

Abstracts

An Empirical Verification of the Selection Hypothesis and the 50 Percent Rule: Evidence from the Lawsuits against Layoffs in Japan

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This paper empirically verifies two hypotheses of legal actions, as known as the selection hypothesis and the 50 percent rule. These hypotheses, suggested by Priest and Klein (1984), imply that a confirmation of rules decreases the number of court cases and moves the winning rate of a plaintiff closer to 50 percent. Using data of lawsuits against layoffs in Japan, we find that the number of lawsuits has a stable long-run connection to unemployment rates and/or involuntarily quitting rates. However, we also find that, in the specific periods, there exist some divergences from this long-run relationship. The divergences, or the number of lawsuits which could not be explained by the number of *potential* lawsuits, sharply decrease to take on negative values from the second half of the 1970s. This period matches the period in which the Employment Dismissal Regulations were confirmed in Japan. As the selection hypothesis suggests, the confirmation of rules decreases the number of lawsuits. We also find that, in the 2000s, the number of lawsuits diminishes and the winning rate does not move closer to 50 percent. We interpret this finding as that new introduced dispute-settlement mechanisms decrease the number of lawsuits without changing the confirmation of rules.

Improvement of Grievance Procedures in the Organization: Achievement of Procedural Justice

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This paper sought to uncover the way of improvement for grievance procedures in the organization. Using data of the *Investigation of Grievance Systems in Organizations*, structural equation modeling was conducted to build a hypothetical model. Based on procedural justice, three factors were classified about how to improve the system: participation of non-stakeholders, providing opportunities to train staff, and security of client anonymity. In terms of the perpetrator of retaliation, the sorts of complaints were also divided into grievance about working conditions and personnel affairs and grievance about human relations. Furthermore, the effects of trade union activity were included in the model. Estimation results showed that the hypothesized model was adapted to actual data, and participation of non-stakeholder led to increases in both kinds of complaints. Although keeping clients anonymous increased grievance about human relations, providing opportunities to train staff did not have any effect on the number of accepted complaints. Even after controlling for positive effects, trade union activity inhibited employees from filing complaints about working conditions and personnel affairs. In contrast, trade unions promoted organizations to improve grievance procedures, which lead to increased complaints about human relations. So, the estimated model in this paper suggests that procedural justice should be retained when organizations try to improve grievance procedures.

Enforcement of Rights under U.S. Employment Laws: Civil Action Brought by Government Agencies

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This paper examines the enforcement system for rights under the employment laws of the United States, with emphasis on the mechanism of civil action brought by government agencies, and identifies implications for the Japanese framework. In general, civil actions brought by government agencies in the United States focus on aspects of public interest central to and embodied within specific laws, such as the Fair Labor Standards Act or Title VII of the Civil Rights Act. The mechanism of civil action contributes to the variety of enforcement mechanisms to defend the public interests that certain laws were enacted to protect. On the other hand, as civil litigation initiated

by private individuals has been significantly increasing in the U.S., there is a trend to support the resolution of disputes outside the court through private agreements. Even so, civil action by government agencies is still able to be used, because of the public interest aspects of the laws being enforced. This suggests that civil action as an enforcement mechanism used by government agencies is considered to serve a different purpose from that of private individuals. Given this, two points of views can be suggested within the Japanese framework of employment law: 1) how to effect the realization of rights under the employment laws by civil action, and 2) how to consider an implementing body for accomplishing this.