

Abstracts

Current Situation and Problems of Labor Disputes Resolution

Takashi Muranaka (Kyoto University)

Responding to the rapid increase in individual labor disputes since the 1990s, the dispute-settlement system was improved with the creation of Act on Promoting the Resolution of Individual Labor-Related Disputes and the Labor Judgment Law. Both laws are managed in accordance with the purpose of the dispute-settlement system and help to resolve many cases promptly. However, neither of them is perfect. For example, there is room for improvement in terms of accessibility, and mediation by the labor department may impair the quality of dispute-settlement if cases for mediation increase in the future. The labor judgment does not have an excellent judgment function, and is particularly weak at formulating rules. Discussion is needed on how to strengthen expertise in the legal procedures for these functions. The screening system for unfair labor practices was reformed recently, but further discussions are required as to whether the reform is sufficient to accelerate the trial.

Labor Disputes and Legal Advice Seeking: The Case of "individual" Labor Disputes in Contemporary Japan

Shiro Kashimura (Kobe University)

This paper reports a nation-wide survey on the advice-seeking behavior of Japanese citizens, focusing on how they cope with everyday troubles in the workplace. The analysis shows that labor disputes tend to consist of small claims regarding working conditions etc., and of serious disputes regarding discharge, and sexual and other kinds of harassment. A major source of legal and professional advice for citizens on workplace troubles is national and local government agencies and, in more serious cases, lawyers. Countermeasures are required to solve the lack of accessibility to appropriate advisers, especially legal assistance services, as well as public assistance for individuals who are seeking advice.

A Case Report regarding the Efforts of Japanese Companies and Labor Unions to resolve Complaints from Employees

Naoki Tsuchiya (Musashi University)

This paper introduces some cases and analyses of approaches for responding to dissatisfaction and complaints of company employees and members of labor unions in Japan. The increase in specific labor disputes that have recently emerged outside companies is partly attributable to the weakening response to dissatisfaction and complaints of company employees and union members inside the company. In-house response to labor disputes is important, so this paper introduces several interesting cases selected from a survey of companies and unions that are skilled in responding in-house, many of which are related to building and maintaining a reliable system and mechanism for consultation and addressing dissatisfaction and complaints.

Economic Analysis of Dismissal Disputes

Kanji Muramatsu (Komazawa University) and **Ryo Kambayashi** (Hitotsubashi University)

In this article we examine Japanese dismissal disputes in terms of: (1) opportunity cost of trial, (2) asymmetric information of evidence and (3) irrational expectations of both parties. We find two empirical features of Japanese dismissal disputes. Firstly, the number of dismissal disputes in Japan is small: between 10 and 20 cases among 10 thousand dismissals. Secondly, the time-series behavior of the proportion

dramatically changed, from pro-cyclical up to 1996 to counter-cyclical from 1997. Both hypotheses (1) and (2) cannot solely explain these points. Rather, considering hypothesis (3) and the lowered cost of accessing courts due to the free labor advisory centers (Kobetsu-Rodo-Sodan-Madoguchi), the Japanese dismissal rule has stabilized during the severe recession since 1997.

The Fundamental Study on the the Labor Relations Commissions as ADR in the Context of the Current Judicial Reform in Japan

Shiro Kawashima (Doshisha University)

This study is to think the new role of the Labor Relations Commissions (LRCs) under the recent tide of the judicial reform movement in Japan. Making a consideration of the LRCs as the administrative dispute resolutions agencies and according to the new waves of the discussions on the role of the alternative dispute resolutions and the new reforms of Civil Procedure Code in Japan, I propose the important mission of the LRCs to play a new role of the Constitutional remedial activities giving friendly and elaborate fair remedies to not only unions and employees but also employers in unfair labor practices cases.

Settlement and Prevention of Disputes by Labor Union: Main Approaches of Community Unions

OH Hak-Soo (The Japan Institute for Labour Policy and Training)

The community union is a major labor union that resolves specific labor disputes in Japan, and aims to settle mainly labor disputes that cannot be settled inside the company. It uses three approaches: autonomous settlement of a dispute through collective bargaining with the company, settlement through intermediation of the committee on labor affairs, and settlement by the judiciary branch. In Rengo Fukuoka Union, about 80% of disputes are decided through autonomous settlement. As specific disputes, we analyzed sexual harassment, unpaid overtime wages, and sudden layoff, each of which we found was the result of legal violations and low morale among management. The first two were decided smoothly through autonomous settlement, and the last one was satisfactorily settled by labor judgment. The Union's excellent ability to resolve disputes is largely attributable to its many years of experience, professionalism, extensive networks, information exchange, and emphatic commitment and strong will of union executives to settle disputes. In general, labor unions help to halve the number of specific labor disputes, and Rengo has also recently improved its ability to settle specific labor disputes. It is the duty of unions to strengthen their ability to prevent and settle disputes amid the widespread trend toward resolving disputes by the labor department and the labor judgment system. It is therefore necessary for them to strengthen cooperative relations with Rengo.