

## **CHAPTER 4: POLITICS, THE REGULATORY ENVIRONMENT AND HRM**

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### **Overview of Chapter**

After considering a media-based case study, this chapter considers, first, what we mean by ‘the state’; what it is composed of and how interests within society permeate the institutions of the state to influence what its role should be. Then we look in more detail into what the role of the state has been, in relation to work and employment, before considering what drives the major arguments that separate left and right political parties in seeking to be in government. A consideration is then made on what larger agendas may shape the scale and scope of political debates on these issues over longer periods of time before moving on to a specific case study of how measures to enhance the take-up of work-life balance in Japan.

### **Learning Objectives**

After reading this chapter, you should be able to:

- Critically explain of the different motives and interests that key actors have for influencing the extent and nature of the state intervening in the area of employment rights;
- Critically compare and contrast the differing objectives that were intended by various governments in the period defined as ‘neoliberalism’ – and whether this period still continues;
- Apply knowledge of what long term trends in employment regulation exist in a specific country and a specific aspect of HR – the example, here being Japan and work-life balance – to explain the influence of state policy on HR practice inside organisations.

## **HRM in the Media**

### **“Flight attendant faced maternity discrimination”**

It is reported in Japan Today (29 June 2017) that a flight attendant working for Japan Airlines (JAL) reached a settlement with her employer following her legal claim that she was discriminated against on grounds of being pregnant.

Tomoko Jinno, requested being transferred to ground duties after discovering she was pregnant in 2014. However, she said that JAL instead instructed her to take leave of absence and stay home. When Jinno refused this instruction, she was then discriminated against and sued JAL for “maternity harassment”, on the grounds that her request for undertaking “light duties” during her pregnancy was refused unreasonably.

The settlement reached means that in future, JAL flight attendants who request ground duties in similar circumstances will be granted their request.

### **Questions**

1. Japan has a falling birth rate and has taken measures to encourage employers to take a more progressive approach to maternity leave among workers. What does the story of a settlement say about how the state can influence HR policy in an organisation?
2. Given the case at JAL, what obstacles to the smooth adoption of work-life balance exist in terms of (a) national level party politics (b) employer attitudes and (c) workplace culture (normative isomorphism)?
3. To what extent are the issues of regulating work-life balance in Japan, also found in other countries?

## **Introduction**

This chapter has four central objectives. Firstly, to locate government policy towards employment regulation within the broader set of political concerns of governments, the key interests of employers and workers, and the wider dynamics of party political allegiances. Secondly, to more narrowly explore how the action taken (and not taken) in the sphere of employment regulation links to differing perspectives relating to its economic and social desirability. Thirdly, to examine the way in which such regulation has evolved over the post-1945 period and how this process of evolution has been shaped by these differing perspectives, concerns, interests and dynamics. Finally, and by way of conclusion, to briefly explain how it may evolve in the immediate future.

## **Defining the State and its Role in Work and Employment Issues**

In considering the motives for state intervention a basic recognition needs to be made of what is being considered here. What is “the state” and what are its “interests”? This may seem to be going beyond the normal knowledge-base required of the HR practitioner and into the subject of politics. However, it is important to understand some fundamentals in order to understand the outcomes of political decisions made at government level in order to then understand the likely effect on the possible HR implications at organisational level.

The state could be considered, at a most basic level, the element within a society that can claim “a monopoly of legitimate violence” (Weber, 1964). This language may seem dramatic but consider what this means: the state is the only part of a society that the population overall would consider as having the means and the will to use force to achieve a “common good”. All states have this: their visible manifestations are the military and the police. Clearly, though, a state relying just on just coercive forces to maintain its position would suggest a somewhat unstable situation. Thus “modern” states incorporate a whole range of supporting functions to enhance their legitimacy: from the administration of the legal system, to welfare systems to education to transport and IT infrastructures. A big part of what we understand ‘politics’ to be is to define how much of these state institutions we should have; in what proportion to each other; how they should be run and in whose interests. This is where the definition of what the state ‘is’ becomes more contentious. While we have stated that it is a thing in itself, it also exists as somehow reflecting interests that exist in wider society. The relationship between state and interests within society is subject to debate.

The most influential theoretical conceptions explaining the relationship between interests and the state are pluralism, elitism, Marxism and public-choice. In classical pluralism societies are understood to consist of a range of groups with competing – and sometimes overlapping – interests (Dahl, 1961). The assertion is that these interests balance each other out: for example, trade unions role in promoting worker interests in society are balanced by ‘business’ lobby group interests promoting the interests of employers. The state, in all this, is said to operate as a neutral power broker, establishing rules of engagement between interest groups. In HRM pluralism, as a theoretical approach, has found a way directly into the sub-category of employee (or ‘industrial’) relations as a way of describing how unions and management operate inside organisations (Flanders, 1968). Critics of pluralism have long stated, variously, that these wider interests are not at all ‘balanced’; that some – particularly business interests – hold highly privileged ‘veto powers’ (Lindblom, 1984) over governments (the ‘elitist’ critique), while

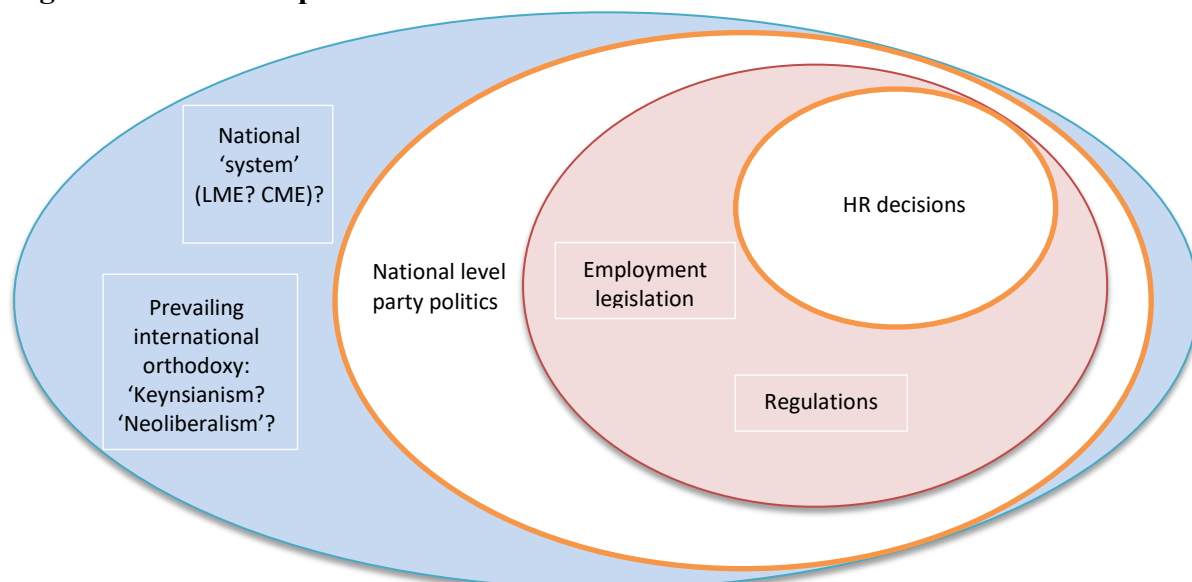
others (the Marxist critique) also follows the line that business interests – in this case ‘capital’ – not only dominates the role of the state, but also challenges the notion that these interests can ever be reconciled in a capitalist society – that conflict between classes is always dormant. From the political right – and very influential on what we would define as the emerging dominant narrative of neoliberalism – ‘public choice’ theorists questioned the pluralist aspiration for balancing collective interests as defying the logic that unregulated individualism could achieve for the greater good in society (Buchanan, 1966)

### The Parameters of State Involvement on Work and Employment Issues

In terms of the employment relationship, the most basic interests that the state is attempting to reconcile is that between capital and labour. While this basic economic dichotomy is rarely used in contemporary HR discourse, it does provide the basis of describing the most basic problem in the employment relationship. First, there are interests associated with employers. These could be summarised as the right to be able to make a profit, the right to have discretion over who can be employed, the right to determine wages, the right to dismiss workers who are not wanted, the right to establish “the rules” that they wish workers should be subject to within their business. Second, there are interests associated with workers. At basic levels – using the International Labour Organisation’s (ILO) core labour standards – these are the absence of *forced labour*, the absence of *child labour*, freedom from *discrimination* and *freedom of association* (meaning the right to belong to a trade union) accompanied with the right to the effective recognition of *collective bargaining*. Beyond the more basic balance of rights issues, the state has a further set of interests to balance. The news story at the beginning of the chapter relates to the issue of maternity leave rights, and therefore a layer of additional issues also present themselves: what areas of employment do governments intervene into? Is there a settled view as to the balance struck between employer discretion and government prescription? To what degree should workers be protected against unscrupulous employers? Why do certain issues seem to be more fashionable at different times? This then extends the potential scope of government intervention. So what mechanisms are available to governments and what are the broad choices available? Broadly the choices that are made relate to the priorities that governments make and this is defined by ideology.

We could conceive that the way in which politics influences business at three levels. The first level is party politics, the second is the national-level institutional configurations determining the how state institutions work and the third level is what constitutes consensus framing the parameters of party political debate at any one time (see Figure 4.1).

**Figure 4.1 Levels of ‘political’ influence on HR decisions**



The most visible level of how the state influences HR policy is party politics. Here values are combined by political parties in a broadly predictable way through the combination of *ideology* and *partisanship*. In liberal democracies the ‘choice’ of how much state intervention there should be and whether such intervention should be about empowering, for example, unions, workers’ rights and equality or whether it should be prioritising the rights of entrepreneurs, ‘job creators’ and individualism is a distinction reflected in party politics conventionally distinguished on a left-right spectrum. Parties of the left tend to prioritise equality and collective solidarity as the means toward social and economic cohesion, whereas parties of the right emphasise the primary importance of promoting “business leaders” as the means to economic prosperity. Within western liberal democracies, political parties’ association with particular economic interests adds the dimension of partisanship. The left has tended to have been associated with the interests of organised labour (unions) while the right has tended to have been associated with the interests associated with private property – so the owners of business.

Within western liberal democracies the state is also legitimised by democratic institutions of one sort or another via the election of representatives to form legislative assemblies and/or governments: people vote in elections and governments are elected. While this again may seem obvious and not directly linked to HR practice, then consider the implications of a change of government to one with radically different policies on employment policy than the government in office. Looked at this way, such events could be considered a major source of uncertainty for HR planning. Considering why different governments interfere in issues relating to employment, how they balance apparently competing interests within civil society, why the balance shifts over time and what mechanisms are used is very important.

A second level of political influence on how the state influences HR practice is the international variety in institutional relationships that exist between the state, society and economy. A number of models for such institutional frameworks exist - ‘varieties of capitalism’ (Amable, 2003; Hall and Soskice, 2001) or ‘national business systems’ (Whitley, 1999) or systems associated with the interface of welfare regimes to that of employment. The point, here, is that while there are differences in how these different models explain particular types of national system, they agree that the particular ‘path dependent’ way in which a national system has developed, may explain why there may appear more difference in the system that determines how HR issues are dealt with inside organisations between, two countries with very different national systems, than there is between two rival political parties in just one of these countries. So the ways in which, for example, training systems, worker consultation rights, offshoring or redundancy processes are more different between Germany and the USA are not explained solely by party politics – where both countries may have a Conservative government in power – but more by the institutional arrangements that pre-date the particular government of the day.

A third level of political influence is that of ideological consensus at any particular time. While party political differences will remain between rival political parties – on partisan grounds at least – ideological differences are often more constrained. Within western liberal democracies global events have constrained the parameters of domestic debate about what is seen as being possible, regardless of party. The Keynesian consensus emerging in 1945, for example, saw a response to the end of war as prioritising reconstruction based on an acceptance of greater levels of public ownership, higher state involvement in the coordination of the economy, the creation and growth of international financial institutions and of supra-national bodies like (what would become) the EU to facilitate international cooperation. This period was also associated with an enhanced role for organised labour (unions) seen as important institutional

players at national level in most countries. This new consensus shaped the parameters of party politics at national levels. So, parties of the right (reluctantly) accepted the broad consensus and based their appeal on competence and incrementalism. This period lasted – by conventional wisdom – to a time around the early 1970s where a series of global shocks and internal systemic crises in this world order saw it challenged. The emerging consensus – some labelled it ‘post Fordism’ (Jessop, 1996) – was one born partly out of the crisis-of-Keynesianism and partly by the ‘new’ consensus building under the influence of those considered ‘outsiders’ under the old system and who had been steadily building an ideological alternative. Prominent of these were Hayek (1944) and later Friedman (1968). They then found their political mentors in the likes of Margaret Thatcher elected prime minister in the UK in 1979; and Ronald Reagan elected President of the US in 1980. Capture of the world’s international financial institutions – the IMF and World Bank - by pro-Friedman monetarists in the mid-1970s (Mosely, Harrigan and Toye, 1995) shifted the terms in which developing countries could also pursue internal reform to promote welfare, employment and general economic development. While these institutions were established, at the end of the Second World War to provide the financial means by which countries could seek development very much under Keynesian notions, the notion of ‘conditionality’ brought in now dictated what countries had to do domestically in order to gain the funds needed. Such conditionality meant reducing regulation and ‘protectionism’, privatising state industries and public services and generally reducing state intervention.

The political consensus that emerged from this shaped the parameters of national debate. The new consensus, sometimes called ‘the Washington consensus’ and more commonly now referred to as ‘neoliberalism’ (Harvey, 2007) favours a hostility to state regulation or state support for industry and, instead, the active promotion of markets as the engine of economic success. Entrepreneurs were now the heroes and trade unions were a hindrance. Privatisation, ‘cutting red tape’ and freeing bosses from irresponsible unions were now the policy preferences. While these policies were most aggressively pursued in countries with right wing governments fully geared to the new consensus, the effects filtered through to other governments less actively committed to this agenda and it also permeated through to affect the parties of the left still committed to the previous Keynesian consensus. Thus, in the US and the UK, both the Democrats (under Bill Clinton) the Labour Party (under Tony Blair) were both seen as examples of how left parties sought to successfully reposition themselves as ‘third way’ converts to ‘neoliberalism’. Neoliberalism also shaped – from the UKs influence – the internal dynamics of the EU which had previously been geared around more Keynesian-era corporatist principles of works/citizen rights enshrined in such institutions such as the *Social Chapter*.

### **The Great Disruption?**

In 2016 a number of national-level political events disrupted the neoliberal consensus. The long-term effects of the type of globalisation that is part of neoliberalism – free movement of capital and greater migration – had exposed and undermined the social and material gains made in the industrialised west. The global financial crisis of 2007-8 almost certainly set off the conditions for the resentment that was building to emerge. While there was little reaction at the time (Crouch, 2011), by 2016 these resentments had found themselves into national politics. While some of this manifested itself by way of an insurgent new politics of the left – Podemos in Spain, Syriza in Greece for example – the most visible political manifestation of these resentments to globalisation was in the ‘nativist’ politics of the right. Elections in Austria, France, the Netherlands and Germany saw a sharp rise in far-right parties promising curbs on immigration, economic protectionism and Islamophobia. The most visible electoral outcomes

of the ‘nativism’ was, however, in the election of Trump in the US and the referendum result in the UK backing the UK’s withdrawal from the EU. While these events constitute big changes at national level, they also challenge some of the core assumptions of the neoliberal consensus. Whether this signals a departure from neoliberalism, and whether it is to something ‘better’ or ‘worse’ is another question.

### **Perspectives on Employment Regulation**

We have noted that there may be differences between ‘left’ and ‘right’ approaches to policy affecting HR type decisions. We have also noted higher level institutional arrangements that may predetermine the parameters of what party-political policy choices may be deemed possible; and we have seen how both of those levels could also be further underpinned by a more amorphous – yet still very influential – ideology over longer periods of time: Keysianism; ‘neoliberalism’ etc. What we need to explore, now, is what defines the basic ideas about the role of the state in regulating the employment relationship.

These differing views and opinions can be seen to be intimately connected to broader ones concerning the economic and social desirability of governments intervening to shape the nature of employer-worker relations. These broader views and opinions can usefully be highlighted by reference to two related areas of debate, namely whether employment regulation is, at the general level, harmful or supportive of organisational and national economic performance, and whether it is supportive or damaging to wider “social welfare” (of the population as a whole).

### **Regulation and Economic Performance**

Any examination of the debates surrounding employment related proposals reveals that an inevitable focus of attention within them is the issue of whether they will serve to enhance or harm the economic performance of employers, as well as the economy more generally. To a large extent the differing views expressed in this area, in turn, can be seen to link to the broader question of whether it is desirable, via the imposition of regulatory requirements, to interfere with the operation of “free” market forces.

Those who argue that that such interference is undesirable effectively accept the central tenants of neo-classical economic theory. These being that the laws of supply and demand operate, in the context of competitive labour and product markets, to create “market clearing” terms and conditions for workers which serve, thereby, to maximise the use of available labour resources in the economy and to also ensure that these resources are distributed across the economy in the most productive way.

From this neo-classical perspective, therefore, anything which is done to interfere with the free operation of labour markets is economically harmful. Whether the action concerned, for example, involves the laying down of minimum rates of pay, statutory provisions on maternity leave and pay, or support for the activities of trade unions which serves to increase their capacity to affect how employers utilise the labour they employ or the terms and conditions on which it is employed. In each of these cases the view, typically taken, being that such regulatory provisions will increase labour costs above “market clearing” ones and consequently lead to higher levels of unemployment.

Not all economists, however, accept the central tenants of neo-classical theory or, more specifically, the proposition that employment regulation is inevitably economically harmful.

In particular, critics of the neo-classical approach argue that labour markets, in fact, operate for a number of reasons, in an imperfect way, with the result that the distribution of bargaining power between employers and workers is not, as assumed in the neo-classical model, equal. What therefore follows from this is that employers, because of their superior (monopsonistic) bargaining power, are able to employ workers on terms and conditions below those that would be provided in a fully competitive labour market and therefore on a basis that works against the efficient utilisation of labour (and other) resources in the economy (Manning, 2003; Turnbull, 2003).

Those holding this alternative view consequently argue that, at least in certain circumstances, employment regulation can be economically beneficial, both directly and indirectly by strengthening the coverage and strength of trade union organisation, by countering the monopsonistic bargaining power of employers (Deakin and Wilkinson, 2005; Kaufman, 2009). In addition, and more specifically, it has been argued that such regulation can yield a number of economic benefits through such means as (a) enhancing the purchasing power of workers and hence aggregate economic demand, (b) prompting firms to use labour more productively because of its increased cost (Rubery and Edwards, 2003) and (c) creating fairer employment relations that result in higher levels of worker motivation and better employer-worker relationships (Edwards, 2007).

A key rationale underlying neo-classical economic theory is that the autonomous, market-based, activities of economic actors, by maximising economic efficiency at the individual firm level, simultaneously have the same effect on social welfare at society level. Indeed, at root, this social welfare effect provides the central rationale for those who advocate such neo-liberal, and neo-classically informed policies. These views became more influential among governments as they were developed by an increasingly influential group of economists. Notable among these were Hayek (1944) who first popularised the notion that state intervention is both economically inefficient and also an attack upon individual liberty; Friedman (1968) who extended this by linking price inflation to wages being kept “artificially” high by the raised expectations of unions and protective regulations; and by Olson (1971) who linked the logic of collective action (through unions) as the prime mechanism for creating this situation.

Again, however, not everybody supports the view that social welfare is best enhanced by the operation of market forces. For those who don't, two main lines of “counter analysis” can be distinguished.

The first of these counter arguments essentially mirrors the counter-argument at firm level, arguing that labour markets do not, in reality, operate in accordance with neo-classical theory and that they, rather, produce outcomes rather different to those anticipated. Such outcomes could, for example, encompass a dynamic involving a transfer of income away from low paid workers to shareholders and consumers, via reduced prices (Kaufman, 2009).

As regards the second line of argument, this draws attention to evidence which highlights the fact that societies marked by relatively high levels of income inequality tend to also be characterised by a range of adverse social outcomes; including higher levels of poverty marital breakdowns, more crime, greater health inequalities (World Health Organisation, 2008; Wilson and Pickett, 2009) and lower life expectancy. Evidence that is therefore seem to provide a justification for regulatory actions aimed at constraining or reducing such inequality, for example through the laying down of minimum (and maximum) pay rates, legislative provisions to protect the employment security of vulnerable groups of workers and action to support the



recognition and collective bargaining role of unions (for example see TUC, 2008). A view that it should be noted receives support from other evidence pointing to a strong linkage between the rise in male wage inequality which has occurred over the last three decades in the United Kingdom and the decline in union membership that occurred during this period (Card et al., 2004).

### **Employment Regulation and Work-life Balance in Japan**

We now turn to a specific example of state involvement in regulating the employment relationship in practice and use the example of government measures to enhance the take-up of parental leave in Japan. Work-life balance has become an important issue in Japan, where low female labour force participation rates have impacted negatively on economic growth. To reverse this trend, the government has aggressively promoted work-life policies for two decades. Some of these policies include encouraging higher take-up of maternity leave, parental and child-care leave, flexibility in terms of time and place of work, introduction of onsite child-care facilities, and provision of financial support to new parents.

Japan is an ancient country, whose modern constitution dates back to 1947 following the Potsdam statement of 1945. It is a parliamentary democracy with the official head of state being the emperor. While the early post-war period witnessed the success of the Japanese Socialist and Communist parties, after a period of turbulence – not least the specific turbulence associated with the mobilisation of the industrial unions in manufacturing – turbulence passed and from 1953 saw the electoral dominance of the Liberal Democratic Party (Jiyū-Minshutō - the LDP). Indeed, the dominance of the LDP in Japan constitutes the “longest time a political party has been able to dominate a democracy in modern world political history” (Hrebendar and Itoh, 2014: 2). After the long period of spectacular Japanese economic success making it the second largest economy in the world by the end of the twentieth century, Japan then faced a period of economic stagnation from the mid-1990s where critics attributed much of the institutional set-up of the Japanese system, along with the sociodemographic of its workforce, to its sluggishness. From 2012, Abe Shinzo led governments that sought to make reforms that would see improved economic performance in Japan. In part the reform agenda was a familiar set of neoliberal prescriptions about deregulating labour markets, but it also included a desire to take on one of the more entrenched attributes of the Japanese labour market; that of an ageing workforce, a low birth rate and a low level of female labour market participation. A number of policy initiatives followed.

### **The Law and Work-life Balance in Japan**

Despite rigorous state intervention, leave policies have not succeeded in enabling working mothers to balance the demands of work and family. Women still quit work. Is it enough for the state to simply impose policies on work organisations and expect take-up? Ironically, some work-life balance policies actually discourage working mothers’ continuing labour force participation. Thus, whilst the state plays an important role in shaping and directing HR, other factors, such as organisational and local context, are equally important considerations.

Japan’s gender gap is most pronounced in economic participation and political empowerment. The Global Gender Gap Report 2013 (OECD, date) highlights that only 63% of women in Japan participate in the labour force, compared to 85% of men, one of the lowest rates among the OECD and 79th in the world. In addition, a sizeable pay gap exists between men and

women: The Global Gender Gap Report 2013 estimates that women in Japan earned on average \$22,727, compared to over \$40,000 for men.

Historically, the government did not traditionally play an active part in supporting work-life balance in Japan. In the recent years however, this stance has changed. In 1989, following the lowest fertility rate ever recorded, the government initiated a series of policies to increase birth rates, one of which is introduction of leave policies (Brinton and Mun, 2016, pp. 259).

The Equal Employment Opportunity Law 1986 was Japan's response to requirements under the United Nations Convention on the Elimination of All Forms of Discrimination against Women. The law became Japan's first major legal framework for implementing gender equality in organisations. It prohibits gender-based discrimination in the recruitment, hiring, assignment and promotion of workers, but also unfair treatment for reasons involving marriage, pregnancy and childbirth.

Under Articles 65-67 Labour Standards Law 1947, a female employee can take maternity leave six weeks before her due date and then eight weeks after birth, 14 weeks in all. She can expect 60% of her salary during this time funded from the Employees' Health Insurance system, financed by contributions from employers, employees and the state.

Additionally, The Childcare and Family Care Leave Act 1995 specifies that employers should strive to provide further leave up to 1 year when the maternity-leave period ends. Workers would receive half of their salary as benefit, paid from the Employees' Health Insurance system. Large employers are required to formulate measures to support compatibility of work and childrearing and make these publicly available to ensure widespread awareness among employees (Kawaguchi, 2013), whilst smaller organisations are encouraged but not obliged to develop such plans (Lewis et al., 2014, pp. 23).

Parental leave can be taken by each parent until a child is 12 months old. Leave can be extended until the child is 14 months old (18 months, under exceptional circumstances) if both parents take some of the leave even though each parent is only entitled to 12 months after birth including the Maternity leave period.

There are also legal provisions under the Act to help women return to the workplace after giving birth, including allowing mothers of children under 3 years of age to shorten their workday by up to two hours. Small firms are again, exempt from this requirement (Lewis et al., 2014, pp. 23). There is no right under the law, to paternity leave, although fathers can take advantage of parental leave. Finally, The Act on Advancement of Measures to Support Raising Next-Generation Children 2003 encourages companies to formulate action plans to support employees balancing work and child raising. Firms meeting conditions stipulated by the government (e.g. at least one male employee took parental leave during the period of the plan; and the parental leave take-up rate for female employees during the period of the plan is 75 per cent or over) are eligible for preferential tax treatment.

A strong emphasis on gender equality has recently become a key plank of Shinzo Abe's government. In 2013, he promoted the concept of "Womonomics" as part of his policy to change deep-seated views on gender and revive the economy by getting women on board as workers and leaders (Chanlett-Avery and Nelson, 2014). Closing Japan's gender employment gap would add an estimated 7.1 million employees to the workforce and lift gross domestic product by as much as 13% (BBC, 2016).

The government set out a series of strategies to increase women's participation in the workforce; firms would be required to promote women at work, have women hold 30% of senior management positions in both the public and private sector, encourage mothers to return to employment by introducing up to 30,000 new after-school care places for children in the first three years of elementary school, so their parents can work a full day (Assmann, 2014, pp. 2; Japan Times, 2014; Kittaka, 2014).

Japanese courts have recently frowned upon maternity harassment, affirming that pregnant women cannot be unfairly treated because of their pregnancy. One case highlights this. A physical therapist at a hospital in Hiroshima requested that she be moved to a less-demanding work when she became pregnant in 2008 but was subsequently dismissed from her managerial position. She argued that demoting her on the basis of her pregnancy violated the equal employment opportunities law.

The lower courts dismissed her action, ruling that demotion was the prerogative of the hospital's management. The Supreme Court however, overturned this, noting that personnel decisions authorising such demotions are illegal and invalid unless either the women consent to the demotion or there are special circumstances that necessitate such transfers to ensure smooth work operation (Japan Times, 2014).

Recent research argues that Japan's parental leave policies revolve around three features – long parental leave, partial rather than full wage replacement, and an assumption that parental leave is a women's issue, all of which have had a dampening effect on mothers' continuing employment. In other words, leave policies provide little incentive for women to stay with their firms.

For example, long parental leaves taken exclusively by women weaken their attachment to the workplace and cause a shift from full time to part time employment, producing negative wage consequences. Similarly, low wage replacement for employees who take parental leave is likely to reinforce women's primary caregiving role and prompt a transition to part time employment or withdrawal from the labour market altogether. Finally, norms which support only mothers as leave takers encourage the traditional gendered division of labour and discourage women's continual labour force participation (Brinton and Mun, 2016).

Additionally, embedded in the structure of the Japanese labour market are "ideal worker" norms, which are seen as those workers who put the company above their families and who willingly spend time with employers and colleagues. Consequently, women are seen as unwilling or unable to behave according to these norms. At the same time, there is an implicit belief that parental leave is a women's issue, and that women hold primary responsibility for child rearing in the family (Assmann, 2014). It comes as little surprise consequently, that women lose attachment to their firms and are unable to establish successful careers.

Last, only a small percentage of male employees take parental leave. As mentioned earlier, new fathers and mothers are entitled to 52 weeks leave and generally retain 60% of their salary throughout. No other OECD country lets new fathers take that much time off, at that level of

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1 In 1992, the Japanese Government shortened the regular work week from 48 to 40 hours. Ironically, people continued to work the same number of hours, as unpaid overtime (Harvey, 2016, pp. 4).

compensation. Despite this, only 2% of new fathers in Japan have taken paternity leave. (BBC, 2013; World Economic Forum, 2016). The government is hoping to get at least 13% of new fathers to take at least a portion of the paid leave they're entitled to by 2020 (World Economic Forum, 2016).

### **The Impact of Government Policy on Take-up of Parental Leave**

Despite the promotion of leave policies in firms, Japan's female labour force participation rates continue to be low. So, there is progress as far as state regulation of HR (leave policies) is concerned. State regulation has focused on encouraging organisations and employees to take up leave policies at work. There is no apparent ideological or party-political conflict on this issue nationally. The extent to which the policy agenda has been met with success in organisational practice, however, does face potential obstacles at firm level or at workplace level. Opposition to work-life balance regulation, at firm level, has been identified in other studies outside Japan (Roper, James and Cunningham, 2003).

At firm level there is some evidence of opposition to the regulatory imposition of work-life balance. Despite evidence of the business benefits (Atsumi, 2007) Japanese firms tend to be ambivalent toward employees who wish to work and have a family at the same time. Inside the firm, embedding the take-up of family leave faces further obstacles. This could be put down to normative isomorphic pressures: the embedded values of workers inside firms still holding to inherited attitudes of the breadwinner model of work and family.

In practice, this manifests itself in many ways. Employers place pressure on women to quit or demote them when they become pregnant and try to take leave, a practice known as maternity harassment. The second national survey on maternity harassment by the Japanese Trade Union Confederation (Rengo) in 2014 showed that of those who were pregnant or already mothers (women in their 20s, 30s and 40s), 1 in 4 reported having been a victim of maternity harassment (Kittaka, 2014).

Japanese single women enter the labour force after completing education, but a percentage of them quit upon marriage and a larger percentage (70%) do so at the time of first birth, for a decade or more (Mun and Brinton, 2015, pp. 343; The Economist, 2014). Research suggests that nearly 60% of women choose not to utilise leave policies and instead exit the labour force when they have their first child (Mun and Brinton, 2015, pp. 337).

Why do women choose to quit altogether? Organisational conditions discourage their use of leave policies. There is a combination of corporate conditions which are unsympathetic to working mothers and male breadwinner-female caregiver norms which have persisted for many decades.

Since Japan's "economic miracle" in the 1970s and 1980s, the Japanese workplace has been known for its disciplined workforce. Large Japanese companies are characterised by long work hours, an emphasis on face time, an expectation that employees demonstrate commitment to their company, all of which are not compatible with raising a family, and particularly young children (Chanlett-Avery and Nelson, 2014, pp. 6). There is a lack of collegial support for women's use of leave policies, creating a discouraging environment in many companies. The problem is compounded by lack of support structures outside of work; there is no widespread practice of using regular babysitters or nannies to provide for childcare, due to Japan's

restrictive immigration policies that limit the number of potential caretakers from foreign countries.

These tensions are heightened by strong male breadwinner norms, a highly-gendered division of child care and the cultural idealisation of intensive mothering. Additionally, a formalised two-track system of appointment segregates men and women at the point of hire – with men proceeding down a “career/promotional” track and women a “peripheral track” with no opportunities of promotion (Mun and Brinton, 2015, pp. 344-345). In a study comparing the reasons why Japanese and American college graduates leave their jobs, American women cited child care and looking after elderly relations as the main factors. Japanese women blamed dissatisfaction with their jobs and a feeling of being put into “dead-end” roles. The fact that their husbands, who spend more time at work than their counterparts in other developed countries, spend less time on child care or household chores, adds to the perceived need to stay at home (The Economist, 2014). Because of the anticipation of women leaving the workforce to have children, many companies resist hiring women for the former track due to the investment in training (Chanlett-Avery and Nelson, 2014, pp. 7).

In all, strong cultural norms and values present strong obstacles to working mothers. They pressurise women not to take leave, forcing women quit altogether. Women are still regarded as responsible for child care and men as breadwinners, prompting women to leave work after giving birth, and men to prioritise their careers (Bumpass et al., 2009; O’Brien, 2013). Many organisations also believe that child-care costs are high and are reluctant to invest in retaining women employees. In sum, despite government intervention to require companies to implement leave policies, the take up by both organisations and employees themselves have not been encouraging.

Research points to the need for the following factors in order to increase take-up of leave policies. In addition to regulation, there is a need for a more sympathetic senior management in promoting work-life balance, (Kawaguchi, 2013) and normalising the take-up – not just the availability – of leave (Mun and Brinton, 2015, pp. 357-358).

How such cultural norms surrounding the roles of men and women can be shifted will likely be a challenge. Japan’s fertility rate has grown very little over the last few decades. Society still expects mothers to bring up their children. Many grandparents now live far away from their children and grandchildren, reducing opportunities for them to be involved in childcare. The father’s role in family is that of breadwinner, and there is no trend of fathers staying at home to bring up children. Indeed, since fathers are at work most of the day, they are seldom integrated into family life (Bienek, 2013, pp. 60; Tanaka and Nakazawa, 2005).

## **Conclusion**

Governments promote policies based on balancing competing objectives, (e.g. economic efficiency versus social cohesion), and that in the context of the employment relationship, this inevitably is reduced to the conflicting interests of *capital* versus *labour*; and then of workers’ rights versus employers’ rights. Because political parties define what ‘the common good’ is through the lens of ideology, markedly different perspectives can be held concerning the economic and social desirability of using the law to regulate workplace relationships. Broadly, however, political parties of the left tend to promote the interests of workers’ rights while parties of the right tend to promote the interests of employers’ rights. However, while there

are distinct partisan differences at stake in any domestic agenda, there are deeper influences shaping the agenda for party political debate in any one time. So, the scope for policy difference between competing political parties is constrained also by the institutional arrangements shaping the national approach to the issue; and also by the prevailing ideological orthodoxy. So, for example, in the UK, while the Labour governments from the late 1990s may have been sympathetic to workers' and union rights than their Conservative predecessors, the policy framework they attempted to promote these agendas had to be in line with the neoliberal framework they inherited. Neoliberalism, in contrast to Keynesian social democracy that preceded it, favours low barriers to capital mobility and low level of regulation in general. While this approach enables a 'cosmopolitan' approach to capitalism – more open to migration; compatible to the narrative of 'diversity' at workplace – it has clearly opened up levels of inequality. By 2016 resentment were spilling over into politics in much of the developed world, against the older established politics; whether that be from new parties of the left in countries such as Spain and Greece, or from the right, in the form of a new 'nativism' in the UK, US, France and Germany. All of this had implications for HR decision-making as the politics of migration, citizenship, economic protectionism, feed into HR policies on recruitment, equality and employee relations.

In the case-study, however, we also saw some evidence of continuity in terms of how sociodemographic issues (the birth-rate) translate to political decisions (the increase in maternity rights at work) and thus into HR policy and practice. It was also shown, however, how the introduction of a policy itself, does not guarantee its legitimacy by certain vested interests.

## HRM in the Media: Critical Reflections

1. Japan has a falling birth rate and has taken measures to encourage employers to take a more progressive approach to maternity leave among workers. What does the story of a settlement say about how the state can influence HR policy in an organisation?

In relation to the first question, it shows that the state can make a difference in compelling organisations to change policy and practice in HR-related activities. However, the influence may not be straightforward or direct. This case shows that it took external legal intervention in interpreting the regulation to determine what rights the worker has. Once this has been established, though, the precedent set would have implications beyond the particular organisation.

2. Given the case at JAL, what obstacles to the smooth adoption of work-life balance exist in terms of (a) national level party politics (b) employer attitudes and (c) workplace culture (normative isomorphism)?

The second question demonstrates the difficulty in objectively assessing the legitimate limits and direction of state intervention in the area of employment. It is clear that there has been a shift in national-level party politics in Japan that a falling birth-rate will have economic consequences – for society in the costs of supporting an aging population; and for business for future workforce planning. However, it also seems that there is a difficulty of recognising the consequences of addressing this at individual employer level. This being the case the problem is accentuated by the failure to address more traditional co-worker attitudes at the workplace level.

3. To what extent are the issues of regulating work-life balance in Japan, also found in other countries?

In relation to the third question, numerous studies point out that whilst there are known national differences in systems, structures and cultures relating to this issue – as well as to the general issue of the balance of rights for workers and business – the resistance of business owners to bearing the cost of any regulatory intervention to enhancing workers' rights is a given.

## Explore Further

Hauptmeier, M. and Vidal, M. eds. (2014). *Comparative Political Economy of Work*. Basingstoke. Palgrave MacMillan.

This provides a good overview of some of the important conceptual issues explaining state activity on HR issues following the ‘great recession’, particularly chapter 2 (Heyes, Lewis and Clarke) and chapter 4 (Vidal) of this book.

Klarsfeld, A., Booysen, L., Ng, E., Roper, I. and Tatli, A. eds. (2014). *International Handbook on Diversity management at Work. Country Perspectives on Diversity and equal Treatment*. Cheltenham: Edward Elgar.

This book provides an overview of different country experiences of equality and diversity policy – including Japan.

Bach, S. and Bordogna, L. eds. (2016). *Public Service Management and Employment Relations in Europe: Emerging from the Crisis*.

This book gives an account of how public sector reforms have varied across European countries following the financial crisis.

Williams, S. and Scott, P. eds. (2016). *Employment Relations under Coalition Government: The UK Experience, 2010-2015*. London: Routledge.

This book provides a critical account of the UK government’s approach to employment relations leading up to the Brexit referendum.



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