Turning back the clock on gender equality: Proposed Constitutional revision jeopardizes Japanese women's rights

Satoko KOGURE

Turning back the clock on gender equality: Proposed Constitutional revision jeopardizes Japanese women's rights

By Satoko KOGURE

As the government emphasizes patriotism as part of the national school curriculum and discussion continues apace over revising Article 9, some Liberal Democratic Party (LDP) lawmakers are calling for changes to the Constitution that may put equal rights and individual freedom at risk.

The ongoing discussion on revising the Constitution has grown to include calls for amendments to Article 24 -- the clause protecting gender equality in postwar Japan -- in a bid to lock conservative family values into the legal and social framework at the expense of individual freedom.

Last June, an LDP Constitution revision panel introduced a plan to revise Article 24, which took effect in May 1947, "from the viewpoint of stressing the value of family and community."

However, this has sparked a storm of protest, mainly among women and defenders of human rights, who argue that the panel's suggestions are aimed at assigning fixed gender roles in society so as to return to a pre-war social model and force women to stay in the home.

New Japan Women's Association rally: Save the Constitution for children

Article 24 states that "laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes."

But the LDP panel held that " 'individualism' has come to mean 'egoism' in postwar Japan, leading to the collapse of family and community."

Arguing that the Constitution should maintain traditional values and morals that they believe were neglected when the Constitution was drafted by occupation forces after the war, the panel implicitly laid the blame for postwar 'egoism' at the feet of Japanese women who have chosen careers and independence over early family life and child-rearing.

The panel's appreciation for traditional values is itself rooted in an admiration for the Japanese self-sacrificing attitude.

"It's a matter of course that the mother had a primal responsibility for her child," says LDP panel member Nishikawa Kyoko who herself raised two children as a full-time housewife.

"Complaining about fixed gender roles is so nonsensical," she says. "It's a simple fact that men and women have essential roles based on their sex. Only women can bear a child. Criticizing sex roles is weakening women's minds. Mothers should naturally appreciate their responsibilities toward their own children."

She believes that this feeling has been lost by some Japanese mothers. "But this responsibility is not shared by all of today's mothers. It's very irresponsible that today's mothers just have a child and don't fully take care of it. Expressing the value of family in the Constitution is my message for those mothers."

However, the concept of "essential gender roles" was long the basis for justifying gender-inequality, confining women to the home and denying them public roles. By the same token, when individuals are defined primarily as one member of a family, women's rights and freedoms will always be at risk under the pretext that women have roles that only women can play.

University of Tokyo Professor Takahashi Tetsuya believes that recent ruling party moves to alter the Constitution are troubling. "While women are expected to maintain the family and take care of children and the elderly, men are expected to support the country," he says. "Today's discussion on Article 24 is closely connected to the discussion on Article 9, the war-renouncing provision. As the LDP panel suggested in its report, since the constitutional provisions under discussion now specify people's responsibility to defend the country, they need people for the front. This is viewed as the man's role."

The panel's efforts are not simply designed to undermine equal rights. Rather they seek to produce individuals suited to the government's needs, he believes. "In this sense," he says, "individual dignity, which is stipulated in Article 24, would be undermined by assigning fixed sex-roles. The government is trying to change the national character by sacrificing the individual's rights for the family and, by extension, the family for the country."

It was precisely this form of pre-war social model -- that is, the devoted mother serving her husband, who in turn unquestioningly served the emperor on behalf of empire and war -- that prompted the inclusion of Article 24 in the postwar Constitution in the first place.

Beate Sirota Gordon, who drew up Article 24 as a civilian member of the General Headquarters of the Allied Forces in 1946, says that the clause was essential to progress in postwar Japan. "I saw that Japanese women -- my friends and acquaintances -- had no rights, so I tried to include as many women's rights as possible in the Constitution," she said during a visit to Tokyo last month.

Gordon remembers that the Japanese government was fiercely opposed to Article 24 in discussions with GHQ. "There was a harsh objection to the gender-equality provision from the Japanese side, just as they were opposed to the emperor's status change," she says.

Interestingly, Gordon's original draft of Article 24 did include a reference to family values -- "The family is the basis of human society and its traditions for good or evil permeate the nation" -- which was removed from the final version. In fact, however, Gordon's view of family and individual differs sharply from that of the LDP panel. While Gordon viewed the family as based on "individual dignity and the essential equality

of the sexes," the panel's aim to prescribe individual responsibility to sustain the family poses a direct threat to individual rights, notably those of women.

Dismayed at efforts to alter articles 24 and 9, Gordon says: "Both Article 9 and 24 are needed for world peace. There are many oppressed women in the world. Japan should be proud of its Constitution, and other countries should follow the Japanese model."

Indeed, Article 24 of today's Constitution has helped postwar Japanese women gradually achieve important status and social protections in several areas.

The legislative by-products of the provision include the Equal Employment Opportunity Law (1986), the Basic Law for a Gender-Equal Society (1999) and a Law for the Prevention of Spousal Violence and the Protection of Victims (2001). The Equal Employment Opportunity Law was revised in 1997 to prohibit discrimination against women at all stages of employment.

Nevertheless, the impact of these legal developments has been relatively limited. While women accounted for 41.1% of the country's total employment in 2004, 39.9% of these employed women worked part-time, accounting for 69.3% of all part-time workers. Part-time workers are paid only 65.7% of full-time workers, and receive limited rewards. This is among the important causes of the high wage gap between sexes in Japan; the average female earned 67.6% of the pay of the average male in 2004. [1]

In the United States, female share of the total employment in 2004 was 46.5%, and approximately 26% of these women worked part-time. With more participation in full-time work, the median wage of women in the United States was 80% of the wages of men. [2] Likewise, the participation of part-timer workers among working women in most European countries was far lower than that in Japan [3] and the wage gap between sexes was smaller with women earning 81.8% of men's wages in the United Kingdom (2004), 85.8% in France (2004) and 74.0% in Germany(2003). [4] In these countries, the wage gap between female full-time workers and part-time workers was also smaller: female part-time workers earned 74.5%, 81.7%, 87.5% of the wages of full-time female workers in the United Kingdom (2000), France (1994), and Germany (1995).

However, despite the gaps in legislation and the persistence of differences in work and income patterns between men and women, the progress in Japan's legal framework in the last decades still deserves attention. The above-mentioned legislation was based on the constitutional guarantee of gender equality.

That provision itself was an achievement rooted in modern history. As Gordon observes, "Japanese women, who had been struggling for their rights in pre-war time, deserved and realized Article 24." The pioneers of the Japanese feminist movement include Kishida Toshiko and Kageyama Hideko of the Meiji era (1868-1912), and Hiratsuka Raicho and Ichikawa Fusae, who fought for women's suffrage, equal opportunity in education, and protection of motherhood in the democratic movement of the Taisho era (1912-1926). Although Gordon consulted European models such as the Constitution of the Weimar Republic and those of the Scandinavian countries when drafting the provision, her proposal included women's rights and protections that earlier Japanese feminists had been calling for.

Despite these developments over a century, however, Japanese lawmakers have recently come under attack for failing to adequately promote awareness of equal rights. For example, a report issued by the Committee on Elimination of Discrimination against Women of the United Nations two years ago "stressed the importance

of sensitizing and training public officials and members of the judiciary to eliminate gender-biased stereotypes."

In spite of the constitutional provision and subsequent laws and social movements, gender stereotypes that pose difficulties for women who aspire to achieve equal rights and opportunities remain widely accepted in Japan. Revising Article 24 of the Constitution will provide a setback for those aspiring to gender equality.

Notes

[1] The statistics on Japan are based on The Ministry of Health, Labor and Welfare. 2005. FY 2004 The actual conditions of working women (Hataraku Jyosei no Jitsujyo).

[2] The statistics on the U.S. are based on U. S. Department of Labor. 2005. Women in the Labor Force: A Databook.

[3] OECD. 2004. OECD Employment Outlook 2004.

[4] European Industrial Relations Observatory (EIRO). 2005. Pay Developments 2004.

Satoko Kogure is a writer on Japanese political affairs and military history, and a columnist with The Japan Times. This is a revised and expanded version of an article that appeared in The Japan Times, May 3, 2005. Posted at Japan Focus on May 22, 2005.