

# Japan and Diversity as a Strategy to Successfully Manage Demographic Change

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## 1. Introduction and Scope

It is well known that, if the current trend continues, Japan is expected to lose more than 20 million citizens by 2050, at least according to current projections (National Institute of Population and Social Security Research 2018). Population shrinkage is not negative per se, and some even suggested that degrowth might not be as bad as it sounds (Latouche 2009), but many scholars – especially economists – expressed major concerns over the effects of such demographic change, for example, on the national gross domestic product (GDP) – although it can be considered an outdated way of measuring economic growth now that sustainability has more uniformly entered the globally-shared political agenda – and other indicators. For labor law scholars like myself, it is especially important to discuss what it will entail in the field of employment and welfare and how to prepare, since we have never experienced anything similar in the past, in order to develop meaningful policy recommendations and to gradually adapt the existing legal framework to social change. More specifically, considering that the general population decrease will be linked to an increase in the proportion of the elderly, we can expect the worsening of at least two existing issues: labor shortage – i.e., unfulfilled demand for labor because of a lack of working age people in possession of the required abilities – and pressure on social security, mainly in terms of proportionally higher public expenditure – i.e., less workers might mean less contributions to the system, which, in connection to other detrimental

factors, might become unsustainable for governments in the long run, eventually resulting, in a worst case scenario, in insolvency (Rouzet et al. 2019).

However, both of the abovementioned problems can probably be tackled with a mentality change: we might be able to satisfy the demand for labor by opening the job market to foreign workers, or employers might review their organizational model so that they need less workers – for example, by investing in digitalization, automation and the use of artificial intelligence; on the other hand, one way to solve or at least mitigate the social security conundrum could be to encourage a better redistribution of profits in the form of higher salaries – in order to ensure that middle-income workers, who take the lion's share in financing the system, will contribute more, thus reducing the pressure on pension funds – and more flexible ways of working, which, for example, would allow the elderly to supplement their pensions with a private salary. Obviously, in this context, a wiser use of public money would definitely be a plus, and might be achieved, for example, with a full transition of the public sector towards digitalization, and a better citizen oversight on privileges and other well-known “black holes” of state expenditure. It is, however, beyond the possibilities of this short paper to analyze all the methods that have been suggested by academics – and sometimes even implemented by policymakers – in order to successfully tackle all the different aspects of demographic change in the field of labor and employment. As it is clear from this brief introduction, it is a complex and multifaceted phenomenon that could probably offer endless inputs

for discussion.

That is why, in the context of the general topic of this issue of the Review of Economics and Business Management, this paper will be centered only on one of the many possible strategies that seems to have the potential to capitalize on demographic change – the one that is more closely linked to the author’s line of research on comparative anti-discrimination law: promoting diversity in the workplace. In fact, in recent years, it has been postulated that diversity might have numerous beneficial effects, spanning from an increase in the supply of labor and in its quality, to better firm performance and productivity, eventually generating a stream of positive externalities for the society as a whole. However, the topic is still highly controversial and, for the sake of brevity, the focus will be greatly limited, with the hope to elaborate further on the same in future research. Therefore, the humble aim of this paper is to offer a modest and preliminary overview on diversity mainly as a strategy to successfully manage demographic change, and the research question that will lead the discussion is whether a more diverse labor force is better in the context of countries affected by population shrinkage such as Japan and some Member States of the European Union (EU), and, if so, how policymakers and employers can encourage it. In the next Section, some definitions will be given in order to further clarify the limitations of this paper. In Section 3, the most recent existing literature on the topic will be briefly examined, in order to provide a glimpse on the current debate. In Section 4, some success stories related to diversity – gender diversity in particular – will be discussed, after which a set of conclusions will be drawn. For the references – which have been limited to an essential minimum –, preference has been given to the most updated and easily accessible papers that reasonably included dissenting opinions in previous research, in order to hopefully reduce the issue of cherry picking.

## 2. Definitions

As a preliminary note, it is important to briefly define the key concept around which this paper revolves in order to clarify its limits and avoid misunderstandings. Diversity is a term that gained momentum in many different fields in recent years, but, like other buzzwords, it is not as precise as it might seem at first glance. When applied to groups of workers, it originally referred to the inclusion of individuals with different cultural backgrounds, or races.<sup>1)</sup> It is however interesting to note that in Japan the term “diversity” – phonologically adapted as *daibaashiti* – is mainly used in labor studies as a synonym of *tayōsei*, which means variety, not so much in terms of race, but of any characteristic – sex, age, disability, worldview, values etc. –, especially in the context of human resources (Kotobank n.d.). Therefore, compared for example to the United States (US), where research still tends to focus on race, both Japan and the EU have in common a more generalized approach to the concept, which is the same that will be adopted in this paper. Moreover, with reference to gender – since gender diversity is the type of diversity that will be mostly, although not exclusively, discussed in this paper –, it is important to remember that in Japan the term – adapted as *jendaa* – is mainly used as synonym of sex – i.e., what is biologically determined, therefore the binary distinction between male and female, not including intersex individuals – and not in reference to what is socially constructed as gender identity, which is not necessarily defined by biological sex. The same, simplified approach will be adopted in this paper, in consideration of its limited scope and length, but it goes without saying that a truly inclusive workplace is supposed to be welcoming not only for both men and women, but for all individuals and different gender identities.

1) In EU Member States and especially in Western continental Europe, the concept of “race” has been gradually removed from legislation, public discourse and education in favor of less negatively-charged terms such as “ethnicity” or “culture,” to the point that younger generations can essentially be considered race-mute, although some controversy remains (Jugert et al. 2021). In North America and other areas, however, it is still

### 3. Positive Effects of Diversity (Previous Research)

As mentioned in Section 1, the research question of this paper is whether a more diverse labor force is better in the context of societies that are similarly affected by ageing. Indeed, it could be safely assumed that one of the main reasons why old-style management in any given country seems to be so reluctant to diversify is not because of a real aversion towards, for example, women, young people or foreigners – apart from some extreme, pathological cases –, but because they look much more difficult to handle and, in the end, they might entail added costs: if all workers are men around the same age with no caregiving obligations, there is an illusion that the same one-size-fits-all approach can be adopted across the entire company. The choice to idly maintain an environment that is hostile towards diversity is, therefore, rationalized into a seemingly reasonable motivation. However, instead of forcing everybody to fit into a perfect employee's "prototype" that might, in fact, not suit anybody – causing much pain and psychological distress even in those workers who, at least on the surface, seem to fit the expected profile –, it would obviously be much better – and probably cheaper than constant mobbing towards an unfeasible model – to just develop a system that can easily be adapted to all needs in order to capitalize on the skills of each individual, regardless of their ability to fit in. Moreover, if we restrict the focus on gender diversity, according to the available surveys, it seems in fact to be a hope of men and women alike to spend more time with their families instead of working, as reported, for Japan, in the annual White Paper on Gender Equality (Gender Equality Bureau Cabinet Office 2020, Section 3 of the Special Feature). Therefore, it looks like not only women, but also men are dissatisfied with the current situation and would like to increase the amount of quality time that they can

spend outside the office. In light of the abovementioned lingering fear of the negative effects of diversity, this section will briefly discuss its positive effects as highlighted in previous research.

Arguably, the most sought-after positive effect that many have tried to link to diversity in the workplace is an increase of labor productivity, firm performance, and, ultimately, economic growth. In this regard, it is well-known that Japan is considered one of the less efficient countries among the members of the Group of Seven (G7), if we define "productivity" as the GDP produced per number of hours worked. In particular, according to the GDP per hour worked indicator developed by the Organization of Economic Cooperation and Development (OECD), for almost two decades, Japan – which is a country characterized by low workplace diversity – consistently scored below the average – and, more often than not, as last or second to last – among G7 countries (OECD 2021b). The Japan Productivity Center<sup>2)</sup> (JPC) has also published many in-depth reports on the matter by further analyzing and elaborating data collected by the OECD and the Japanese Government. According to the most recent summary (JPC 2020), Japan seems to have, in fact, routinely performed below the average of OECD member states since the seventies, with alternating improvements and deteriorations over time, and the recent COVID-19 crisis definitely did not help, although in this specific case Japan actually managed to limit its losses in terms of labor productivity when compared to countries that invested more in employment protection such as Italy and France. However, it is important to remember that statistics such as these are subject to error because the original data could be unreliable – for example, depending on the workplace culture, underreporting of overtime is a common occurrence both in Japan and overseas, therefore the number of hours worked might not correspond to reality; also, informal employment might be more common in some areas, thus distorting

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widely used.

2) A non-profit organization established in 1955 by the Japanese Government whose three guiding principles are expansion of employment, cooperation between labor and management, and fair distribution of the fruits of productivity.

the data; and finally, the definition of productivity itself might not be able to catch the full spectrum of the phenomenon and offer a reliable benchmark in the diversity discourse, since the way in which it is calculated might as well be influenced by external factors that have no connection with diversity, such as fluctuations in currency exchange rates between Japanese yen and US dollars, or shrinkage in the labor force due to massive layoffs.

In theory, a more diverse labor force that includes people with outside duties – for example, family and health-related obligations, as it might be the case for involved parents and people with a disability, or the elderly – and different cultural backgrounds and worldviews can be expected to develop a more efficient environment with a stronger focus on producing the same output in less working hours by thinking outside the box of “traditional” workplace cultures, especially in those sectors where innovation is paramount. However, a pivotal role for the successful implementation of workplace diversity remains to be played by management: if managers undervalue the positive aspects of diversity, they will not foster it and, even if more diversity is spontaneously achieved without their proactive involvement thanks to external factors, the resulting positive outcomes might be lost, if nobody is there to collect the fruits. Furthermore, if not carefully managed, diversity might also lead to issues, for example misunderstandings based on cultural differences. Much research has therefore been produced in the fields of economics and management studies – especially, human resources management –, but most of it had a limited focus on certain kinds of diversity in the workplace and a specific group of companies in a given country, and, more importantly, each research yielded mixed results, spanning from an apparent majority of studies identifying positive correlations, to nonexistent or negative impacts on performance, firm productivity or economic growth in certain sectors.

Considering the limited scope of this paper, it will not be possible to provide a thorough review of the extensive scholarship on the matter – which does not seem to have been collected and analyzed in full by any researcher as of yet –, but, if we take into consideration only the most recent papers, Yadav and Lenka (2020) tried to offer a partial summary of existing literature published between 1991 and 2018, highlighting the abovementioned inconsistencies in the results and advocating for a clearer and more comprehensive picture of diversity that goes beyond gender and ethnicity – which are the two categories of diversity that have been mainly studied until now. Another recent working paper specific for gender and age by the French research group ERUDITE (Challe et al. 2020) covered a few more important studies on the topic. In any case, it is clear from both that many challenges remain: from the difficulty to collect and select the most significant data, to the objective complexity of building a clear cause-effect link.<sup>3)</sup> A key takeaway that can be drawn from such a variegated background and, especially, from those who advocate the opposing argument that diversity in the workplace might bear negative effects, is that there seems to be a tradeoff: diversity can entail a number of costs – for example, related to adapting the existing work environment for a more diverse workforce – that can be abundantly covered thanks to the positive effects that might be derived from it, if – and only if – it is successfully managed. Therefore, there does not seem to be a clear and “automatic” correlation between diversity in the workplace and positive results – economically relevant or not –, but how you manage it is key.

As a legal scholar who has focused on anti-discrimination laws and policies for many years, however, I cannot help but stress that, despite the clear difficulties in drawing meaningful inferences from previous research on the topic, being able to accommodate and capitalize on diversity is per se of paramount importance in modern societies where we

3) For example, do productive and diverse companies perform well because of diversity, or have they just attracted diversified talent due to their good performance?

are finally aware of the fact that differences are not a disvalue and, more in general, in nowadays globalized world and its ever-increasing challenges, and such an ability would probably be impossible to achieve without a value-oriented approach that considers equality and workers' satisfaction as political goals that can be achieved with diversity. Moreover, even if clear and measurable positive economic outcomes cannot be automatically linked with diversity as of yet, behavioral science studies seem to offer an additional insight by highlighting additional positive effects (van Knippenberg et al. 2020). For example, and, once again, in the more specific field of gender diversity, more women might help decreasing discrimination in the workplace thus fostering a safer working environment for all and preventing employee withdrawal, and, at the same time, they might combat androcentrism in products and services thus enlarging the company's client base, with documented benefits at least in terms of occupational well-being and corporate governance for all (Fine et al. 2020). Finally, it must also be noted that outside of academia, as well, there seems to be an interest in nudging public and private employers towards diversity, since one of its most enthusiastic supporters in recent years seems to be the global consulting firm McKinsey & Company, which, starting from 2015, has produced three different reports focusing on the positive effects on private companies (Dixon-Fyle et al. 2020). Therefore, despite being a politically charged topic that does not offer a definitive solution for the abovementioned issues related to ageing societies, it is definitely promising and worthy of further analysis.

#### 4. How to Foster Diversity (Best Practices)

As mentioned above, there have been various attempts by policymakers to implement at least some aspects of diversity in the workplace. In this area, gender equality has probably been one of the most discussed

topics after the Second World War. In so-called developed economies<sup>4)</sup> such as Japan, it is safe to assume that women have suffered and are still suffering discrimination in the workplace mainly because they might, one day, become pregnant: since mothers are still expected to shoulder most of the burden related to childcare, they have been considered a possible liability – or waste of resources – by employers and therefore their careers have been systematically impaired. Compared to other medical situations that involve also men, where the entire procedure is usually managed much better – for example, cancer prevention and treatment –, birth remains a unique case in which women are expected to “naturally” know what to do – therefore receiving relatively limited information and psychological support – and experience a great deal of mistreatment sometimes bordering on violence – just to name a few: unauthorized episiotomy, impossibility of elective cesarean delivery, unavailability of epidural treatment, lack of free postpartum rehabilitation including pelvic floor exercises and psychological support, lack of information on preeclampsia and other pregnancy-related disorders, etc. The amount of information that a woman with child is expected to obtain and manage by herself would be considered excessive in any other situation – just to give an example, imagine a cancer patient who has to search for information about their own after-surgery rehabilitation procedures and has to entirely pay for them as it still happens for postpartum rehabilitation in most countries –, and a woman is ideally expected to do so while working her full-time job, if she does not want to jeopardize the career that she has built until that point. Therefore, any real change will be difficult as long as childbirth is androcentrically construed as the “miracle” of life surrounded in mystery, instead of a – potentially fatal – medical condition that must be centered on the needs of the soon-to-be mother, and that involves a certain amount of risk, thus requiring the same degree of attention and public management as any other

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4) It is important to remember that so-called transitioning and developing economies did not really have a say in establishing the definition of development, which might itself be challenged.

serious procedure – considering that the public sector could more efficiently achieve an economy of scale when providing the related services –, including the necessity to fully inform and emphatically support both parents. Women are, also, less believed by doctors (Zhang 2021) – it takes much more time and effort for them to be taken seriously, as evidenced by the incredible amount of underdiagnosis of endometriosis, heart attack, ADHD, and virtually any other health condition when it affects women –, which just adds to the reasons why they might not want to get involved with the health system in the first place. Thanks to information technology, a thorough and efficient management of the process is not impossible, for example by capitalizing on the already-existing electronic health records,<sup>5)</sup> which, in the specific case of pregnancy, could be used to manage pre and post-natal health checks with email reminders, to quickly consult a doctor also via on-line meetings, to find hospitals that perform abortions/epidurals, to find a doula/mentor, to book affordable 24/7 childcare services, to receive mental health support, to consult Government-approved on-line manuals containing all the important information related to pregnancy complemented by a 24/7 chat system with AI technology, etc.

Apart from the abovementioned procedural and informational burden related to childbirth, women are also doomed to take the fall when the child is born because of how most workplaces are designed. As long as flextime and different working styles in full-time jobs are not an option in most companies, it is often infeasible to deal with small children – particularly prone to emergencies, such as sudden sickness, etc. – while keeping a full-time job. A focus on results, regardless of where they are produced, could be a good

starting point, but, once again, it depends on how the company is managed.<sup>6)</sup> Also, the current career path in so-called developed countries, once again tailored on men, puts the most difficult phases – career start and career consolidation – during the fertile years of women, therefore it would be very important to speed up the career of talented young people so that they can achieve a stable position sooner – better jobs for women tend to mean more children (Kinoshita and Guo 2015), although there are other important factors, such as parental leave (Del Rey et al 2021). Last but not least, there is the issue of money: in the last 40 years, wages have basically stagnated (OECD 2021a), whereas costs of living have usually increased manifolds and are still on the rise (OECD 2021c). Therefore, the purchasing power of people under 40 is nowadays ridiculously low, making the choice to have children not rationally and economically feasible for many. The younger generations are simply making the most sensible choice by deciding not to build a family, and blaming them – and especially women – in this context would be completely unjustified.

Regarding best practices in this regard, by burdening mothers and fathers in the same way with house care obligations and by allowing better work-life balance, it is reasonable to expect that women would not be negatively affected by pregnancy anymore. In fact, one of the reasons why pregnancy becomes so disruptive in terms of career is precisely the management's lack of flexibility. Sometimes, women “voluntarily” leave a position or do not apply for certain jobs because they fear that they will never be able to raise a family if they work there, thus giving room to the unacceptable and logically fallacious conclusion that they are satisfied this way. However, for example for Japan, the

5) Electronic health records (EHRs) in the EU can be accessed by private citizens through online portals and usually contain a person's entire medical history. Depending on the Member State, they can be used for health communications and other services as well.

6) One negative example from Japan that is particularly detrimental for women is what is sometimes called *nomiikeeshon* (from *nomu*, to drink, and “communication”), which describes the practice of drinking together after work in order to bond among colleagues. However, it is seen as an obligation (those who do not participate usually suffer career-wise) and de facto extends unreported working hours into late at night, apart from it being a slippery slope towards the harmful habit of alcohol abuse. Moreover, it could be an especially unpleasant and distressful experience for women, who are more easily subject to microaggressions and sexual harassment (see what happened in the Shiori Ito case), or backlash at home by their partner and children if they return late.

abovementioned White Paper unsurprisingly highlights exactly the opposite: mothers would be much happier if they could keep their full-time jobs (Gender Equality Bureau Cabinet Office 2020). One of the best practices in this regard is perhaps to guarantee the same, mandatory parental leave for both fathers and mothers. The EU has recently taken an important step in this direction by passing the new directive<sup>7)</sup> 2019/1158 on work-life balance,<sup>8)</sup> according to which Member States must offer at least 10 days of paid paternity leave, in addition to a parental leave of at least four months, two of which cannot be transferred to the other parent. Some countries already provided more; others have to update their national legislation by August 2022 (European Parliament 2019). The new law is expected to have a positive impact on women's employment in connection with other measures, although it remains to be seen how it will be implemented. Moreover, with reference to support for mothers, France is the only Member State that offers post-natal rehabilitation for free, and that applies the *quotient familial* (French Ministry for the Economy and Finance 2021), which takes into account household size for taxation purposes – not to be confused with family benefits and similar allowances and/or exemptions, that exist also in other countries and are sometimes criticized as a disincentive for women's labor, although their assessment is quite complex (Yokoyama 2018). Also, some EU Member States introduced binding diversity quotas over time and there is the proposal to extend a similar system across the Union (European Parliament 2021), but the topic will be discussed more in detail in a future paper.

## 5. Conclusions

In this paper, a brief analysis of diversity in the workplace as a way to manage demographic change

was offered and then complemented by hinting at some best practices that were effectively implemented in the EU in order to support gender diversity. It was not possible to cover the full range of interventions, but it was a first attempt to approach the topic from the point of view of a labor law scholar who researches on anti-discrimination law in Japan. As mentioned above, ageing societies are not negative per se, but the way they will react to change will fundamentally determine the outcomes. This situation could serve as a precious chance to move forward instead of endlessly perpetuating the existing system with all its deficiencies. From the point of view of governments, diversity can be seen as a relatively inexpensive strategy to foster a more well-balanced working environment. A better-organized support for childrearing that make use of modern technologies to reduce the burden on parents, equal mandatory parental leave, gender quotas and the recalibration of taxation systems are just some of the tools that might be beneficial for gender diversity. However, obviously, law and policies will be successful only if they receive adequate support by the judiciary and citizens, therefore building consensus is key. For example, pushing for diversity via national legislation when management is still loyal to outdated practices could end up becoming extremely costly in terms of mental health for minorities and eventually driving them out of the labor market, thus defeating its original purpose of increasing their labor participation. Japan is already moving in this direction, albeit slowly, together with other G7 countries, but the recent COVID-19 crisis contributed to shed light on the fact that not much has changed for weaker categories of workers, such as women, which are “ritually” sacrificed in time of distress (Riminucci 2022). Maybe in the next few years it will be possible to analyze whether more diversity-ready labor markets managed to soften the negative

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7) For those who are not familiar with the system, an EU directive “shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods” (Art. 288 of the Treaty on the Functioning of the European Union), which means that it is up to each EU Member State to implement it via national legislation by a certain date. If they do not comply, they will be subject to penalties.

8) Directive (EU) 2019/1158, <http://data.europa.eu/eli/dir/2019/1158/oj>.



impact of COVID-19 or not. In any case, diversity, as mentioned above, is definitely worthy of analysis, although it might not offer a definitive solution to the issues of ageing societies, and further elaboration stemming from this preliminary overview will be presented in a future, longer paper on mandatory diversity quotas.

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