

Employment Problems and Disputing Behavior in Japan

Isamu Sugino

Lecturer, Faculty of Letters and Education, Ochanomizu University[†]

Masayuki Murayama

Professor, School of Law, Meiji University[‡]

1. Introduction: The Current Situation of Labor Disputes in Japan

The face of labor disputes has significantly changed in Japan since the 1970's. Labor disputes used to generally mean collective disputes between the management and the trade union. The mechanism for handling labor disputes was also geared to collective disputes: The nationwide system of Labor Relations Commissions at the national and prefectural levels was expected to handle collective disputes mainly by conciliation, and the national network of Labor Standard Supervision Offices oversaw the compliance of the labor standards among employers.

However, the percentage of organized labor declined significantly from around 35% in 1970 to less than 20% in 2004. This resulted in the decrease of collective disputes. On the other hand, the collapse of the “bubble economy” at the end of the 1980's increased the number of unemployed people through the “restructuring” of companies. Forms of labor contracts became increasingly diversified, as prohibitive regulations were gradually lifted. The legislation for gender equality in employment also facilitated the diversification of labor contract by allowing companies to hire women for work previously prohibited by the law. These changes brought about the increase of individual labor disputes. Now a labor dispute mostly means an individual dispute in which an individual employee confronts her/his employer, often without support by the union.

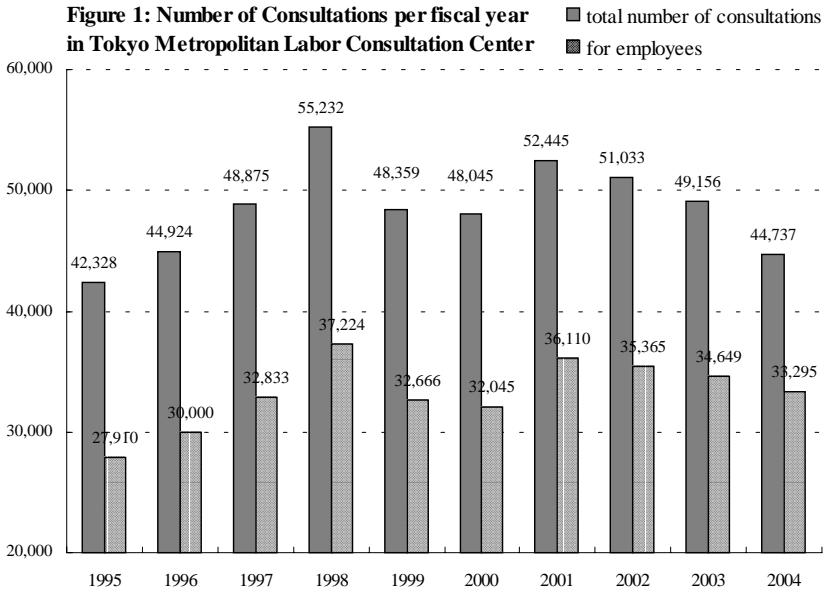
Until 2001, there were few institutional ways to handle individual labor disputes except the ordinary court system. Tokyo Prefecture was an exception, where a section of the prefectural government, now called the Tokyo Metropolitan Labor Consultation Center, tried to respond to needs arising in individual labor disputes. As Figure 1 shows, the number of consultation cases increased rapidly during the late 1990's and still stayed at a high level in 2004.¹ In most prefectures, people with employment problems were thought to

[†] sugino@cc.ocha.ac.jp

[‡] muramasa@kisc.meiji.ac.jp

¹ The fluctuation of the statistics do not always reflect the change of the demands for

visit or call Labor Standard Supervision Offices, which were said to provide “de facto” help or consultation to employees in trouble. However, as the Offices are administrative agencies without legal jurisdiction over civil disputes, they did not compile any statistics on this matter, and we do not actually know how many individual labor disputes they handled.



Source: "Brochure of Labour Consultation and Intermediation" (1999-2004)

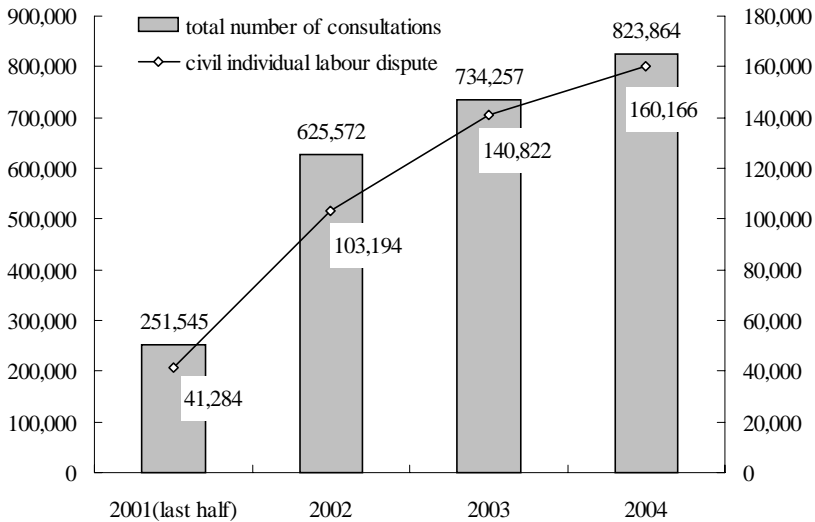
This situation began changing in 2001, when the Diet passed the Law for Facilitating the Resolution of Individual Labor Disputes. The Ministry of Health, Labor and Welfare has its local bureau in each prefecture. Under the law, each Prefectural Labor Bureau set up comprehensive labor consultation centers at the main office, major Labor Standard Supervision Offices and large railway stations. The center was designed to be a “one-stop” consultation center, providing consultation about all kinds of employment problems.² In

consultation, as the number of people who worked for consultations at the metropolitan government was not stable throughout the period. As the present prefectural policy is not to duplicate the work which the national government does, the size of the consultation service tends to get reduced.

² The Director of the Prefectural Labor Bureau can, if necessary, give advice or guidance

2004, the number of centers totaled about 300 nationwide. How quickly the centers began to be used by an increasing number of employees is well documented in Figure 2. In 2004, the centers gave consultation to 160,166 individual labor disputes, which had been out of the jurisdiction of the administrative regulation before the legislation.

Figure 2: Number of Consultations in Prefectural Labour Bureaus



Source: Enforcement situation of Law on Promoting the Resolution of Individual Labour Dispute(2004)

The Diet passed another law for individual labor disputes in 2004, under which labor tribunals will be set up by summer 2006 to conciliate and, if conciliation fails, adjudicate on individual labor disputes. If a party makes objection to the judgment of the labor tribunal, the ordinary litigation procedure starts at the district court.

Thus, these two statutes, one in 2001 and the other in 2004, instituted a nationwide network of ADR for individual labor disputes. It is a characteristic of Japanese ADR that it is often promoted or organized by administrative agencies not only for collective labor disputes but also consumer problems and

to disputing parties. The Director can also send the case to Dispute Adjustment Committee, which tries to facilitate the settlement of the dispute.

other civil disputes. This characteristic is now extended to the resolution of individual disputes.

Although we have now a whole set of dispute resolution mechanisms for individual labor disputes, we do not really know how widespread individual labor disputes are and how willing people are to use their services. Not all employees with individual labor problems go to the centers for consultation. There may not be many employees who go to see lawyers for their problems. Even fewer probably dare to go to the courts.

2. Civil Justice Research Project: Research Method and Sample

To answer such questions such as how widespread civil legal problems are and how people try to handle those problems, we conducted a national survey, including all kinds of routine legal problems as well as individual labor disputes, arising in the private lives of the Japanese people.³

The survey was carried out in spring 2005. We randomly chose 25,014 Japanese people from 20 to 70 years old.⁴ The survey consists of two parts: a face-to-face interview and a self-administered questionnaire. As 12,408 people completed both parts, the response rate was 49.6%.

Compared to the general population of this age group, the group of our respondents has some biases: Males are underrepresented (47.0% v. 49.8%) and young people, particularly the 20-24 age group, are also underrepresented (4.6% v. 8.8%). Part-time and self-employed workers are overrepresented (15.2% v. 7.9% and 14.9% v. 9.0%), while full-time workers are significantly underrepresented (37.6% v. 52.8%). Given these biases, we will be careful when we interpret results of subsequent analyses.

3. Experiences of Problems

In the survey we asked the respondents whether they had experienced some types of problems during the previous five years, by showing them examples of problem types: e.g. consumer problems, renting a house or an apartment,

³ The survey, Disputing Behavior Survey, is a part of the larger research project, Civil Justice Research Project, funded by the Ministry of Education, Culture, Sports, Sciences and Technology. In addition to the authors, Satoshi Minamikata and Keiichi Ageishi, both from Niigata University, Ryo Hamano from Rikkyo University and Ichiro Ozaki from Hokkaido University participated in the survey. As to foreign research projects of the same kind, see Miller and Sarat [1980-81], Genn [1999] and Pleasence et al. [2004].

⁴ It is a probability sample obtained through stratified two-stage sampling method.

family problems, traffic accidents, etc. as well as problems in employment. For the last type of problem, we listed, as examples, non-payment of wages, unfair dismissal, overtime work without payment, and sexual and non-sexual harassment at a workplace. We also asked respondents to answer freely if they had experienced a problem not listed among the examples.

The object of our survey is not household, but individual. As we wanted to know what kind of legal problems people had experienced in their private lives, problems that respondents experienced as employers are excluded from the survey.

The number of respondents who have some experience of problems is 2,339. This accounts for 18.9% of our sample ($n=12,408$). As the total number of experiences reported by the respondents is just 4,144, the average number of problem-experiences per respondent who reported at least one problem is 1.77. This means that about 19% of Japanese adults have experienced one or two problems during the previous five years.⁵

Table 1: The Experience of Employment Problems (Multiple Answers)

	Total		Male		Female	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
Unpaid Overtime	112	30.4	68	36.6	44	24.0
Non-payment of Wages	89	24.1	54	29.0	35	19.1
Non-sexual Harassment	62	16.8	17	9.1	45	24.6
Unfair Dismissal	36	9.8	18	9.7	18	9.8
Unfair Relocation	36	9.8	24	12.9	12	6.6
Sexual Harassment	28	7.6	3	1.6	25	13.7
Non-payment of Retirement Benefits	16	4.3	9	4.8	7	3.8
Others	49	13.3	19	10.2	30	16.4
Total	428	-	212	-	216	-
<i>n</i> of Respondents with at least one employment-related problem	369	100.0	186	100.0	183	100.0
<i>n</i> of Total Respondents	12,408	-	5,832	-	6,576	-

⁵ We did not ask respondents how many times they experienced the same kind of problem, as we found, in the preliminary survey, that respondents did not always remember exactly the frequency of the same kind of a problem and that counting the frequency could be difficult or problematical with some types of problems, such as those with neighbors. Therefore, our data do not show how many problems the people have experienced during the past five years, but rather how many kinds of problems they have experienced.

As is shown in Table 1, among 12,408 respondents in total, 369 respondents experienced at least one problem in relation to their employment during the previous five years. (The appearance rate of a respondent who experienced an employment problem is 0.03). These 369 respondents experienced 428 problems in employment. Thus, on average, a person who experienced at least one employment problem had 1.16 problems. When a respondent experienced a consumer problem or a traffic accident, the substance of the problem was usually just one incident, or one legal problem. However, when a respondent experienced an employment problem, it often includes more than one legal problem. For example, in one case, a request for a paid holiday, which had been rejected by her superior, led to harassment by the same superior. In another, harassment by colleagues led to involuntary resignation. Therefore, it is probably not rare that a respondent experienced a series of problems in the employment, but that s/he picked up one category of problem, which she/he considered most appropriate for her/his response.

Based on the appearance rate of the respondents who experienced employment-related problems (0.03), we can estimate how many people experienced at least one employment-related problem for the previous five years. 3% of the national population aged 20 to 70 years old (86,789 thousands) is about 2,604 thousand persons. For 95% confidence interval, the estimated number of people who had at least one problem in employment is between 2,343 thousand and 2,864 thousand persons, thus 468,600 to 572,800 persons per year.

As Table 1 shows, the most frequently experienced kind of problem is unpaid overtime (30.4%), followed by the nonpayment of wages (24.1%), harassment without sexual implication (16.8%), unfair dismissal (9.8%), unfair relocation (9.8%), sexual harassment (7.6%), the nonpayment of retirement benefits (4.3%) and others (13.3%). Others often include problems with the amount of wages and working hours. It is apparent that unpaid overtime working is the most common problem for Japanese employees. The non-payment of wages or salary is also a very common problem, and, if the reduction of wages, salary or working hours is included, the problem with payment is even a larger problem.

However, there are marked differences between men and women. For male workers, unfair relocation is the third most frequently experienced kind of problems and the fourth is unfair dismissal. In contrast, harassment is the most

frequent kind of problem for women. When sexual harassment and that without sexual implication are combined, harassment ranks highest among all kinds of problem for women (33.3%). Japanese female employees tend to have harassment problems without sexual implication more often than sexual harassment. However, it is also to be noted that women experienced unfair dismissal as often as men.

4. The Most Serious Problem and the Emergence of Disputes

In our survey we wanted to know how the respondents with problems tried to solve their problems. To obtain reliable data, we asked each of the respondents to choose the most serious problem and further asked them how they tried to solve the problems.⁶

(a) The Most Serious Problems

Among 369 respondents who experienced at least one employment-related problem, 232 respondents chose their problem in employment as their most serious problems. As Table 2 shows, the order of the problem types in percentage is not different from that of the overall problem experiences, except that the percentage of unfair relocation has become smaller than that of unfair dismissal.

Table 2: The Experience of Most Serious Problems

	Total		Male		Female	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
Unpaid Overtime	64	27.6	38	31.4	26	23.4
Non-payment of Wages	51	22.0	35	28.9	16	14.4
Non-sexual Harassment	29	12.5	7	5.8	22	19.8
Unfair Dismissal	22	9.5	10	8.3	12	10.8
Unfair Relocation	15	6.5	10	8.3	5	4.5
Sexual Harassment	10	4.3	1	0.8	9	8.1
Non-payment of Retirement Benefits	10	4.3	5	4.1	5	4.5
Others	31	13.4	15	12.4	16	14.4
Total	232	100.0	121	100.0	111	100.0

⁶ When a respondent experienced just one problem, we continued to ask how s/he tried to solve it.

(b) The Amount at Stake

We asked the respondents whether the problem was countable in terms of money and, if yes, whether they could tell how much was at stake. Table 3 shows that respondents did not consider the problem of harassment and that of unfair relocation as countable in terms of money, while they considered the other problems as countable. However, respondents often did not know the amount at stake even when they considered the problems to be countable in terms of money.

The average amount at stake is ¥1,413,000 or US\$11,775 (¥120=US\$1), which is considerably lower than the average amount (¥2,469,000 or US\$20,575) at stake of all the most serious problems. Yet, the average amount at stake concerning retirement benefits is large, and other average amounts at stake are also substantial, except sexual harassment and unfair dismissal problems.

Table 3: Amount at Stake Known, Unknown or Uncountable, and the Average Amount

Problems	Amount at Stake			<i>n</i>	Average of Known Amount*
	Known	Unknown	Uncountable		
Unpaid Overtime	38.1%	41.3%	20.6%	63	1,502
Nonpayment of Wages	86.3%	5.9%	7.8%	51	777
Non-sexual Harassment	10.3%	17.2%	72.4%	29	1,803
Unfair Dismissal	22.7%	36.4%	40.9%	22	384
Unfair Relocation	20.0%	13.3%	66.7%	15	3,767
Sexual Harassment	10.0%	10.0%	80.0%	10	140
Non-payment of Retirement Benefits	70.0%	30.0%	0%	10	6,100
Others	29.0%	25.8%	45.2%	31	435
Total	41.6%	24.2%	34.2%	231	1,413

* The average amount is shown in thousands.

(c) Contact Behavior and the Occurrence of Dispute

Problems in employment occur overwhelmingly in the private sector. 79% of the respondents with most serious problems said that principals on the other side were private companies and shops, while only 5% of the respondents said that public agencies were on the other side.

We then asked whether and in what way respondents had contact with the other side. The results are shown in Table 4. Half of the respondents did nothing

to solve their problems. This percentage is conspicuously higher than that for all the most serious problems. As a result, compared to the contact behavior for all the problems, respondents with employment problems less frequently contact with the other side by themselves or through the third party except family members or friends, or use the court.

Respondents with employment problems do not only find it difficult to claim, but also find their claims often rejected. Only in 28% of the contacted cases did the other side agree with the claim, while in 72% the other side did not agree.

Table 4: Contact with the Other Side (Multiple Answers*)

Action	Employment	All Problems
Talked Directly	34.9%	49.6%
With a Letter, Phone, or E-Mail	6.5%	17.7%
Through a Family Member or a Friend	7.3%	10.2%
Through a Lawyer	1.7%	5.2%
Through a Third Party Other Than Lawyer	12.1%	16.5%
Filed Conciliation	0.4%	2.4%
Filed Lawsuit	0.4%	0.8%
Took Other Court Procedure	0.9%	0.8%
Others	0.0%	0.4%
Did Nothing	50.4%	22.1%
The Opponent was Unknown	0.4%	3.7%
DK, NA	0.0%	1.0%
<i>n</i>	232	2,244

* Respondents who had contact with the other party could have contacted them in more than one way.

(d) What Makes Them Contact the Other Side?

Although more than half of the respondents with employment problems did not make contact with the other side, we wished to know what variables facilitated or discouraged contact behavior. To identify those variables, we did binomial logistic regression analysis with 12 of demographic, socio-economic, situational and other variables.⁷ Three variables appear significant: (1) junior

⁷ Demographic variables are gender and age; Socio-economic variables are education, family income, employment status and firm size; Situational variables are four factor variables obtained by factor analysis of 14 situational variables; other variables are legal connection—whether a respondent knew a legal expert—and past legal experience—whether a respondent had used a lawyer or the court.

Table 5: Logistic Regression analysis of Contact Behavior

	B	p	odds ratio
GENDER (RC=male)			
female	-0.665	.143	0.514
AGE GROUP (RC=40-44)			
20-24	-0.600	.500	0.549
25-39	-0.646	.383	0.524
30-34	-0.552	.446	0.576
35-39	-0.247	.730	1.280
45-49	-0.091	.896	0.913
50-54	-0.729	.321	0.483
55-59	-0.484	.513	0.616
60-64	-0.394	.642	0.674
65-70	-0.039	.967	0.961
EDUCATION (RC=high school)			
compulsory	0.654	.311	1.924
junior college	1.393	.007	4.027
university	0.013	.981	1.013
FAMILY INCOME	0.451	.444	1.570
SITUATIONAL FACTORS			
relational concern	-0.419	.053	0.657
cost conscious	0.709	.002	2.032
normative concern	0.379	.296	1.461
obviousness	0.307	.210	1.359
SOCIAL CAPITAL	0.525	.192	1.691
PAST EXPERIENCE	-0.120	.839	0.887
EMPLOYMENT STATUS¹⁾ (RC=full-time)			
part-time	0.832	.108	2.299
self-employed	1.444	.099	4.236
not-employed	0.857	.111	2.356

$n=182$, $-2LL_{model}=207.056$, $\chi^2(df)=45.052(23)$, $p<.005$

Hosmer & Remeshow test $p=.165$, Nagelkerke pseudo $R^2=.292$

1) As of the time when surveyed.

The four factor variables consist of Relational Concern (concern with the relationship with the other party, concern with other people's eyes on the occurrence of the problem, concern with other people's eyes on the resolution of the resolution of the problem; Cronbach's $\alpha = .765$), Cost Consciousness (concern with how much money one has to spend to solve the problem, concern with how much time one has to devote to solve the problem, concern with how long it takes to solve the problem; $\alpha = .691$), Normative Concern (consciousness about the law, personal seriousness of the problem, social seriousness of the problem, psychological burden besides money, time and efforts; $\alpha = .651$), and Obviousness (whether it is clear to whom one should claim; $\alpha = .726$).

college or vocational school graduates tended to make contact more often than high school graduates. This may have something to do with characteristics of their job conditions: semi-professional, independent, and skilled; (2) self-employed or family workers tend to make contact more often than full-time employees. Self-employed people also work independently;⁸ (3) those who are more aware of costs are more apt to make contact. Cost Consciousness is not correlated with the amount of money at stake.⁹

We speculate that Cost Consciousness is not really worry about costs, but rather an awareness of costs and that people aware of costs tend to take action for the resolution of their problems.

5. Consultation Behavior

(a) Information and Advice Seeking Behavior

When we face a problem, how we try to solve the problem often depends upon what kind of information we have and with whom we consult. In this sense, information seeking behavior and consultation behavior must affect subsequent problem-solving behavior and eventual outcomes.

According to our findings, only 9% of the respondents with employment problems sought information from books and 8% from websites, while 81% did not check either. However, more than half (52.6%) of the respondents sought advice from various people and agencies.

As Table 6 shows, people with employment problems often consulted with someone in family or at a work place: 46.7% consulted with family members or relatives, and 41% with colleagues at work. Out of these personal circles, government offices, including Labor Standard Supervision Offices, were most often consulted (21.3%), followed by trade union (13.1%), non-legal consultation at the municipal office (5.7%) and lawyer (4.9%). Overall, administrative agencies were consulted much more often than judicial-legal agencies. This is a characteristic of the overall consultation behavior for all the civil problems, but that is more evident in the case of employment problems.

⁸ Here, we must be careful to distinguish between the job a respondent had when s/he had a problem and the one at the time of interview. Our data indicate the latter. Therefore, we speculate that those who later became self-employed or continued to be self-employed tend to be independent and more apt to make contact with the other party, while full-time employees have too much to lose.

⁹ Pearson's correlation coefficient between these two variables is only -.097.

Table 6: Agencies and Persons Consulted (Multiple Answers)

Agency/Person	N	%
Office of National/ Municipal Government	26	21.3
Non-Legal Consultation Bureau at the Municipal Office	7	5.7
Police	1	0.8
<i>Lawyer</i>	6	4.9
<i>Quasi-Legal Profession</i>	3	2.5
<i>Consultation Bureau at the Bar Association</i>	2	1.6
<i>Consultation Bureau at the Court</i>	1	0.8
COLLEAGUES AT WORKPLACE	50	41.0
FAMILY/RELATIVES	57	46.7
Trade Union	16	13.1
Political Party/Politician	2	1.6
School Teacher	2	1.6
Medical Center	1	0.8
Others	3	2.5
Total	122	100.0%

Agencies in bolds indicate their administrative character and those in italics indicate their judicial character, while large capitals indicate people in personal relations.

(b) What Makes Them Consult?

As consultation could change the subsequent path of disputing behavior, we wished to know what variables affected whether respondents had consulted or not. To identify these variables, we made binomial logistic regression analysis with 12 of demographic, socio-economic, situational and other variable.¹⁰ Only two variables appear significant: (1) Junior college or vocational school graduates tended to consult more often than high school graduates; (2) Those who are more aware of costs are more apt to consult. These two variables were also significant to facilitate respondents to contact with the other party, though the employment status as self-employed or family workers was not significant in facilitating consultation.

In this logistic regression analysis, the dependent variable includes “family members and relatives” and “colleagues at the workplace”. These are people with whom respondents have some personal ties, which would be precisely the reason why respondents consulted with them.¹¹ However, seeking technical

¹⁰ Independent variables used in this analysis were the same as those used in the logistic regression analysis for contact behavior. See, footnote 8.

¹¹ A relative with whom a respondent consulted could happen to be a lawyer. In such a case, we asked respondents to choose “lawyer” rather than “relative”. Therefore, those

Table 7: Logistic Regression analysis of “Consulting with Another Person or Agency”

	<u>Another Person or Agency</u>			<u>Except Family and Colleague at work</u>		
	B	<i>p</i>	odds ratio	B	<i>p</i>	Odds ratio
GENDER (RC=male)						
female	.272	.547	1.312	-.604	.280	.547
AGE GROUP (RC=40-44)						
20-24	.388	.649	1.474	.722	.464	2.058
25-39	.937	.259	2.551	-1.445	.144	.236
30-34	-.322	.651	.725	.004	.996	1.004
35-39	.552	.445	1.737	.328	.667	1.388
45-49	.363	.598	1.438	.086	.917	1.090
50-54	-.122	.867	.885	.019	.982	1.019
55-59	-1.222	.120	.295	-1.886	.094	.152
60-64	-.237	.772	.789	-.226	.819	.798
65-70	.497	.601	1.644	-.818	.476	.441
EDUCATION (RC=high school)						
compulsory	-.081	.904	.923	.056	.947	1.057
junior college	1.129	.033	3.094	.873	.139	2.394
university	.397	.470	1.487	.223	.723	1.250
FAMILY INCOME						
	-.037	.539	.964	-.076	.297	.927
SITUATIONAL FACTORS						
relational concern	-.031	.885	.970	-.711	.007	.491
cost conscious	.599	.011	1.820	.549	.048	1.731
normative concern	.561	.117	1.753	1.421	.004	4.140
obviousness	-.011	.963	.989	.355	.287	1.426
SOCIAL CAPITAL						
	.668	.132	1.950	.354	.491	1.425
PAST EXPERIENCE						
	-.676	.239	.509	.347	.583	1.415
EMPLOYMENT STATUS¹⁾ (RC=full-time)						
part-time	-.644	.219	.525	.575	.351	1.776
self-employed	1.150	.185	3.158	.996	.267	2.707
not-employed	-.370	.480	.691	-.028	.965	.972
<i>n</i> =182	-2LL=203.5, $\chi^2=47.99^{**}$			-2LL=157.1, $\chi^2=50.79^{**}$		
Hosmer & Remeshow <i>p</i>	.333			.290		
Nagelkerke pseudo R ²	.309			.358		
1) As of the time when surveyed. ** <i>p</i> <.005, d.f.=23						

who consulted family members or relatives sought personal advice rather than technical advice.

advice could be different from seeking personal advice, as the purpose of the latter would be to obtain personal, often emotional, support. Then, independent variables, which would facilitate consultation only with agencies, could be different from those which facilitate consultation in general.

To test this hypothesis, we made another logistic regression analysis, excluding consultations with family and relatives and those with colleagues at the workplace. As we expected, two new variables appear significant, while the education variable become insignificant: (1) Those with relational concern tend less frequently to consult with agencies; (2) Those who are cost conscious tend to consult with agencies more frequently; (3) Those with normative concern tend to consult with agencies much more often than those without the concern. All these variables are related to specific problems, and this finding indicates that factors relevant to a concrete problem are much more significant in determining consultation behavior than those relevant to a respondent as individual.

(c) The Use of a Lawyer and the Court

As we saw, Table 6 showed that respondents with employment problems consulted with administrative agencies more often than legal-judicial agencies. This corresponds to an overall characteristic of consultation behavior in all the problems, though respondents with employment problems tend to use a lawyer and a court procedure less frequently, as is shown in Table 8.

However, Table 8 also shows that the percentage of the respondents with employment problems who thought of hiring a lawyer or using a court procedure is significantly higher than that of all the respondents who thought of the same. Compared to the overall tendencies among all the respondents,

Table 8: The Use of Lawyer and Court Procedures

	Employment Problems	All Civil Problems
Lawyer		
Used	5.3% (total n=114)	7.3% (total n=1,645)
Only Thought About Doing so	22.2% (total n=108)	14.4% (total n=1,509)
Court		
Used	3.5% (total n=114)	5.6% (total n=1,631)
Only Thought About Doing So	19.1% (total n=110)	10.5% (total n=1,540)

Note: “Used a Lawyer” means to hire a lawyer for the resolution of the problem. “Used a Court Procedure” means to use either conciliation, litigation or others.

those with employment problem thought of using a lawyer or a court procedure much more often, but did not actually use either.

6. Outcomes

We asked respondents whether the problem had reached a conclusion at the point of interview. Table 9 shows that more than half of the most serious problems did not come to conclusion by that time. In contrast, in the case of all the problems, 60% of the most serious problems came to conclusion by the time of interview.

Table 9: Has the Problem Come to a Conclusion?

	Employment		All Problems	
	<i>n</i>		<i>n</i>	
Concluded	96	41.4%	1,345	60.2%
Not Yet Concluded	122	52.6%	816	36.5%
Do Not Know	14	6.0%	74	3.3%
Total	232	100.0%	2,235	100.0%

In comparison with all the problems, not only did employment problems not come to conclusion, but also there tended to be more disagreements between employees and employers, even when problems came to conclusion, as is shown in Table 10.¹² These findings indicate that employment problems

Table 10: Whether Claim Accepted, Among Those Concluded

Claim Accepted?	Employment		All Problems	
	<i>n</i>		<i>n</i>	
Fully Accepted	9	9.6%	402	31.6%
Almost Accepted	21	22.3%	411	32.3%
Partially Accepted	18	19.1%	206	16.2%
Not Accepted at All	33	35.1%	222	17.4%
Others *	12	12.8%	5	0.4%
DK	1	1.1%	28	2.2%
Total	94	100.0%	1,274	100.0%

* Among the others, the number of negative outcomes is 2, positive outcome 1, and unclear outcome 9.

¹² In 70.5% of the unconcluded employment problems, claim was not accepted at all by an employer, and in 13.9% partially accepted. These outcomes are not very different from those of all the problems.

are not only difficult to solve and that, even when they came to conclusion, the outcomes may often be unsatisfactory to employees.

7. Conclusion

We saw some basic findings about employment problems from our national survey. According to our data, the experience of individual employment problem is not rare, as three people out of every 100 Japanese aged 20 to 70 years old had such an experience during the previous five years. The most frequent problem is unpaid overtime, followed by the non-payment of wages/salary. For women, harassment seems a frequent problem, but harassment without sexual implication is more frequent than sexual harassment. Unfair relocation is more often experienced by men. However, for both men and women, unfair dismissal is also rather a frequent problem.

The average amount at stake of the employment problems, ¥1,413 thousand or US\$11,775 (¥120=US\$1), is not large in comparison with that of all the problems. But it is still substantial for ordinary employees.

There are marked differences in problem handling behavior between the employment problems and all the problems. At first, people with employment problems often did not contact with employers concerning the problem, but rather did not do anything. Even when they contacted with employers, their claims were more often rejected.

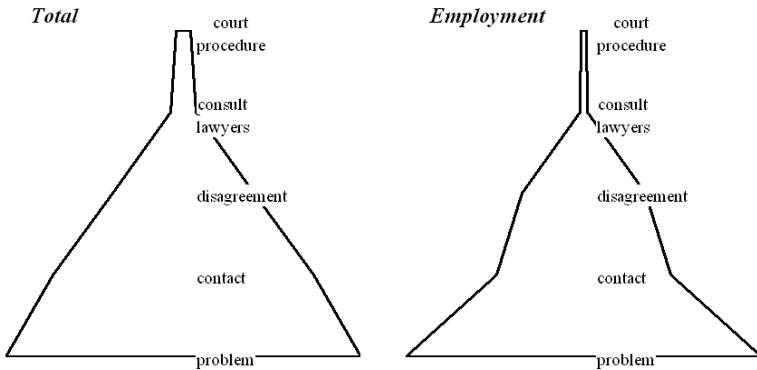
People with employment problems consult with administrative agencies more often than legal-judicial agencies. In fact, only 5% of those who consulted with some agencies or other persons concerning employment problems hired a lawyer to handle their problems and only about 3% used a court procedure. However, about 20% of those who consulted with some agencies or other persons once thought of using a lawyer or a court procedure.

The overall pattern of problem handling behavior is well illustrated in a dispute pyramid, shown in Figure 3, in which we can compare the pattern for all the problems and that for the employment problems.

It is apparent that, in comparison with all the problems, the employment problems are more difficult to voice, more often rejected, handled less frequently by lawyers and in the court.

Given these situations, it may not be surprising that, in comparison with all the problems, employment problems are difficult to conclude and that, even when concluded, much fewer claims are accepted.

Figure 3: Dispute Pyramid



Court Procedure	3.8%	86	1.3%	3
Consulting Lawyer	7.1%	160	2.2%	5
Disagreement	39.8%	894	34.9%	81
Contact with the Other Party	73.3%	1,645	49.1%	114
Occurrence of Problem	100%	2,244	100%	232

These findings indicate that the present system for solving individual labor disputes does not work very effectively. As we describe at the beginning, we will soon have a whole set of institutional arrangements for the administrative and non-litigation dispute resolution of individual employment disputes. However, if the reform is rather a simple extension of the present system, it may not achieve much in the future. It is also necessary to better enforce regulations for work conditions, as many problems will never be voiced.

[References]

Genn, Hazel, 1999, *Paths to Justice: What People Do and Think About Going to Law*, Oxford: Hart Publishing.

Miller, Richard E. and Austin Sarat, 1980-81, 'Grievances, Claims, and Disputes: Assessing the Adversary Culture,' *Law and Society Review*, 15(3-4): 525-566.

Pleasence, Pascoe, Alexy Buck, Nigel Balmer, Aoife O'Grady, Hazel Genn, and Marisol Smith, 2004, *Causes of Action: Civil Law and Social Justice*, London: The Stationery Office.