

Abstracts

The Enactment of the Labour Contract Law: Its Significance and Issues

Ryuichi Yamakawa (Keio University)

This article discusses the issues regarding the Labour Contract Law, which was enacted on November 28, 2007 and came into effect on March 1, 2008. Part I of this article summarizes the background and process of this legislation and clarifies its significance. Then, after noting the normative nature of the Labour Contract Law, part II explores the interpretative issues, focusing on the provisions regarding the effect of work rules. Finally, in part III, the author points out some of the future issues including the improvement of the contents as well as the relationship with the Civil Code.

Legislative Process of the Labour Contract Law, and its Significance and Account: From the Perspective of Attorneys on the Labour Side

Kunio Miyazato (Attorney)

The Labour Contract Law enacted on 1st March 2008 is a small law consisting of just 19 clauses. It stipulates only principles agreed upon concerning labour contract measures and the enactment of case law for particular items: many other items that workers had wanted to add to the Law were left out and remain as a future task. The Labour Contract Law, however, was the first to be introduced to Japan as a basic principle of labour contracts between labour and management, so its enactment has major significance. Through a bitter confrontation between labour and management and intense discussions in the Labour Policy Council during the process of its enactment, the Labour Contract Law finally has become reality. What was the underlying cause of confrontation between labour and management during the process? What did the labour and management expect from the Law? How should the enactment of the Labour Contract Law, along with the legislation of the labour regulation change law, be evaluated? There was heated debate among labour law specialists over the legislation of case laws relating to the labour regulation changes in the Labour Contract Law. From the standpoint of a workers' attorney who has been appealing for the need to legislate the Labour Contract Law, I will review the legislative process of the Labour Contract Law, and explain the meaning and evaluation of its enactment. Furthermore, I will refer to the influence of the recent regulatory relaxation policies by the Council of Regulatory Reform upon the labour-law-making process, and give my views on the nature and roles of the Labour Policy Council, a key player in the labour-legislation-making process.

Legislative Process and Future Prospects for the Labour Contract Law: From the Perspective of Attorneys on the Management Side

Makoto Nakamachi (Attorney)

In this paper, firstly we discuss the management response to the research report that initiated the enactment of the labour contract law, and reconfirm its position as a special civil law and management's unwillingness to accept it due to documentation requirements and severe legal repercussions in the case of negligence, despite the fact that it contains good points including documentation of the legal theory of precedents. Secondly, we mention that the labour contract law was asserted affirmatively as a special civil law, clearly distinguished from the labour standards law, and that the management side should value the documentation of working rules. Thirdly, regarding future prospects for the labour contract law, we examine in which field the legal theory of precedents should be documented and ideas on the system for

resolving disemployment with money, system to modify contracts based on continuing employment, and revision of stipulations to modify the disbenefit caused by working rules.

The Contents of the Chinese Labour Contract Law and its Significance

Noboru Yamashita (Kyushu University)

Even in China with its socialist market economy, labour relations are recognized as a contractual relationship. Although the Chinese Labour Law established in 1994 states the basic principles of labour contracts, it did not work as a unified and comprehensive legislation because some regulations by labour administration sectors and local governments had greater influence in society. In addition, as the market economy developed and restructured with the greater reform of state-owned enterprises, the proportion of part-time and temporary workers has rapidly increased. This was completely unexpected in 1994 when the Law was enacted, and consequently workers suffering from unstable employment have increased because many of their labour contracts include a fixed working period. This has been a major problem for the Chinese government which is aiming to achieve a harmonious society. With this social background, the Chinese Labour Contract Law was enacted in June 2007, followed by the Employment Promotion Law and the Labour Dispute Arbitration Law, thus greatly improving the labour legal system of China in the past year. In Japan, too, the Labour Contract Law was established, the Part Time Labour Law was revised, and revision of the Worker Dispatch Law has been under discussion. This article focuses on the process and background of the establishment of the Chinese Labour Contract Law, which is related to the legislative changes in Japan, and then describes its contents such as agreements of labour contracts, effects of labour regulations, periods of labour contracts, layoffs and termination of employment, and legislation on dispatched and part-time workers, as well as some reviews about such matters.

Balancing Treatment and Ban on Discrimination: Significance and Problems of the revised Law concerning the Improvement of Employment Management for Part-Time Workers (Part-Time Labour Law)

Michiyo Morozumi (Meiji Gakuin University)

The part-time labour law was substantially revised in May 2007 in response to the increasing number and qualitative change in part-timers in recent years. The revised law was put into effect on April 1, 2008, and represented significant progress as substantial legal regulation on the treatment of part-timers, placing stricter obligations on business owners, such as manifesting labour conditions, observing balancing treatment, and eliminating discrimination for certain workers. In this paper, we introduce the background and contents of the revision to the law (I and II), analyze the ideal rule for prohibiting discrimination of part-timers (III), and give some considerations to the revised law from a legislative perspective (IV).

Perceptions of Pay and Work by Standard and Non-Standard Workers

Yoshio Okunishi (Hosei University)

Using a unique internet survey of standard and non-standard workers in Japan, the author studied the determinants of their perceived wage equity and job satisfaction. Unlike some previous studies, he finds that the perceived distinction by employment category is more influential in determining perceived wage equity than wages and job contents per se. He also finds that the determinants of job satisfaction are rather common by employment category, although a notable difference exists in the

components of wage satisfaction. Finally, the measure of capability shows disadvantageous positions of non-standard workers, particularly those of contractual/temp-agency workers.

The Impact of the Revised Part-Time Labour Law: An Economic Analysis

Eiko Kenjoh (Asia University)

The revised Japanese Part-time Labour Law, which was enacted in April 2008, desires to improve the position of part-time workers when compared to ordinary (full-time regular) workers, since currently Japanese part-time work can be described as a low-wage and low-status work mode. Furthermore, this revision wants to provide part-time workers' with the possibility to become ordinary workers. However, the targeted audience in the revision is quite narrow. The next step therefore should extend the revision to wider categories of workers. The improvement of part-time workers' position would allow people to choose working hours without facing a severe decrease in labour conditions. Such improvement would moreover be beneficial for companies and society through, for instance, reducing the negative impact of the long-term labour shortages, better utilisation of human capital and the prevention of further decreases in fertility.

The Mental Health of Public Employment Security Office Staff: The Job Stress of Vocational Counselors

Miho Takahashi (The University of Tokyo)

This study investigates the state of mental health of public employment security office staff who have engaged in vocational counseling, and related factors. First, a job stressor scale of vocational counseling was created in a primary survey, and then a quantitative survey was conducted. The results revealed a poor state of mental health of such staff. Further investigation showed that the main reason of stress was caused by providing psychological care for the unemployed, and their mental health was linked to work overload and dealing with human conflict. The findings suggest the need to consider stress management strategies.

Different Approaches in Treating "Employees Taking a Long Parental Leave" and "At-Work Ratios" in the European Employment and Unemployment Statistics

Tetsuaki Sato (Ministry of Internal Affairs and Communications)

Employees taking a long parental leave are on the borderline between 'the employed' and 'persons not in the labour force'. This paper reports on how labour force surveys of European countries treat such employees taking a long parental leave. It also shows that the 'at-work ratios' (number of people "at work" divided by the total population) of Japanese women categorized by age group are mostly the same as those of Finland and Sweden, except for those in their early and late twenties. The difference in women's employment rates is mainly due to the difference in the rate of people taking leave of absence from work, except those in their twenties.