

Abstracts

The Formation and Change of Collective Bargaining and the Joint Consultation System in Japan

Norio Hisamoto (Kyoto University)

This article aims at making clear the characteristics of Japanese industrial relations through the historical experiences which many Japanese firms underwent. At first, we deal with such subjects as a dispute in Hitachi Ltd. in the 1950's and the Three Principles of Productivity (Seisansei San Gensoku). The management won most of the labor disputes, but suffered serious damage in doing so. In the second section, we discuss the formation of the joint consultation system. During the period of high economic growth and stable economic growth, Japanese firms developed a joint consultation system with their enterprise unions and invented some new personnel measures as *shukko* (temporary transfer to another firm) or *tenseki* (employment transfer to another firm). In the third section, we deal with some changes after the Asian economic crisis in 1997. Japanese firms fell into a difficult situation. But collective bargaining and joint consultation system were not so dramatically changed.

The reason why they are unchanged is the subject of the fourth section. It is important to understand two characteristics, union membership and the internal promotion system. Japanese union members are highly educated and many of them become managers as the result of internal promotion. There is no psychological barrier between them. In the last section, the following issues are discussed as today's agenda. The ambiguity of the confrontation axis in industrial relations, the increase of non-regular employees and the growing importance of a two-breadwinner model.

Formation and Development of the Legal System Establishing Collective Working Conditions in Japan

Takashi Araki (The University of Tokyo)

This article overviews the formation and development of the legal system establishing collective working conditions from the prewar period to date in Japan, and examines current challenges Japan faces. A focus is put not only on the establishment of collective working conditions through collective bargaining but also on the establishment of uniform working conditions in the undertakings. Accordingly, the article examines the system of collective bargaining and collective bargaining agreements, as well as the systems to establish uniform working conditions such as the failed attempt to introduce the bargaining unit and bargaining labor union in the late 1940s and early 1950s, the interpretation of the extension of collective bargaining agreement in the establishment, and the possibility to establish uniform conditions through the union shop agreement. Through the analysis, it is clarified that the accepted idea of the plural unionism recognizing each union's right to organize and bargain collectively limits the possibility of the uniform establishment of working conditions in the undertaking. The limitation led the Japanese Supreme Court to create and develop the unique case law on reasonable modification of work rules. The case law was incorporated in the Labor Contract Act of 2007 as explicit provisions. In the individual labor relations law such as the Labor Standards Act, the majority representatives in the establishment, namely the majority union or the majority representative person where no such union exists, have participated in establishing working conditions in a broader sense through concluding a majority representative agreement with the employer and being asked their opinions on work rules. Although their roles have been increasingly expanded, various problematic cases are reported especially concerning the majority representative person. Therefore, the majority representative system at the establishment faces various challenges that should be addressed in the whole structure of the collective labor relations law including their relationship with the labor unions.

The Functions of the “Guideline for the Joint Work Councils” in 1946 and its Implications for Present Labor Management Consultations

Jongwon Woo (Saitama University)

This paper examines the functions of the “guideline for the joint work councils” in 1946 and its implications for present labor management consultations, focusing on what kinds of matters the councils actually discussed with. The functions of the guideline can be specified as the institutionalization of industrial relations in three aspects; keeping industrial relations in the capitalistic socio-economic order; making labor of one side of industrial relations equal to management of the other side of industrial relations; fixing the modernized industrial relations in the post-war era not by legislation but by autonomous practices of labor and management. However, the guideline could not set rules which are necessary to decide how much labor should be provided at each workplace. In order to tackle this problem, the consultation scheme with which labor and management can attain the consensus on the quantity and quality of the labor expenditure will be prepared. Beside this, the guideline failed to cover the workers’ voices of the majority of each workplace because it could not compel the establishment of the councils. To overcome this kind of hardship, an employee representative committee law needs to be enacted to give the right of consultation with management to all employees including non-regular workers.

Development of Legal Policies and Current State of Social Dialogue in France

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Through inspecting the legal system and current situation about social dialogue in France, this paper suggests the way of labor-management interaction in Japan. In France, unionization rate has been low due to its historical and social background, and, in particular, social dialogues at company level have been sparse traditionally. However, after 1980s, the government has tried to promote social dialogues by series of legislations. What have come to be central are (1) legalization of mandatory collective bargaining items, and (2) the establishment of social dialogues system in company without in-house branches. As a result, the number of collective agreements contracted at company level has dramatically increased in France. Thus, legalization about mandatory collective bargaining items could be evaluated to have some effect to promote social dialogue at company level. But to be sure, analyzing the contents of these collective agreements at company level, we can find that most of collective bargaining at company level in France targets only the items obligatory, and there are few social dialogues ‘autonomous’. And there are few collective bargaining in company without in-house branches in spite of legal system of the establishment of social dialogues. From these inspection, although there is a way to promote social dialogues by imposing a duty to be bargained collectively some items, establishing infrastructure of labor unions as its bearer is considered to be a problems in the future.

[お詫びと訂正]

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(誤) イノベーション治動

(正) イノベーション活動