
The Functions and Limits of Enterprise Unions in Individual Labor Disputes

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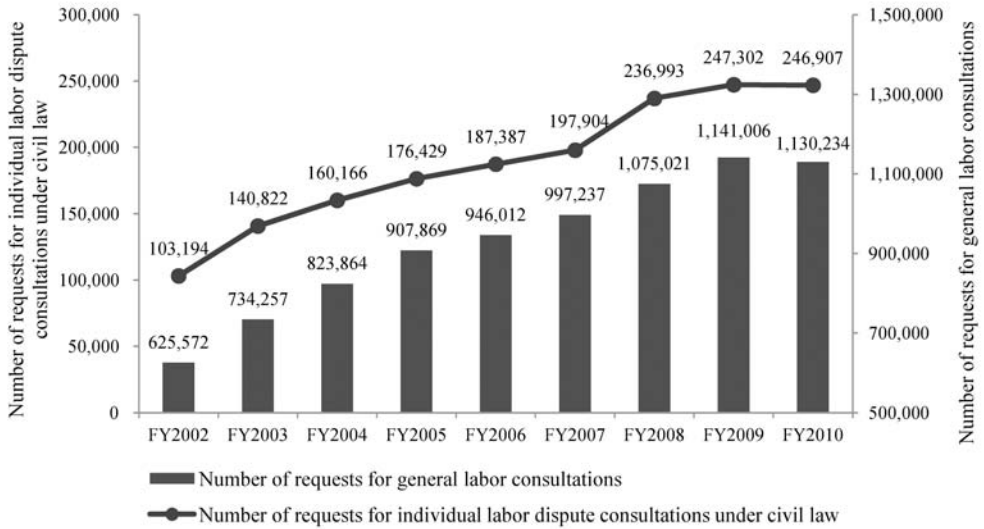
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Activities of enterprise unions may contribute to reducing various types of dissatisfaction and complaints of workers but cannot necessarily result in reducing the number of individual labor disputes that come to light. We should rather focus on the qualitative aspects of such individual labor disputes. From this viewpoint, I will first review the activities of enterprise unions, which engage in grasping various types of dissatisfaction and complaints of union members, so that these members will not have to leave their jobs, endure hardship, and finally initiate disputes. These activities, which enterprise unions carry out as their regular services, function as a means available to workers for voicing complaints to their employers. Meanwhile, the great majority of small and medium-sized enterprises do not have such in-house unions. In view of this situation, I will recommend the effective implementation of the system of representatives of the majority of workers, as an organ in charge of preventing individual labor disputes and grasping various types of dissatisfaction and complaints among workers at the workplace where there is no enterprise union.

I. Introduction

The number of individual labor disputes occurring in Japan has been increasing significantly in recent years. Needless to say, the biggest cause of this phenomenon is the deterioration of the employment environment. As indicated in Figure 1, both the number of requests for general labor consultations and the number of requests for individual labor dispute consultations have doubled. Such an upward trend is also seen in the use of the labor tribunal system. The fewer the favorable job opportunities available, the more important the role of the administrative agencies becomes. Yet, the service that these agencies can provide for workers is the processing of disputes, not the prevention of disputes. Day-to-day efforts at the workplace are indispensable for preventing the occurrence of disputes. In this context, in what manner are labor unions involved in individual labor disputes? In this paper, I will discuss the functions and limits of enterprise unions, which tend to function more like the organs which represent workers in the respective enterprises or business establishments.

The recent rapid increase in the number of individual labor disputes, which had been almost negligible in statistics, has come from two factors. The first is that while the employment environment in Japan was not so bad in the past by international standards, it has recently deteriorated to a degree that career changers now face more difficulty than before in finding better jobs. Secondly, many workers previously had no choice but to suffer their hardships in silence due to the inadequate system for individual labor dispute settlement. However, as a result of the recent reforms carried out step by step, such as the introduction



Source: Website of the Ministry of Health, Labour, and Welfare, “FY2010 Status of Implementation of the Individual Labor Dispute Resolution System.”

Figure 1. Changes in the Number of Requests for General Labor Consultations

of the labor tribunal system and the establishment of the regional labor bureaus—though they may be a little too late—the situation has improved and this has been partially conducive.¹ As seen in other advanced countries, it is common that individual labor disputes take place on a daily basis, and the fact that such disputes occur in large numbers statistically does not necessarily represent the existence of a serious problem. What matters more may be the substances of disputes.

What role do Japanese labor unions play in individual labor disputes? Labor unions can be divided into several types. Traditionally, industrial unions, general unions, and enterprise unions have been typical examples. There are also industry and region-based federations of labor unions, and national centers to which labor unions are affiliated. In connection with individual labor disputes, enterprise unions, community unions, and national centers often have different functions. Regarding individual labor disputes, labor unions play the following two roles: one is to make everyday efforts to get rid of dissatisfaction among workers so as to prevent the occurrence of disputes; the other is to endeavor to resolve the individual labor disputes that have occurred. These two roles are not always assumed by the

¹ The “individual labor dispute resolution system” was put into operation in October 2001 as the means to ensure amicable settlement of disputes on labor relations between individual workers and their employers. Meanwhile, the labor tribunal system was introduced in 2006 as a type of court proceedings aimed at early settlement of individual labor disputes.

same type of labor union. The former is mainly assumed by enterprise unions, and the latter is usually assumed by community unions. Regional organs of national centers take charge of additional tasks, including not only providing consultations for unorganized workers, but also dispatching their personnel as the delegates on the labor side to administrative agencies or labor tribunal proceedings.²

In this paper, Section II looks at workers' *dissatisfaction*, which is the cause of individual labor disputes, and their behavior driven thereby, and discusses the issue as to whether or not the existence of enterprise unions is conducive to reducing individual labor disputes. Section III studies various functions of enterprise unions in their efforts to prevent the occurrence of individual labor disputes. The last section, in light of the reality that the great majority of workers does not belong to any labor union, suggests the importance of the effective implementation of the system of representatives of the majority of workers.

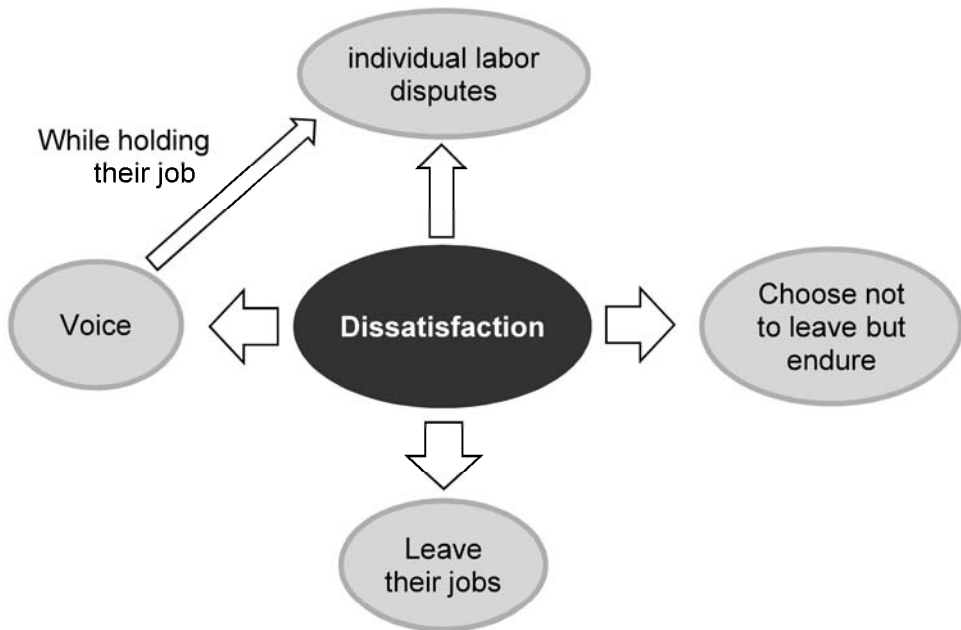
II. Workers' Dissatisfaction and Individual Labor Disputes

1. Types of Dissatisfaction and Individuals' Reactions

Individual labor disputes are a sort of phenomenon in which various types of dissatisfaction felt by individuals come to the surface. With this in mind, the issue of individual labor disputes should be understood from a broader perspective. In this paper, I assume behavioral patterns depending on the four types of reactions to one's dissatisfaction (Figure 2). First, discontented workers may settle their dissatisfaction by expressing it to their superiors, colleagues, or unions. This behavior is called *voice*.³ Next, among those who choose not to leave their jobs, some often *endure* their dissatisfaction, refraining from voicing it. They lose their morale but choose not to leave their jobs unless they can find better jobs. As the third pattern, workers may choose to *leave* their jobs; that is, if they think that they cannot work at their current workplaces any longer, they quit their company to settle their dissatisfaction. Workers tend to leave easily if the working conditions are unfavorable, whereas they often endure the situation if the working conditions are favorable. In general, *endure* and *leave* are the ordinary behavioral patterns that workers choose. The last option is to initiate a *dispute*. Some may initiate disputes while holding their jobs, while others may do so after they are fired. If it cost much to initiate individual labor disputes, the great majority of workers would not choose this option. Accordingly, it cannot be said that it is good if the number of visible *disputes* is small.

² Community unions are discussed in the report by Dr. Oh [Hak-Soo] in the present issue of JLR. As Omi (2006) also points out, serving as the delegates on the labor side at administrative and judicial bodies is also an important duty of labor unions.

³ The discussion here is concentrated on the relationship between individuals and unions. The term "voice" is limited to one that takes place within the organization. As the main topic of this report is individual labor disputes, such voice as raised outside the organization is referred to as "dispute." As is well known, this terminology is based on the study by Hirschman (1970).



Source: Created by the author.

Figure 2. Dissatisfaction and Individuals' Reactions

In the first place, *dissatisfaction* exists on a daily basis, and dissatisfaction of a serious nature might lead to individual labor disputes. How individuals react to their dissatisfaction may depend on the working conditions offered to them at the company where they work, or the type and level of their dissatisfaction. Dissatisfaction can be divided into two types: one is felt toward economic aspects and the other arising from human relationships. Dissatisfaction toward economic aspects can be tentatively further divided into the following two types: dissatisfaction resulting from continuous employment, such as dissatisfaction with one's merit rating, working hours, or work process, and dissatisfaction resulting from discontinuation of employment, such as dissatisfaction with dismissal or nonpayment of wages. At good-standing enterprises and enterprises where labor unions work well, the former type of dissatisfaction can be settled through various channels for voicing (e.g. superiors, personnel departments, and labor unions) and does not often develop into an individual labor dispute. Workers *endure*⁴ even if their problems are not completely settled. Labor unions also actively try to settle this type of dissatisfaction, considering that grasping the dissatisfaction of their members is itself a labor movement to be promoted at workplaces. On

⁴ Nevertheless, this is the optimal situation for neither the enterprises nor the labor unions because workers who *endure* lose their morale.

the other hand, at enterprises which do not offer favorable working conditions nor have labor unions that work well, workers might *voice* their dissatisfaction to their superiors or management, and if their complaints are rejected, they leave their jobs or endure. In any case, it is rare that their dissatisfaction leads to individual labor disputes, unless they have a personal grudge or resentment.

Dissatisfaction resulting from discontinuation of employment, such as dissatisfaction with dismissal and the nonpayment of wages, often takes place at small and medium-sized enterprises whose business performance is rather poor. Although quite a number of discontented workers would endure (suffer in silence), this type of dissatisfaction is prone to develop into individual labor disputes. This usually happens at enterprises which do not have labor unions, but even where there is an enterprise union, if the union is not powerful enough or the discontented worker is isolated, or does not get along with other workers at the workplace, the union may take no action or the union officers may stand on the same side as the management.

Dissatisfaction arising from human relationships pertains to workers' relationships with their superiors or colleagues at the workplaces. Labor unions find it difficult to meddle in workers' private affairs and do not take such action. However, if the problems that workers are experiencing are bullying or a nuisance in connection with work or sexual harassment, labor unions may take some actions to resolve these problems.

2. Can Labor Unions Reduce Individual Labor Disputes?

Whatever just resolution is attained for collective labor disputes, this does not necessarily put an end to individual labor disputes. For instance, when a worker is fired due to his/her attitude, this is not an issue of a collective labor-management relationship, but an individual labor dispute, although the individual worker may be backed up by the labor union. This is evident from the situation in Germany where, notwithstanding the existence of the boards of representatives of workers as well as labor unions, a number of individual labor disputes are brought to labor courts. It is uncertain at all whether labor unions or organs which represent workers can reduce individual labor disputes. All in all, the existence of labor unions at workplaces does not always result in reducing individual labor disputes. Let us look at the three hypothetical cases.

(1) Where the Labor Union Has Little Influence on the Management

The labor union in such a state could rather increase members' dissatisfaction. If there were no labor union, discontented workers would just leave their jobs, but if a labor union existed, they would expect the union officers to help them, and when the union did nothing or little for them, they would feel betrayed and bring their dissatisfaction to light as an individual labor dispute, or they would feel resentful about the union's attitude of tolerating or closing its eyes to wrongdoings.

(2) Where There Is a Labor Union but the Discontented Workers Are Not Its Members

Non-regular workers are less likely to belong to the labor union. Even where there is a labor union at the workplace (in the case of temporary workers, at the company which dispatches them or at the company to which they are dispatched), most of such workers are not members of the union. Seemingly, the number of individual labor disputes initiated by these workers is quite large. Not many labor unions accept non-regular workers as their members, and labor unions are not very willing to accept such workers as their members. This is typical to enterprises which have labor unions and employ both regular workers, who belong to the unions, and non-regular workers, who do not, rather than enterprises which apply unfavorable working conditions to all employees. In the former type of enterprise, the ineligibility to be union members makes non-regular workers discontent with their working conditions, and in this respect, the very existence of the labor unions might be the cause of increase of individual labor disputes. In Japan, enterprise unions are generally slow to respond to non-member workers, in particular, workers under indirect employment. Most labor unions which accept non-regular workers as members hold the amount of contributions collectible from such workers at a low level. In fact, these unions consider that acting for these workers is "laborious but fruitless," or struggle to solve the difficult problem of the disparity in working conditions between non-regular workers and regular workers.

(3) Where the Discontented Worker, Who Is a Union Member, Is Isolated at the Workplace, or Has Conflict of Opinions with the Union Officers

If the worker were not able to gain understanding of his/her dissatisfaction from his/her colleagues, he/she would recognize the labor union as being on the same side as the company. Enterprise unions are powerless in dealing with this type of dissatisfaction or dispute, which can be settled only through administrative or judicial proceedings, with the help of a union outside the enterprise.

If there is a labor union, workers may often settle their dissatisfaction by voicing it before it develops into a dispute. It is very likely that the causes of individual labor disputes are being reduced through the improvement of labor-management communication. This is to be discussed in the next section.

In addition, at enterprises which have labor unions that function well to a certain degree, individual labor disputes are less likely to arise from obvious wrongdoings. As mentioned above, in the case of disputes arising from problems that are difficult for labor unions to handle, such as human relationships at the workplace, labor unions might be able to reduce but probably not completely get rid of the causes of disputes.

With regard to the role of enterprise unions in dealing with individual labor disputes, what is important is the *qualitative aspect* of disputes. One cannot simply say that the fewer the number of visible individual labor disputes, the better, and vice versa. For instance, enterprise unions would find it easy to cope with obviously illegal conduct, or could make a

strong assertion against the management if it were supported by workers.⁵ On the other hand, labor unions cannot easily handle problems caused by conflicts between workers, such as bullying, misconduct, and poor performance. There may be cases where union members are placed in the position of the accused.

III. Prevention of Disputes by Enterprise Unions

When it comes to individual labor disputes, only those that come to light tend to be discussed. However, as shown above, what matters is not just the disputes that have actually happened. It is important to identify a number of elements of dissatisfaction and complaints, which could be the causes of individual labor disputes, and resolve them as soon as possible, rather than trying to discourage workers from initiating disputes. Finding a proper resolution is the task that enterprises should tackle in the area of human resource management. Actually, many labor problems are resolved through the process where workers consult with their superiors or colleagues, or with personnel departments. For enterprises, holding labor-management communications is their daily task. In this respect, many enterprise unions work to cope with dissatisfaction or complaints expressed by their members.

1. Union Activities

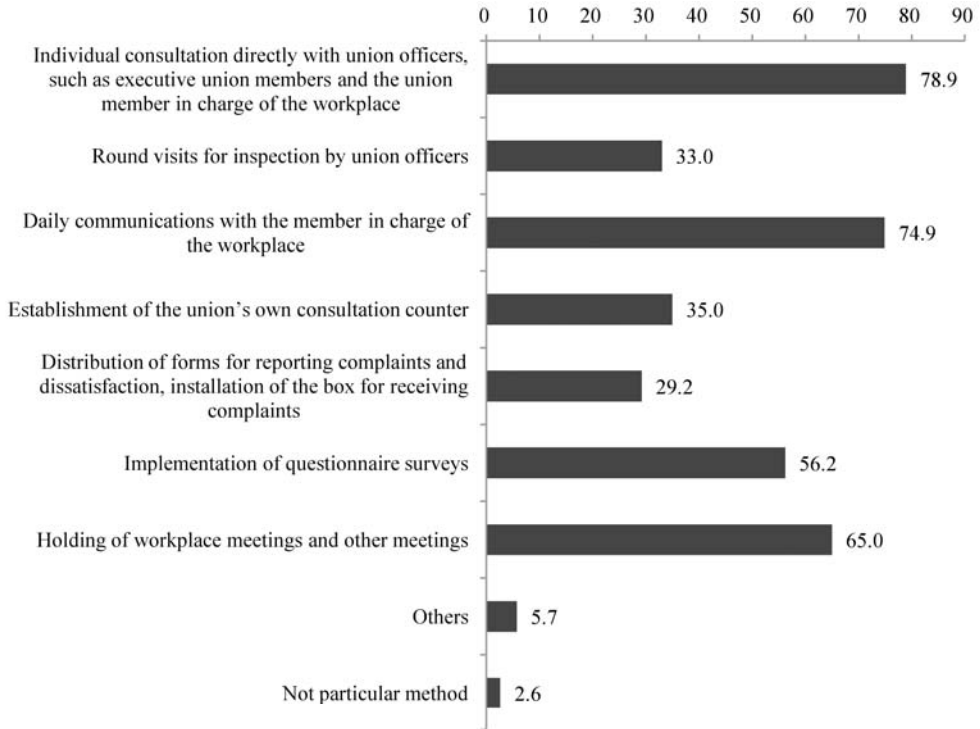
First, let us look at the results of the questionnaire survey that targeted labor unions (JILPT 2009b).⁶ As shown in Figure 3, popular methods chosen by labor unions for identifying members' complaints and dissatisfaction are: "Individual consultation directly with union officers, such as executive union members and the union member in charge of the workplace," "Daily communications with the member in charge of the workplace," "Holding of workplace meetings and other meetings," "Implementation of questionnaire surveys." On the other hand, "Establishment of the union's own consultation counter" and "Round visits for inspection by union officers" were not frequently chosen.

Figure 4 indicates that 20 to 30% of labor unions deal with not only union members but also non-members in the process of identifying workers' complaints and dissatisfaction. This shows that labor unions in Japan are not very exclusive. However, with regard to non-members, labor unions seem to have not yet decided their policy on how to deal with non-regular workers under indirect employment,⁷ as compared to those under direct

⁵ The labor union finds it difficult to handle problems which constitute violation of law but for which they cannot gain support of workers for their taking some actions. In such situation, if a worker strongly asserts violation of law, an individual labor dispute could take place, in which case the labor union is often regarded as standing on the same side as the management.

⁶ In this paper, the Japan Institute for Labor Policy and Training shall be referred to as JILPT.

⁷ "Indirect employment" refers to the mode of employment in which workers are not directly employed by the companies where they work, but they have a similar status as employees, such as dispatched workers and contracted workers. Companies tend to prefer indirect employment because by choosing this type of employment, they are exempt from employer liability under the labor laws.



Source: JILPT (2009b, 9).

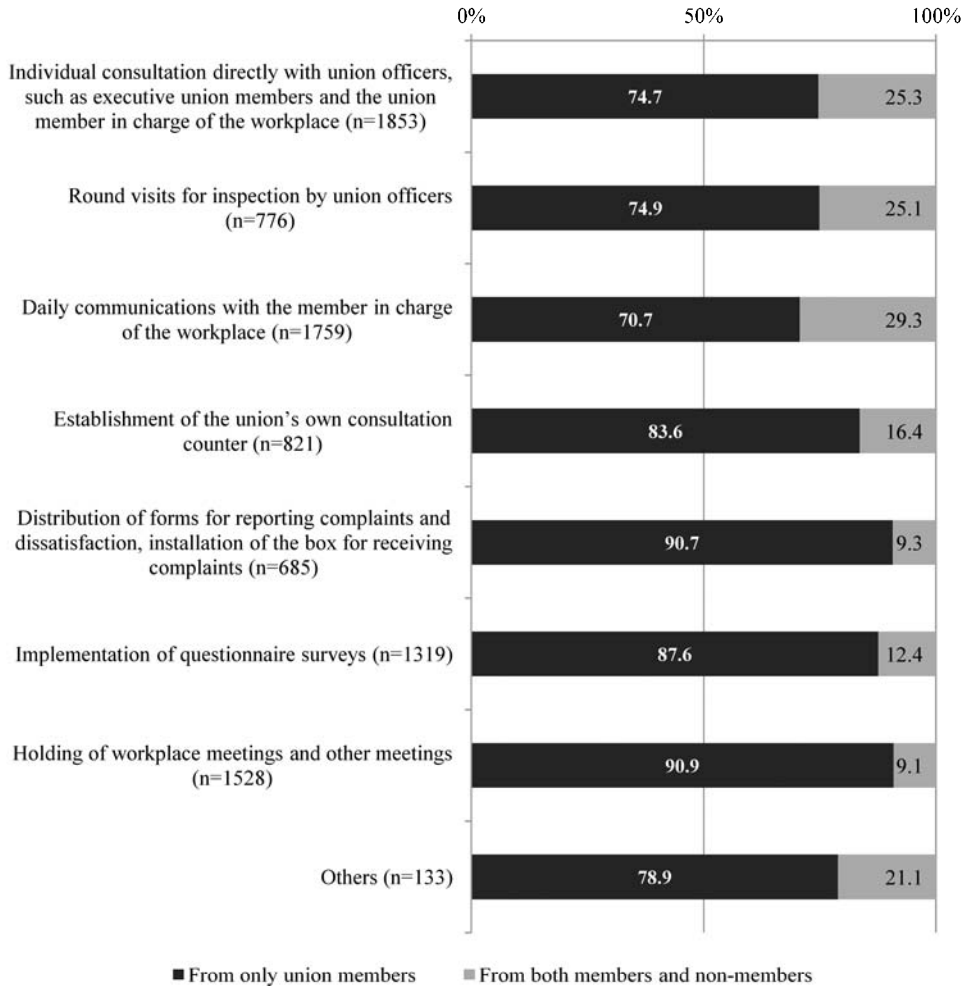
Figure 3. Methods for Identifying Individual Complaints and Dissatisfaction (MA, %, n=2349)

employment⁸ (this issue was not addressed in this survey).

Figure 5 indicates the topics of complaints received by unions. The topic that was most frequently heard was “Complaints about overtime, day-offs, and leaves of absence,” followed by “Complaints about wages and other payments,” “Complaints about the work process, etc.,” “Complaints about performance evaluation or assessment,” “Complaints about the human relationships at the workplace,” “Complaints about job relocation, reassignment, temporary transfer,” and “Complaints about sexual harassment and power harassment.” This suggests that labor unions consider that the number of complaints and dissatisfaction cited by individual workers has been increasing due to the lack of elbow room in the work schedule and the introduction of the performance-based pay system (the specific numerical data are omitted here).

Figure 6 shows the measures taken by unions in response to the complaints and

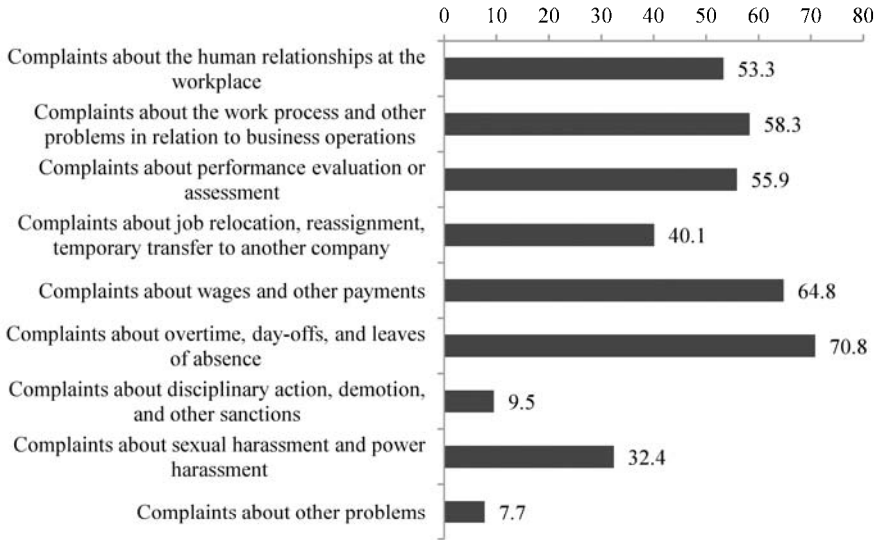
⁸ Research Institute for Advancement of Living Standards (2007, 55–61).



Source: JILPT (2009b, 10).

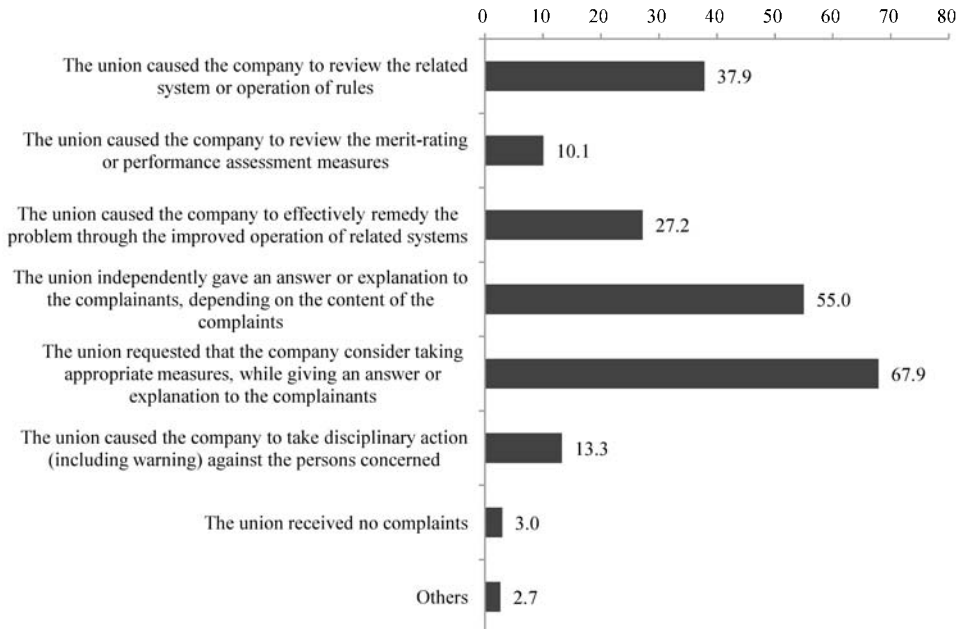
Figure 4. Workers from Whom Unions Hear Complaints and Dissatisfaction Individually (only union members, or both members and non-members, %)

dissatisfaction voiced by workers. As the most frequent option, unions request that the company consider taking appropriate measures, while giving an answer or explanation to the complainants to that effect, followed by the second option whereby unions independently answer and explain to the complainants. Ten to 30% of unions caused the company to effectively remedy the problem through the improved operation of related systems. Slightly less than 40% took measures that could be equivalent to collective dispute settlement, such as causing the company to review the related system or operation of rules. Thus,



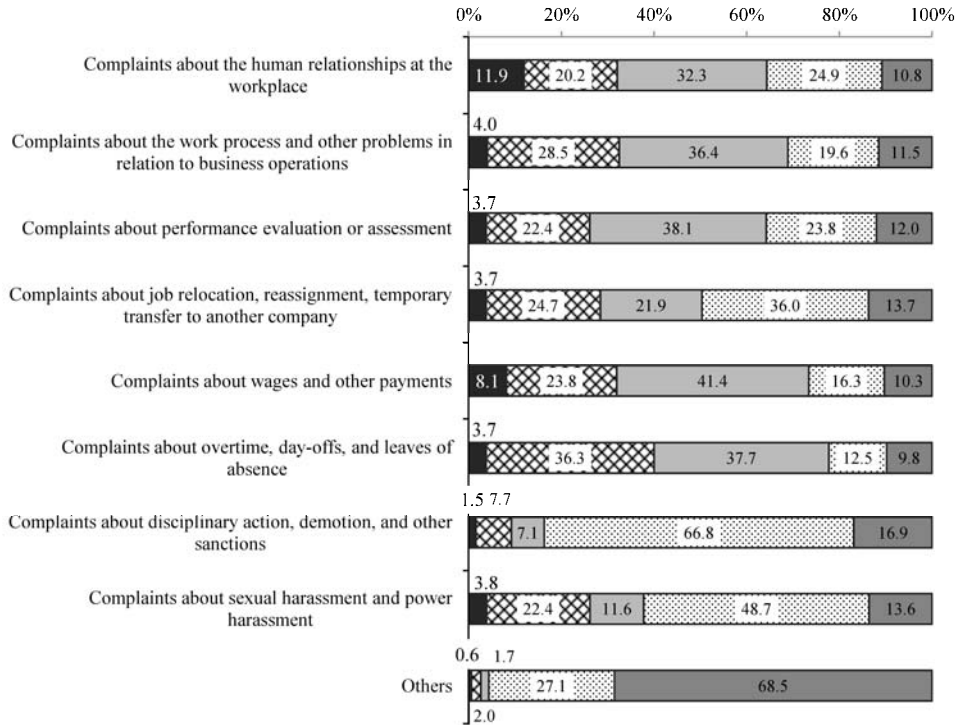
Source: JILPT (2009b, 14).

Figure 5. Topics of Complaints Received in the Past Five Years (MA, %, n=2349)



Source: JILPT (2009b, 17).

Figure 6. Measures Taken in Relation to Workers' Complaints and Dissatisfaction in the Past Three Years (MA, %, n=2349)



- Most complaints have been resolved independently by the union, through consultation with the labor personnel
- ▨ Most complaints have been resolved by taking certain measures, including making a request to the company
- ▩ Most complaints have not been resolved
- ▤ The union received no complaints
- No response

Source: JILPT (2009b, 19).

Figure 7. Success and Failure in Resolving Workers' Complaints and Dissatisfaction in the Past Three Years (MA, %, n=2349)

in some respect, those measures taken by unions cannot be simply categorized as individual labor dispute settlement.

Unions give an answer or explanation to complainants. Then, do they really consider that they have successfully resolved individual workers' complaints or dissatisfaction? This point is illustrated in Figure 7, which shows that the results are almost equally divided into successful cases and failed cases. Unions more frequently fail than succeed in resolving workers' complaints about wages and other payments, performance evaluation or assessment, and the work process.

Table 1. Expectations of Labor Unions to Handle Individual Workers' Complaints and Dissatisfaction

	Have many expectations	Have expectations	Do not have many expectations	Have no expectations	No response	Sample Size
Belong to enterprise unions	10.2%	37.5%	37.0%	13.8%	1.4%	2,506
Belong to outside labor unions	9.3%	27.1%	31.8%	14.0%	17.8%	107
Belong to no labor unions	4.5%	21.8%	33.5%	13.6%	26.5%	7,876
No response	3.9%	12.4%	22.1%	10.8%	50.8%	362

Source: JILPT (2009a).

2. Workers' Expectations of Unions

According to the survey on workers (JILPT 2009a, 46, 402, 405), among the workers who responded that their companies have labor unions, 45.4% stated that their labor unions had some system or other means for responding to or resolving workers' complaints or dissatisfaction. The survey shows that quite a number of enterprise unions were not very active in promoting dispute resolution.

Given such a fact, in response to the question about workers' expectations of labor unions for resolving their complaints and dissatisfaction, among those who belonged to enterprise unions, "Have many expectations" accounted for 10.2%, "Have expectations" for 37.5%, "Do not have many expectations" for 37.0%, "Have no expectations" for 13.8%, and "No response" for 1.4%. Thus, those who have expectations of their unions and those who do not have such expectations were almost equal in proportion (Table 1). When the enterprise union members who chose "Do not have many expectations" or "Have no expectations" were targeted and asked why they have little or no expectations, the most and second most frequent responses were "The union does not have much influence on the management" (49.6%) and "The union only follows the company" (42.0%), followed by "The union is not interested in handling problems of individual workers" (21.6%), "Workers are not well informed of the union's activities" (21.3%), and "Approaching the union might result in an adverse treatment" (18.4%). Labor unions are not omnipotent. At the same time, it is interesting to see that about 25% of non-member workers have expectations of labor unions.

3. Methods of Responding to Complaints and Dissatisfaction

The questionnaire survey conducted by the Research Institute for Advancement of Living Standards (1999) aimed to investigate how enterprise unions handled workers' complaints. This subsection classifies the activities of enterprise unions that vigorously engage in responding to workers' complaints and dissatisfaction.⁹ The methods implemented by enterprise unions are classified into the following types.¹⁰

(1) Use of Senior Workers

In the process of carrying out union activities, the central role is played by experienced workers who have the highest position among union members at the respective workplaces, such as the work chief or section chief. Using these senior workers may not be unique, but it is a basic method for complaint resolution. For example, workers called "seniors" assume this role. A senior is in the highest position among the workers in each workplace (basically a section), one step before holding a managerial position, well-versed in the overall business operations of the workplace, and is usually engaged in supervising operations, such as making budgetary or business plans and performing specially assigned duties. The boss uses the senior to grasp what subordinates worry about in relation to work or other matters, while the subordinates first consult with the senior about their worries, sometimes hoping that the senior will convey these worries to the boss. The labor union also makes inquiries to the senior first, in order to understand the situation at the workplace. Thus, such senior workers concurrently function as the union.

(2) Information Sharing

This method is implemented at medium-sized business establishments. For example, the union designates a month following the annual spring wage offensive as the month for complaint resolution, during which executive union members, three members in each of three groups, make a round of visits to all workplaces to have meetings. Three to five workers participate in each meeting, totaling about 400 workers during the designated month. Since each meeting is a small-group unit and the company is supposed to answer to all complaints, all participants say something about their complaints. The production taskforce organizes the inquiries, opinions, and requests collected from workers into categories such as welfare, union, problems at the workplace, and so forth, enters these matters into the designated form, and submits the form to the labor personnel, leaving the answer space

⁹ This subsection is the summary of the abovementioned survey by the Research Institute for Advancement of Living Standards (1999) and of the study by Hisamoto (2002). JILPT (2007) also describes a similar type of questionnaire survey.

¹⁰ Complaint resolution committees formed jointly by the union and the management are rarely used. This fact, however, does not mean that these committees are unnecessary. Both the union and the management try to resolve complaints before bringing them to the complaint resolution committee. In this sense, the very existence of these committees functions as a deterrent. A union officer said that the union's decision to bring a complaint to the committee signifies the failure of the union activities.

blank. The taskforce also confirms unclear points in the workers' comments. What is distinctive about this sample case is that the union does not conduct screening or assess the importance with regard to any complaints submitted by union members. The labor personnel send all forms containing workers' complaints to the respective departments in charge and ask the relevant departments to enter an answer and the date into the forms. The date refers to the date on which a specific measure is to be taken, if it is possible to do so, or the date on which the company gives an explanation to the union members, if no measure can be taken. The forms completely filled out by the respective departments are sent back to the union via the labor personnel. The union checks the content of the company's answers, and requests that the labor personnel re-enter a response upon finding defective answers, demanding that the company clearly explain why it cannot take a measure. If the company answers that it cannot take a measure due to a budgetary limit, the union confirms with the company how much it would cost to take the measure and whether it could take the measure if there were enough money. If the company answers that it will take a measure, the union confirms who will be in charge of taking the measure and by when the measure will be taken. The answer forms created through such a process are distributed to the section chiefs, and then made available to ordinary members. Union members are very interested in the meetings with union executives because answers are given regarding all of their complaints.

(3) Systematic Processing

Complaint resolution through information sharing cannot be easily achieved by unions which have thousands of members. It may not be completely impossible to divide the union so that each division handles complaints from workers assigned thereto. However, since this is not an effective method, unions aim to grasp and handle workers' complaints more systematically and on a larger scale. Systematic processing covers a wide range of issues, from personnel affairs and wages, to staffing and personnel relocation, and also policy and system-related matters. In the steel industry, a project for systematic complaint processing called "Lifestyle Overhaul" is held once every two years on a considerably large scale. As this project addresses a wide range of complaints, it involves different types of entities in charge of providing resolutions, such as the workplace, local unions, federations, and regional entities (e.g. prefectural headquarters of an industry association, or local councils of or Diet members affiliated with the Japan Trade Union Confederation [*Rengo*]), and national politics (*Rengo*). Items to check in the overhaul relate to: (1) personnel affairs, wages; (2) working hours; (3) temporary dispatch; (4) health; (5) transportation; (6) union activities; (7) welfare; (8) staffing and personnel relocation; (9) safety and sanitation; (10) workplace environment; (11) regional or living environment; (12) policies and systems; (13) others. These items can be divided into three categories. In principle, complaints concerning items (1) to (6) are directly submitted to the union, whereas those concerning items (7) to (10) are taken up in negotiations at the workplace. Complaints concerning items (11) and (12) are treated as regional or national issues. With regard to complaints submitted to the

union, the union decides on a policy and explains it to the central committee members on a day in late May. After that, before the end of May, the branch committee holds a meeting to explain the policy to branch members (one out of 70 union members acts as a central committee member and one out of 25 union members acts as a branch committee member). The first two weeks in June are designated as a period for *digging up*, during which all union members state their complaints in the designated forms. In the last two weeks in June, the central committee members collect and organize these complaints. During this period, the branch chief, in the capacity of full-time union member (by taking a leave for union activities), engages in finalizing those complaints collected and organized by central committee members.

(4) Collaborative Decision Process

Unions actively take part in deciding on workers' promotion or merit-rating. There is a company where workers have a meeting to talk with their superiors using OJT-forms, on condition that their remarks will not be used for their merit-rating. Workers appreciate this system because they can tell their requests and complaints about work to their superiors. They have this meeting semiannually, for about 30 minutes to one hour on each occasion. The union checks the status of holding of this meeting and the results thereof, by conducting the questionnaire survey targeting union branches. A characteristic feature of this system is that the Job Evaluation Committee, consisting of members from both the labor and management sides, plays a part in the actual process of deciding on workers' merit-rating or promotion. The committee is formed for each business establishment to review the report of performance and proposed treatment submitted by each division or department with regard to every worker. Then, the company-wide committee examines the review results and decides on the treatment for each worker. This system can be reckoned as a collaborative decision process. Members of both the committee organized for each business establishment and the company-wide committee are evenly divided, ten members each from the labor side and the management side.

(5) Negotiation at Workplace

This is the method by which the workplace has the strongest influence. In the sample case, the company has several departments, one of which operates bus services. The union branch set up at the bus department is divided into a number of local chapters set up at the respective service offices. At a service office, the local chapter and only two persons in the managerial post (the office chief and the deputy chief) handle almost all issues at the office. Individual issues are discussed by all staff members within the local chapter. The union branch corresponding to the bus department has slightly less than 1,200 union members. Personnel issues are first checked by the executives of the local chapters, and then organized by the executives of the union branch and brought up for negotiations with the company. There is no complaint resolution committee, and all issues are subject to la-

bor-management negotiations.

If there is no complaint resolution system within the enterprise or there is such system but complaints cannot be solved, complaints are to be brought to the administrative or judicial bodies outside the enterprise. These complaints are beyond the control of enterprise unions, and when dealing with them, enterprise unions are often regarded as being on the same side as the management. In that case, it is inevitable that individual labor disputes take place outside the enterprise.

VI. Closing—Toward the Effective Implementation of the System of Representatives of the Majority of Workers

Enterprise unions in Japan resolve workers' complaints and dissatisfaction successfully to some degree, and we should fully admit the significance of their achievement. However, not all unions actually carry out the activities discussed above. There are quite a number of unions that are not so vigorous in union activities. More seriously, union members account for only 18.5% of all workers (Ministry of Health, Labour and Welfare 2010). In particular, looking at the situation in medium and small-sized enterprises, the percentage of union density is miserably low. In 2010, the estimated percentage of union density among private enterprises with less than 100 workers was as low as 1.1%. A system for accepting the complaints and dissatisfaction of workers who are not union members needs to be developed at the workplace in order to eliminate a serious level of individual labor disputes. One approach to achieve this is the effective implementation of the system of representatives of the majority of workers, wherein the workers' representative is to be vested with legal authority on various issues. At present, the representative of the majority of workers is legally authorized to refuse overtime work imposed on all workers except for those in the managerial post, but is unable to exercise such authority effectively because the system itself is not designed as an effective one as contemplated by the labor law.¹¹

The representative of the majority of workers is not a labor union, but in light of the labor-management relationship in Japan supported by enterprise unions, such a representative can perform functions that are similar to a labor union. Looking at the fact, without bias,

¹¹ Under the labor laws of Japan, many provisions require the consent of "either a labor union organized by a majority of the workers at the workplace, or a person representing a majority of the workers at a workplace" as a condition for exception to statutory labor regulations. For example, Article 32 of the Labor Standards Act prohibits the employer from having a worker engage in work for more than 40 hours per week or having a worker engage in work for more than eight hours per day, whereas Article 36 of said Act provides, as an exception to the former provisions, that the employer may extend the working hours by concluding an agreement with the representative of the majority workers. In reality, this labor-management agreement has been concluded and overwork is imposed on workers at many business establishments. The representative of the majority of workers is also vested with legal authority on other issues concerning variable working hours and paid leaves.

that most individual labor disputes take place at small and medium-sized enterprises, one can recognize that collective bargaining between the labor and the management must be implemented at these enterprises. Workers' complaints cannot be resolved just by setting up consultation counters at administrative agencies. Then, what is important for the effective implementation of the system of representation of workers? First of all, there must be more than one person to represent workers. There should be at least three representatives. One of the biggest problems with the existing representation system is that there is only one representative. It is impossible for a single person to negotiate with the management as a representative of all workers. If the representative has somebody to turn to, he/she can make the right decision more easily.

The representative of the majority of workers should assume the duty to provide workers with information and explanation of the content of the agreement concluded with the management, so that worker can understand the particulars of the agreement. A person who represents others assumes responsibility to those who have appointed him/her, like the Diet members are obliged to report their activities to and tolerate criticisms from citizens—democracy is not just the matter of the right to vote or eligibility for election—or like union executives have accountability to ordinary union members. Every agreement concluded between the representative and the management must be made known to ordinary workers.

Even granting that communications at the workplace are important, it is expected that the management in many enterprises will show a considerable resistance to the legislation for establishing the system of representatives of the majority of workers. However, according to the survey by the Japan Institute of Labor (1996), about 60% of enterprises without a labor union supported the legislation for the establishment of the representation system,¹² whereas only 10 to 20% expressed a strong resistance. It is understandable that they resist this legislation, for two reasons concerning the representative's authority and the company's bearing of costs. More specifically, enterprises are worried that the representative of workers might restrict the right of the management, and they are also unwilling to bear costs for the representative. As for the first point, the representative of the majority of workers will surely restrict the right of the management. However, needless to say, labor-management communication in its true meaning is important for the management as well. Lack of communication will make both workers and the management unhappy. There are things enterprises can do and things they cannot, and the majority of workers probably understand that. Another point is a cost issue. Since the workers' representative cannot engage in union activities full-time, he/she has to carry out activities outside office hours. It is recommended that the representative be paid the minimum amount of allowance. In the case of a me-

¹² This very optimistic data should be taken carefully because it is suspected that the management of enterprises was not very serious when answering the question. Still, it suggests that a number of persons who manage enterprises in Japan do not have a very strong aversion to the idea of the statutory system of representation.

dium-sized enterprise with about 100 workers, 500,000 yen will be enough as the annual cost, including the cost for making the conference room available for use by the representative. This is not a heavy burden to an enterprise; considering the benefits from improved labor-management communication, it is rather cost-effective.

What is important here is that an organ that might be regarded as a collective dispute resolution body is rather capable of handling individual labor disputes. Organs outside the workplace can cope with visible individual labor disputes but cannot respond to potential disputes. In short, it is important to set up a collective dispute resolution body at the workplace. However, as the statistics clearly show, the union density at small and medium-sized enterprises is catastrophic. I cannot help but feeling that in order to reduce potential individual labor disputes, the effective implementation of the system of representatives of the majority of workers is the truly important task.

Whatever excellent system is created, individual labor disputes will not disappear, and in a sense, this is a normal condition. What matters is not the number but the nature of individual labor disputes. The important thing is to reduce the number of situations where workers are forced to silently put up with their complaints even when the complaints are caused due to violations of labor laws.

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