessed 12/03/2018).
- Dalton, Emma (2017): Womenomics, ‘Equality’ and Abe’s Neo-Liberal Strategy to Make Japanese Women Shine. In: *Social Science Japan Journal*, 20, pp. 95–105.
<https://doi.org/10.1093/ssjj/jyw043> (accessed 12/03/2018).
- Eichhorst, Werner and Paul Marx (2011): Reforming German Labour Market Institutions: A Dual Path to Flexibility. In: *Journal of European Policy*, 21, pp. 73–87.
- Emmenegger, Patrick, Silja Häusermann, Bruno Palier and Martin Seeleib-Kaiser (eds.) (2012): *The Age of Dualization*. Oxford: Oxford University Press.
- Estévez-Abe, Margarita, Torben Iversen and David Soskice (2001): Social Protection and the Formation of Skills: A Reinterpretation of the Welfare State. In: Peter A. Hall and David Soskice (eds). *Varieties of Capitalism*. Oxford: Oxford University Press, pp. 145–184.
- Fuchs, Gesine and Silke Bothfeld (2011): Gleichstellung in Deutschland im europäischen Vergleich [Equality in Germany in European comparison]. In: *Aus Politik und Zeitgeschichte*, 37/38, pp. 7–18. <http://www.bpb.de/apuz/33138/gleichstellung-in-deutschland-im-europaeischen-vergleich> (accessed 13/03/2018).
- Gottfried, Heidi and Jacqueline O’Reilly (2002): Reregulating Breadwinner Models in Socially Conservative Welfare Systems: Comparing Germany and Japan. In: *Social Politics*, 9, pp. 29–58.
- Hall, Peter A. and David Soskice (2001): An Introduction to Varieties of Capitalism. In: Peter A. Hall and David Soskice (eds). *Varieties of Capitalism*. Oxford: Oxford University Press, pp. 1-70.
- Heinrich, Steffen (2013): Patterns of Dualisation. Coordinated Capitalism and the Politics of Flexible Labour Markets in Germany and Japan, 1990-2010. Dissertation. Heidelberg: Universität

Heidelberg. http://archiv.ub.uni-heidelberg.de/volltextserver/16034/3/Heinrich_2013_HD%20Bib%20publication.pdf (accessed 13/03/2018).

Heinrich, Steffen (2017a): Does Employment Dualisation Lead to Political Polarisation? Assessing the Impact of Labour Market Inequalities on Political Discourse in Japan. In: Chiavacchi, David and Carola Hommerich (eds.). *Social Inequality in Post-Growth Japan. Transformation during Economic and Demographic Stagnation*. London: Routledge, pp. 73–87.

Heinrich, Steffen (2017b): (Keine) Angst vorm Wähler: Abes arbeitsmarktpolitische Strukturreformen in Zeiten wachsender sozialer Ungleichheit [(Not) Concerned about the Voters: Abe's Structural Labour Market Reforms in Times of Growing social inequality]. In: Heinrich, Steffen and Gabriele Vogt (eds.). *Japan in der Ära Abe. Eine politikwissenschaftliche Analyse* [Japan in the Abe Era. A Political Science Perspective]. Munich: Iudicium, pp. 118–138.

Huen, Yuki W. P. (2007): Policy Response to Declining Birth Rate in Japan: Formation of a “Gender-Equal” Society. In: *East Asia*, 24, pp. 365–379.
http://online.sfsu.edu/jcps/Springer_sample%20article_endnotes.pdf (accessed 13/03/2018).

Imai, Jun (2011): *The Transformation of Japanese Employment Relations: Reform without Labour*. Basingstoke: Palgrave Macmillan.

ILO (International Labour Organisation) (2016): *Non-Standard Employment around the World. Understanding Challenges, Shaping Prospects*. Geneva: ILO.
http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_534326.pdf (accessed 13/03/2018).

JILPT (Japan Institute for Labour Policy and Training) (2014): *Tayō na shūgyō keitai to jinzai pōtoforio ni kansuru jittai chōsa (jigyōsho chōsa / jūgyōin chōsa)* [Survey on the Actual Situation of Various Types of Employment and Personnel Portfolio (Enterprise Survey/Employee Survey)]. Tokyo: JILPT. <http://www.jil.go.jp/institute/research/2014/134.html> (accessed 15/03/2018).

Kajimoto, Tetsushi (05/06/2016): As Abenomics Struggles, Japan PM Pushes “Equal Pay” to Lift Economy. In: *Reuters*. <https://www.reuters.com/article/us-japan-economy-labour/as-abenomics-struggles-japan-pm-pushes-equal-pay-to-lift-economy-idUSKCN0YROYX> (accessed 13/03/2018).

Keller, Berndt and Hartmut Seifert (2013): *Atypische Beschäftigung zwischen Prekarität und Normalität. Entwicklung, Strukturen und Bestimmungsgründe im Überblick* [Atypical Employment Between Precarity and Normality. An Overview of Development, Structures and Determinants]. Berlin: Edition Sigma.

Klein, Uta (2013): *Geschlechterverhältnisse, Geschlechterpolitik und Gleichstellungspolitik in der europäischen Union. Akteure – Themen – Ergebnisse* [Gender Relations, Gender Policy and Gender Equality Policy in the European Union. Actors – Issues – Results]. Wiesbaden: Springer VS.

- Kojima, Shinji, Scott North and Charles Weathers (2017): Abe Shinzō's Campaign to Reform the Japanese Way of Work. In: *The Asia-Pacific Journal. Japan Focus*, 15. <https://apjjf.org/-Shinji-Kojima--Scott-North--Charles-Weathers/5091/article.pdf> (accessed 13/03/2018).
- Lembke, Ulrike (2016): *Country Report Gender Equality. How are EU Rules Transposed into National Law?* Luxembourg: Publication Office of the European Union. http://ec.europa.eu/information_society/newsroom/image/document/2017-3/2016-de-country_report-ge_final_en_41876.pdf (accessed 13/03/2018).
- Marx, Paul and Peter Starke (2017): Dualization as Destiny? The Political Economy of the German Minimum Wage Reform. In: *Politics & Society*, 45 (4), pp. 559–584. http://findresearcher.sdu.dk/portal/files/129450832/marx_starke_ps_open_access.pdf (accessed 13/03/2018).
- MHLW (Ministry of Health Labour and Welfare) (2016a): *Heisei 28nen chingin kōzō kihon tōkei chōsa* [Basic Wage Structure Survey 2016]. Tokyo: MHLW. <https://www.e-stat.go.jp/stat-search/files?page=1&layout=datalist&toukei=00450091&tstat=000001011429&cycle=0&tclass1=000001074669&tclass2=000001074675&tclass3=000001074682> (accessed 13/03/2018).
- MHLW (Ministry of Health Labour and Welfare) (2016b): *Heisei 28 nenban karō shi-tō bōshi taisaku hakusho* [The 2016 Edition of the Annual Report on Preventive Measures against Death from Overwork]. Tokyo: MHLW. <http://www.mhlw.go.jp/wp/hakusyo/karoushi/16/> (accessed 13/03/2018).
- MIAC (Ministry of Internal Affairs and Communications Statistics Office) (2017): *Rōdōryoku chōsa* [Labour Force Survey]. Tokyo: MIAC. <http://www.stat.go.jp/data/roudou/index.htm> (accessed 13/03/2018).
- MIAC (Ministry of Internal Affairs and Communications Statistics Office) (1993, 2018): *Shūgyō kōzō kihon chōsa* [Employment Status Survey]. Tokyo: MIAC. <https://www.e-stat.go.jp/stat-search/files?page=1&toukei=00200532> (accessed 13/03/2018).
- NTA (National Tax Authority) (2017): *Heisei 28 nenbun minkan kyko jittai chōsa - chōsa kekka hōkoku* [2016 statistical Survey of Actual Situation of Salaries in the Private Sector. Report on Survey Results Report]. Tokyo: NTA. <https://www.nta.go.jp/publication/statistics/kokuzeicho/minkan2016/pdf/001.pdf> (accessed 07/09/2018).
- Morozumi, Michiyo (2009): Balanced Treatment and Ban on Discrimination. Significance and Issues of the Revised Part-Time Work Act. In: *Japan Labour Review*, 6, pp. 39–55. http://www.jil.go.jp/english/JLR/documents/2009/JLR22_morozumi.pdf (accessed 13/03/2018).
- Nishitani, Satoshi (2003): *Vergleichende Einführung in das japanische Arbeitsrecht* [A Comparative Introduction to Japanese Labour Law]. Cologne: Carl Heymanns Verlag KG.
- OECD (Organisation for Economic Cooperation and Development) (2017): *The Pursuit of Gender Equality: An Uphill Battle*. Paris: OECD. <https://www.keepeek.com//Digital-Asset->

Management/oecd/social-issues-migration-health/the-pursuit-of-gender-equality_9789264281318-en#page1 (accessed 13/03/2018).

- Osawa, Mari (2001): People in Irregular Modes of Employment: Are They Really Not Subject to Discrimination? In: *Social Science Japan Journal*, 4, pp. 183–199.
http://www.jstor.org/stable/30209324?seq=2#page_scan_tab_contents (accessed 13/03/2018).
- Osawa, Mari (2002): Twelve Million Full-Time Housewives: The Gender Consequences of Japan's Postwar Social Contract. In: Zunz, Oliver, Leonard Schoppa and Nobuhiro Hiwatari (eds). *Social Contracts under Stress. The Middle Classes of America, Europe, and Japan at the Turn of the Century*. New York: Russell Sage Foundation, pp. 255–277.
- Parkinson, Loraine (1989): Japan's Equal Employment Opportunity Law: An Alternative Approach to Social Change. In: *Columbia Law Review*, 89 (3), pp. 604–661.
https://www.jstor.org/stable/1122868?seq=1#page_scan_tab_contents (accessed 13/03/2018).
- Picot, Georg and Irene Menéndez (2017): Political Parties and Non-Standard Employment: An Analysis of France, Germany and Spain. In: *Socio-Economic Review*.
<https://academic.oup.com/ser/advance-article/doi/10.1093/ser/mwx016/3798558> (accessed 07/09/2018).
- RWI (Rheinisch-Westfälisches Institut für Wirtschaftsforschung) (2011): *Herausforderung Zeitarbeit* [The Challenge of Temporary Agency Work]. Gütersloh: Bertelsmann Stiftung.
http://www.rwi-essen.de/media/content/pages/publikationen/rwi-projektberichte/PB_Herausforderung-Zeitarbeit.pdf (accessed 15/03/2018).
- Seifert, Hartmut (2017): Wie lassen sich Entwicklung und Strukturen atypischer Beschäftigungsverhältnisse erklären? [How Can the Development and Structure of Atypical Employment be Explained?] In: *WSI Mitteilungen*, pp. 1–12.
- Sekine, Yuki (2008): The Rise of Poverty in Japan: The Emergence of the Working Poor. In: *Japan Labor Review*, 5, pp. 49–66. http://web.jil.go.jp/english/JLR/documents/2008/JLR20_sekine.pdf (accessed 15/03/2018).
- Shinoda, Toru (2008): The Return of Japanese Labour? The Mainstreaming of the Labour Question in Japanese Politics. In: *Labor History*, 49 (2), pp. 145–159.
- Shire, Karen A. and Jun Imai (2000): *Flexible Equalities: Men and Women in Employment in Japan*. Duisburg Working Papers on East Asian Studies No. 30. Duisburg: Institute for East Asian Studies Gerhard-Mercator-University. <http://duepublico.uni-duisburg-essen.de/servlets/DerivateServlet/Derivate-5303/dao3000.pdf> (accessed 15/03/2018).
- Sol, Els and Mijke Houwerzijl (2009): The Netherlands: Agency Work at National Level. In: Håkansson, Kristina et al. (eds.): *Representation of Agency Workers: The Representation of Agency Workers in Europe at National and Local Level in France, Netherlands, Sweden, Poland and the UK: Final Report 2009*. Sweden: University of Gothenburg, pp. 35–52.
https://www.gu.se/digitalAssets/1272/1272406_Final_RAW_report_090325_w_publisher.pdf (accessed 15/03/2018).

- Spannagel, Dorothee, Daniel Seikel, Karin Schulze Buschoff, and Helge Baumann (2017): Aktivierungspolitik und Erwerbsarmut [Activation Policy and In-Work Poverty]. In: *WSI Report*, 36. https://www.boeckler.de/pdf/p_wsi_report_36_2017.pdf (accessed 15/03/2018).
- Specht, Frank (12/05/2017): Zeitarbeit: IG Metall nutzt Spielraum für "Equal Pay" [Temporary Agency Work: IG Metall Exploits Legal Leeway in Case of "Equal Pay"]. In: *Handelsblatt*. <http://www.handelsblatt.com/my/politik/deutschland/zeitarbeit-ig-metall-nutzt-spielraum-fuer-equal-pay/19795628.html?ticket=ST-6814658-fnafde2Ftp2PyfpMKiK2-ap3> (accessed 15/03/2018).
- Spiegel Online* (17/11/2013): Metallindustrie beschäftigt mehr als eine Million Externe [Metal Industry Employs Over a Million External Workers]. <http://www.spiegel.de/wirtschaft/unternehmen/eine-million-beschaeftigte-per-werkvertrag-in-der-metallindustrie-a-933989.html> (accessed 13/03/2018).
- Statistisches Bundesamt (2017): *Atypische Beschäftigung* [Atypical Employment]. <https://www.destatis.de/DE/ZahlenFakten/GesamtwirtschaftUmwelt/Arbeitsmarkt/Erwerbstaetigkeit/TabellenArbeitskraefteerhebung/AtypKernerwerbErwerbsformZR.html> (accessed 15/03/2018).
- Stratigaki, Maria (2004): The Cooptation of Gender Concepts in EU Policies: The Case of "Reconciliation of Work and Family". In: *Social Politics*, 11, pp. 30–56.
- Thelen, Kathleen (2014): *Varieties of Liberalization and the New Politics of Social Solidarity*. Cambridge: Cambridge University Press.
- Tidten, Dan (2012): *Inter Pares. Gleichheitsorientierte Politiken in Japan* [Inter Pares. Equality Oriented Politics in Japan]. Munich: Iudicium.
- Vitols, Katrin (2008): Zwischen Stabilität und Wandel. Die Sozialpartnerschaft in Deutschland und die atypische Beschäftigungsform Zeitarbeit [Between Continuity and Change. Social Partnership in Germany and the Atypical Employment Form of Temporary Agency Work] Hamburg: Kova.
- Vosko, Leah F. (2010): *Managing the Margins: Gender, Citizenship and the International Regulation of Precarious Employment*. Oxford: Oxford University Press.
- Voss, Eckhard, Katrin Vitols, Nicolas Farvaque, Andrea Broughton, Felix Behling
- Francesca Dota, Salvo Leonardi, Frédéric Naedenoen (2013): *The Role of Temporary Agency Work and Labour Market Transitions in Europe: Institutional Frameworks, Empirical Evidence, Good Practice and the Impact of Social Dialogue*. Hamburg: wmp consult. http://www.wilke-maack.de/download/2013/06/Full_report_on_the_role_of_TAW_and_labour_market_transitions.pdf (accessed 15/03/2018).
- Watanabe, Hiroaki R. (2015): Neoliberal Reform for Greater Competitiveness: Labour Market Deregulation in Japan and Italy. In: *Industrial Relations Journal*, 46, pp. 54–76.
- World Economic Forum (2017): *The Global Gender Gap Report 2017*. Geneva: WEF. http://www3.weforum.org/docs/WEF_GGGR_2017.pdf (accessed 15/03/2018).

Zeit Online (17/11/2013): Autokonzerne drohen mit Abzug aus Deutschland [Car Manufacturers Threaten to Offshore Production in Germany].

<http://www.zeit.de/wirtschaft/unternehmen/2013-11/automobilkonzerne-koalitionsverhandlungen-kritik> (accessed 13/03/2018).

Zeit Online (13/05/2016): Zeitarbeit: Es gibt nach wie vor Schlupflöcher [Temporary Agency Work: Loopholes Remain].

<http://www.zeit.de/wirtschaft/2016-05/zeitarbeit-leiharbeit-kuendigungsschutz-equal-pay-lohndumping-arbeitsrecht> (accessed 12/03/2018).