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Author	和氣, 直子(Wake, Naoko)
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A Sociolinguistic Consideration of the Reasons Why Sex Discrimination in Employment Advertisements Did Not End After the Revision of Japan's Equal Employment Opportunity Law

Naoko WAKE

Among the previous studies on the relations between language and gender, those pointing out the gender-discriminatory language of newspaper "help wanted" advertisements may not have been rare. However, most were limited to the studies on the generic use of *he* and *man*, the use of morphologically or lexically gender-marked occupational titles, or some discussions on the gender non-neutrality of occupational titles that are morphologically unmarked as to gender.

The focus of this article, on the other hand, is to suggest the significance of sex indexing in employment advertisements, as well as terms that express fixed ideas about the professions of women or men. In particular, it aims to illustrate how sex indexing, having escaped the watch of lawmakers and most linguists with respect to employment advertisements, functions as an effective form of recruiting employees of the preferred sex after the 1997 revision of the Equal Employment Opportunity Law in Japan.

1. Equal Employment Opportunity Law and Employment Advertisements

Before April 1, 1999, many employment advertisements in Japanese newspapers were placed in the "male", "female" or "male and female" columns, and the advertisements regularly included gender markers such as

“josei muki (suitable for women)”, *“dansei motomu* (recruiting men)”, *“weitoresu* (waitress)”, or *“kango-hu* (female nurse)”.⁽¹⁾ Subsequently, the 1997 revision of the Equal Employment Opportunity Law of 1985 (the “1985 EEOL” and “1997 EEOL”) strengthened the ban on discrimination against women.⁽²⁾

With respect to recruitment and hiring, the 1997 EEOL prohibits discrimination against women, while the 1985 EEOL only placed a duty on employers to endeavor to provide equal opportunity to women. To this end, the Guidelines on Appropriate Measures Employers Should Take with Respect to Recruitment and Hiring, and Assignment, Promotion and Training (“the Guidelines”) forbids, as a general rule, placing job advertisements in columns designated by one sex or to specifically refer solely to either female or male in any advertisement without otherwise indicating any intention not to discriminate based on sex. Therefore, *“dansei soogoo shoku* (male career track)” and *“josei ippan shoku* (female general track)” must now be replaced, for example, by *“soogoo shoku* (career track)” or *“danjo soogoo shoku* (male/female career track)” and *“ippan shoku* (general track)” or *“danjo ippan shoku* (male/female general track)”. If sex is to be referred to, both sexes must be specifically mentioned, as in *“waitaa, weitoresu* (waiter, waitress)” or as in the above examples with the word *“danjo* (male/female)”.

While some employers ended overt discrimination in hiring, many members of the society would agree that sex-based segregations in the workplace are not unusual. Some might suspect that they are due to practices other than gender-specific advertising, which supposedly must have ended after the 1997 revision. However, a closer look at the language of advertisements should reveal that, aside from clear violations of the law by simple references to one sex, there are subtle uses of linguistic resources, which allow for advertisers to continue practices that limit certain

job openings to one sex. Some of these resources are a nonreferential female index *o*-, illustrations or photographs of persons of one sex, the form of “no gender referring”, and phrases describing fixed ideas about men or women. In the next section, the possibility that the prefix *o*-, as in the word “*o-shigoto*”, contributes to the indexicality of female applicants without specifically referring to the preferred gender will be studied.

2 . The Prefix *O*-

2.1 *O-shigoto*, soft affect and women

The prefix *o*- is commonly used in employment advertisements, particularly to form the word *o-shigoto* and *o-tetsudai*, as in “*huyoo koojo-nai no o-shigoto desu* (work within the dependency tax deduction requirement)” or “*shikijoo sagashi no o-tetsudai* (assisting marrying couples to find wedding ceremonial halls)”. Like any other linguistic use, the prefix does not appear at random but is related to the special meanings intended by the employers. Specifically, the prefix is connected to such elements as the contents of the jobs, work hours, gender, and the stance of the advertisers toward these factors.

Table 1 shows the numbers of the advertisements that included the words *o-shigoto* or *shigoto* in twelve issues of *The Asahi* in 2001. In the table, the advertisements are classified into two categories in accordance with the terms of employment : 1) full-time, regular employment positions, and 2) part-time or temporary employment positions, including placements by “worker dispatching” agencies, and positions which allow full-time and permanent employment only under certain conditions.

Table 1 Employment Advertisements with *Shigoto* or *O-shigoto* in 2001

Terms of Employment	<i>Shigoto</i>	<i>O-shigoto</i>
Full-time, permanent employment only	33	11
Part-time, temporary, or full-time	64	182
Unknown	3	1

Table 2 Employment Advertisements with *Shigoto* or *O-shigoto* in 1998

Terms of Employment	<i>Shigoto</i>	<i>O-shigoto</i>
Full-time, permanent employment only		
Male	4	2
Female	8	4
Male/female	15	3
Not indicated	12	1
Total	39	10
Part-time, temporary, or full-time		
Male	1	0
Female	26	69
Male/female	6	14
Not indicated	15	11
Total	48	94
Unknown	11	3

Table 2 illustrates the results of a similar investigation of advertisements from 1998, but relevant advertisements are also classified into gender categories in accordance with the availability of referential gender markers.⁽³⁾ According to Table 1, the word *shigoto* seems to be more associated with part-time or temporary employment, *shigoto* being less formal than *gyoomu* (duties), *shokushu* (employment category) or *shokumu* (professional duties). Affixing *o-* to *shigoto* further augments the suggestion that the employers are considering part-time or temporary work. In Table 2, which shows the results of an analysis of advertisements from the

year when employers more candidly indicated their preferences of gender, the number that stands out the most is the one indicating the connection between *o-shigoto*, part-time or temporary employment, and the female gender. Although it is not specifically noted in Table 1, there were some advertisements for *o-shigoto* with female markers in 2001 as well.

O- has been considered to be a candidate for indexing female speakers, addressees or referents at least for a few centuries. As early as 1692, women were taught that they “should stutter and talk softly.... They should soften words by affixing ‘*o*’ and ‘*moji*’” (*Onna Chooohoo-ki*).⁽⁴⁾ However, its use is better characterized by certain affective dispositions rather than the female gender. Among the three main functions of *o-*, the honorific, humble and ornamental, the function that is often considered feminine is the ornamental *o-* (Kamei 1978). This function is to express such affect as elegance and politeness. However, the *o-* in *o-shigoto* may be honorific or ornamental, paying respect to the applicants and the client-companies of the placement agencies about something that is associated with them (honorific) and also being polite to the parties involved (ornamental). The prefix may also “claim” (Ochs 1993 : 288) the identity of the polite future employees, who would call their jobs that in the ornamental context.⁽⁵⁾ All of these meanings help to soften the image of *shigoto*, indexing that the work is something to be enjoyed, with shorter or flexible hours and less responsibility, for instance. Using Ochs’ (1990, 1992, 1993) notion of indexing social identity, it can be argued that women stand in a special relation with the particular use of *o-shigoto* compared to men, because the politeness, elegance and other attitudes exerted toward the work being advertised is associated with the characteristics and acts more often expected of women than men in Japan.

2.2 The mechanism of indirect indexing

In semiotics, the function of "indexing" is defined as signaling the existence of a contextual element (Silverstein 1976). As for the social mechanism of indexing, Ochs' contribution, built on Silverstein's notion of referential and nonreferential indexing, is interesting. While many sociolinguistic studies in the 1970's and 1980's fought to discover the linguistic characteristics of social identities of men and women, Ochs took the position that the relation between most linguistic resources and certain social identities are "constitutive", or "indirect", rather than direct. That is, most linguistic features that index a certain gender do so by way of first directly indexing particular affective dispositions, acts or activities, which are considered to be the characteristics of that gender. Besides a small number of referential indexes such as "Mr." and "she", most linguistic codes are in a constitutive relation with gender (Ochs 1990, 1992). If more girls talk as if their vocal chords are smaller than boys do (Ochs 1992, citing Sachs 1975 and Andersen 1977), the linguistic characteristics and the gender are related only because the soft affect that the feature indexes is in a special relation with that gender. It is not the biological sex that determines the use of particular linguistic features, but one is considered to "constitute" the gendered self or others by employing some features, which index certain stances that are considered appropriate for that gender within the particular community.

It is not surprising, then, that indexing in advertisements the particular qualities and work styles relating to the advertised positions constitutes particular addressees and referents. Advertisers have been prohibited from making one-sex references, but in a country where people share the general understanding that the "soft" affect and activities are considered feminine, indexing these affects and activities with *o*- and other nonreferential indexes helps to convey the intent to hire females.

It seems true, however, that the indexicality of each linguistic resource is too broad to point to one social group (Ochs 1990). Therefore, the indexical narrowing of the stance, acts and activities that have a special relation with particular social identity is often achieved by constitutive interactions of multiple linguistic and nonlinguistic resources in the text (Ochs 1990). In its relation, occupational titles and descriptions about conditions for employment or about preferred applicants, used in addition to the prefix *o-*, can contribute to communicating the gender requirement. The titles and job descriptions may display no gender requirement on their face, but nonetheless can be directed toward a particular gender.

The connections among "*o-shigoto*", certain types of work and females can be observed also from the change in the language of the advertisers in order to index different addressees. For example, one temporary placement company that utilizes "*o-shigoto*" in one advertisement, apparently with females as targets, uses "*shigoto*" in another advertisement.⁽⁶⁾ In the latter advertisement, which specifically refers to male and female recent and prospective graduates, the company emphasizes the merits of temporary placements, which might lead to permanent work if the workers are successful in the on-the-job trainings. The advertiser clearly distinguishes the uses of "*o-shigoto*" and "*shigoto*" commensurate with the desirable ways of working for the targeted gender and age groups, which the words help to index.

The employers are hoping to avoid going "on-record" (Tannen 1986 : 68, Ochs 1992 : 341) about gender by way of directly indexing the affect or acts that constitute a particular gender. Because the linguistic features that are not specifically listed in the Guidelines and are observed in some advertisements have multiple meanings (e.g. the prefix *o-* is associated with both elegance and females), advertisers are able to indirectly index the gender of their prospective employees.

3. More Features to Index Gender

The prefix *o-* is only one of the features that index gender of the prospective workers. Photographs of female models can be seen in some of the advertisements with the word *o-shigoto*. Photographs and illustrations of female or male models and famous figures can be frequently observed in employment advertisements in Japan, and they are examples of how nonlinguistic features are involved with the indexing of certain social categories.

Furthermore, indexing gender in employment advertisements is not something unique to Japanese or a language system that has rather distinct “female” and “male” usage. In the United State, a few years after Title VII of the Civil Rights Act of 1964 and the Equal Employment Opportunity Commission Guidelines on Discrimination Because of Sex were adopted, some new forms replaced “girl Friday” and “gals Friday”. The new titles that made an appearance were “GIRL/guy FRIDAY”, “GAL/man FRIDAY”, “GALS/men Friday” and the like. With the female marker in capital letters and the male marker in the lower-case, the context created was that women were the priority and men were peripheral with respect to these positions.

The indexical scope of *o-* and other resources by themselves may be too broad to encode women or a specific way of working, but in unison with referential and nonreferential indexes and other linguistic and nonlinguistic features, these features claim the gender identity of the addressees and referents.

4. Indirect Discrimination and Gender Referring

Further examination of descriptions about addresses or the positions advertised may be necessary. Gendered meanings of occupational titles such as “secretary” (female) and “engineer” (male) have been argued

elsewhere (see, for example, Baron 1986). In addition, some advertisements state or imply gender and marital status, commenting that the addresses are not the main wage earner of their household or that their domestic responsibilities should allow them for a limited amount of work outside home. Indications by Japanese advertisers that the employees will qualify for the dependency tax deduction and expressions such as "*aita jikan ni hataraki masenka* (would you like to work in your spare time?)", and "Returning to work", "Housewives—need extra money?", "Do you need an extra check to help defray expenses?" in advertisements from the 1960's in the United States examined here are some of the examples.

Alluding to the dependency status, similar to the "head of household" requirement that some employers in Japan are still using as a condition for receiving certain fringe benefits, constitutes "indirect discrimination" against men and women.⁽⁷⁾ Discrimination against men is a possibility because men, often considered the heads of households, are not likely to be seriously considered for positions for "spousal dependents". Married women, the "spousal dependents", are not necessarily in a better position in the sense that they are in effect restricted to low-paying work. Therefore, such references or requirements are sanctioned in countries where indirect discrimination is proscribed. Japan is not one of them, however, allowing continued designation of one sex in such manner.

To be sure, the sole uses of female markers are not rare in Japanese advertisements to this day. They range from outright violations of the 1997 EEOL, such as "*joshi paato boshuu* (recruiting female part-time workers)", to adverts such as "*josei nimo muku shigoto desu* (also suitable for females)" (without indicating an intention not to discriminate), and "*dansei ga ooku katsuyaku sareteiru shokuba desu* (workplace where many men are playing an active role)". Suggesting whether a position is or is not "suitable" for women or men perpetuates assumptions about either sex, even with the

word “also”, and risks being interpreted as having the intention to discriminate unlawfully. Descriptions about the gender makeup of the workforce can also suggest an intention to treat the particular gender favorably. Similar adverts have disappeared by and large in many industrialized countries for these reasons.

5. Use of Silence

Another significant way of implying one sex is the use of “silence”. One representative example is an advertisement that reads: “(1) *danjo tenpo kanrisha* (male and female store managers), (2) *danjo kanbu koocho* (male and female managerial candidates), and (3) *feisu kea adobaizaa* (facial-beautician)”. By listing three employment positions, specifically referring to both sexes for the first two but leaving out the information on sex for the third position, the employer leaves for the readers to interpret the third position to be for women. In the absence of an explicit representation of the intent to hire new persons without regard to sex with respect to the third position, one sex may be indexed because the employers and the readers share the knowledge about the appropriate sex for the particular way of working. A form without a referential gender marker is a linguistic resource, strategically employed here to imply particular gender by way of suggesting unmarked behaviors for that gender. Because the relation between form and meaning is not fixed, a new meaning of an absence of lexical sex reference is created and is being reproduced by some employers (see Eckert & McConnell-Ginet 1999).⁽⁸⁾

As this contrast of using referential sex markers (i.e. both sexes are recruited) and not using them (i.e. limited to one sex) becomes widespread, an employer is more and more able to imply one sex by listing a number of different employment positions and referring to both sexes for only some of them. The social meaning of “*danjo*” is male and female (or

mostly male and some female or vice versa), and no mention of gender may be a way to imply one sex.⁽⁹⁾ This exercise of “the right to remain silent” may be meaningful also in an advertisement for a single line of work. Written “*ippan jimu* (general clerical work)” instead of “*danjo ippan jimu*” may indicate that one sex is preferred. Similarly, absence of gender markers in some advertisements for managers may mean that men are intended.⁽¹⁰⁾

6. Enforcing the Equal Employment Opportunity Law

The canon is that “employers must provide equal opportunity to females as to males in recruitment and hiring” (1997 EEOL Art. 5). The Guidelines and Commentary on the Revised Equal Employment Opportunity Law do not specifically list most of the language usage in recruitment advertisements described above.⁽¹¹⁾ However, practices that discriminate against women based on sex, even if not mentioned word-for-word in the Guidelines, are violations of the 1997 EEOL.⁽¹²⁾ Discrimination against women includes excluding women “from recruitment and hiring by reasons of their being women” and recruiting and hiring only women for certain types of work, such as part-time, low-paying, secretarial and other jobs.⁽¹³⁾ Because the above sampled advertisements indirectly index or are otherwise directed toward particular sex of the addressees, and the addressees know this, the advertisements have the effect of excluding women from applying for “men’s jobs” and of restricting them to applying for “women’s jobs”. This violates the general rule that women must be accorded equal opportunity as men in recruitment, including advertising in newspapers (Asakura 1999). It must also be noted that the preferential treatment of women may cause injury to men, but unfortunately the 1997 EEOL keeps the one-sidedness of the 1985 EEOL in that it does not protect men in the event they are injured as a result of more advantageous opportunities to women (See Sugeno 2002).

The difficulty is that it is impractical to set up an outright ban on the use of many of the linguistic features that indirectly index gender in advertisements, because isolated forms have social meanings other than gender. Moreover, language users are constantly struggling (Gal 2001) to negotiate new meanings of linguistic resources, and therefore it is impossible to list all instances of gender indexing. However, advertisers are able to achieve fairly precise indexing of the preferred group by resorting to multiple linguistic and nonlinguistic resources. Most important, language that indexes women and terms expressing ideas that are considered particularly appropriate for women in advertisements, even without the gender markers and other language specifically listed as illegal in the Guidelines, are sometimes more damaging to the advancement of equal opportunity because they often exaggerate the “female talk” or “female affect”, promoting fixed ideas about women’s place at work and in the family.

The following are some of the steps for improving this situation: adding examples of prohibited language in the Guidelines, such as “predominantly female workplace” or “predominantly male work environment”, used with the view to attract applicants of that dominant sex in the areas of already traditionally female or male profession; requiring an employer to prove its intention not to discriminate on the ground of sex upon request for administrative advice or judicial remedy by an individual with a genuine interest in the advertised position, who was prevented from applying because of language that indexes gender in the advertisement, particularly where either sex is severely underrepresented in the workforce ; making more readily available the publication of the names of the employers, which have failed to use the same recruiting and hiring procedures, standards and selection methods between women and men ; and implementing gender-neutral policies such as abolishing the spousal dependency tax deduction and revising the 1997 EEOL to prohibit indirect discrimination and

discrimination against men.⁽¹⁴⁾ More thorough regulation of sex discrimination by the government and the judiciary should send a clear message that they are “serious” about providing equal opportunity in all areas of employment, and that advertising is no exception.

7. Conclusion

Japanese employment advertisements that discriminate against females are supposed to have disappeared with the 1997 revision of the equal opportunity law. However, this article has illustrated how advertisers have been communicating their intent to hire females in female dominated areas of work by indirectly indexing women through simulations of the “female talk” or the affects associated with females. The advertisers are taking advantage of the fact that language that indexes gender also has social meanings other than gender. Moreover, because the meanings accorded to linguistic forms are fluid, advertisers are constantly struggling to negotiate new, discriminatory meanings of linguistic resources. Furthermore, in addition to indexing gender, advertisers convey their intent to hire women by specifically expressing ideas that are considered common for women.

These uses have allowed the employers to signal one sex without making a specific reference to it, in the hopes that this constitutes no discrimination. Considering the functions of these uses and the frequency with which they are observed, these languages are arguably a more powerful weapon in sex discrimination than gender reference, because they can promote the stereotypical stance toward male or female work in the most “natural” way, without the readers being conscious of it. However, there are means to help reduce the cases of gender indexing and expressions that convey the intention to treat women and men differently in employment advertisements, despite the multiple meanings encoded by each linguistic feature. Gender-

based division of labor may work well for certain government policies and for some women and men, but law should not favor it at the expense of the right to be treated equally.

Notes

- * I wish to extend my special appreciation to Professors Norimitsu Tosu and John Scahill of Keio University for many valuable insights they have given me in writing this article.
- (1) As of March 1, 2002, the official titles of the female-marked “*kango-hu* (nurse)”, “*josan-pu* (midwife)” and “*hoken-hu* (public health nurse)” were changed to morphologically gender-neutral “*kango-shi*”, “*josan-shi*” and “*hoken-shi*” by the revised and renamed Hoken-shi, Josan-shi and Kango-shi Hoo.
- (2) The full title of the revised law is “Koyoo no Bun’ya ni okeru Danjo no Kintoo na Kikai Oyobi Taiguu no Kakuho-too ni Kansuru Hooritsu (Law Respecting the Guarantee of Equal Opportunity and Treatment between Men and Women in Employment)”. See Araki (2000 : 455).
- (3) The samples for Tables 1 and 2 were taken from the following Monday issues of the Tokyo edition of *The Asahi* : January 8, February 5, March 5, April 2, May 8, June 4, July 16, August 6, September 3, October 1, November 5, December 3, 2001 and January 5, February 3, March 2, April 6, May 11, June 1, July 6, August 3, September 7, October 5, November 2, December 7, 1998. The Tuesday issue was used for a week without a Monday paper.
- (4) *Nihon Kokugo Daijiten*, 2nd ed.
- (5) According to Bakhtin (1981), utterances may have several voices.
- (6) One advertisement reads, in relevant part : “*Kugatsu kaisai no daiichidan dewa go-tooroku to dooji ni kazu ooku no kata ni o-shigoto o goannai shimashita* (In the first sign-up session in September, we referred many jobs to the applicants as they signed up).” Another advertisement by the same placement agency reads, in relevant part : “*Anata o sokusen-ryoku ni ikusei. Jishin o motte shigoto ni tsukemasu* (We will train you to be effective at work immediately. You will be at a job with confidence).”
- (7) Indirect discrimination occurs when a condition is applied equally on both sexes but, in fact, it adversely affects one sex and there is no business necessity for the condition. See Sugeno (2002).

- (8) Creation of a new discriminatory meaning of a language use can be reinforced by the failure of the governmental authorities to strictly enforce the law.
- (9) Also observed in advertisements in Japan are cases where “male/female” is written for management positions and “female/male” for administrative assistant or similar jobs. Because “female/male” is more marked than “male/female”, and because it is used in comparison with the unmarked form, the marked form can convey the intention to hire women, and “male/female” can convey the intention to hire men.
- (10) Law-abiding advertisers having a sincere intent not to discriminate may leave out referential markers, which would be more common in communities where giving equal opportunity to both sexes is more accepted by the public.
- (11) Roodoo-shoo Josei-kyoku (Women’s Bureau, Ministry of Labor), *Kaisei Danjo Koyoo Kikai Kintoo Hoo no Kaisetsu* 2 (1997). See Asakura (1999).
- (12) Kintoo Tsuutatsu Art. 2 Prov. 7 (1).
- (13) See the Guidelines and Sugeno (2002). On the contrary, positive action to promote female work in male dominated workplaces is lawful. EEOL (1997) Art. 9.
- (14) Because language that indexes one sex is likely to deter persons of the other sex from applying for the advertised position, a disproportion between the sexes represented in the applicant pool may not necessarily be proof of an intention not to discriminate based on sex.

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