

Abstracts

The Issues Surrounding Employment and Labor in Japan's Franchise Organizations

Tomonori Inukai (Chuo University)

The paper aims to organize the issues surrounding employment and labor in organizations that utilize the franchise system in Japan. For this objective, in this paper we will interpret and discuss the franchise system as an organizational mechanism that encompasses two separate independent businesses, which are the franchisor and franchisee, as opposed to treating it as a mechanism of chain expansion. Through the available statistical data on franchise organizations, the growth mechanism of the franchise organization can be seen to have shifted from the sales growth of existing stores to store expansions over the course of about 30 years. It can be said that the problems faced by the franchise organizations, in particular about employment and labor, has surfaced due to the difficulty of the sales increase through existing stores and the interaction between franchisors and franchisees becoming more active. Understanding the three changes of the franchise organizations behind this growth process is important to understand the points at issue of employment and labor. These changes are as follows: (1) A conventional franchise organization is a hybrid of a franchise store and a directly-operated store, and the ratio between them is constantly changing, (2) the number of franchisees that own multiple stores are on the increase and (3) the franchise organizations are becoming old after several decades. Taking into consideration the changes taking place behind the scenes of the growth process of the franchise organization, the employment and labour of the franchise organizations can be systematized according to the type of industry as follows: (1) CVS: The labor and career of the individual store manager franchisees, (2) Retailers other than CVS: Balancing the mutual complement between franchisor and franchisee, (3) Food service industry: securing and nurturing franchisee candidates, and (4) Service industry: Retention of excellent service providers within the franchise organizations.

Franchise Contracts: Theory and Evidence

Masayoshi Maruyama (Kobe University)

This paper discusses the literature and hypotheses of franchising and suggests promising directions for future research. The problems treated in this paper are as follows: why have so many firms chosen to franchise rather than expand through company-owned outlets, and which factors are determining the amount of franchise fees and royalties. The traditional explanation for franchising is that it is a method used by the franchisor to raise capital. The literature gives a number of theoretical and empirical analyses for franchising such as, the principal-agent theory, signaling of business quality, and free-rider issues for franchisees. In the principal-agent model, franchising provides higher performance incentives than company-owned outlets in which employees are paid a set wage not closely tied to observed performance, but also subjects agents to greater risk, which is costly. Where heightened incentives are more valuable, or their associated risk-bearing costs are lower, franchising is more profitable and more likely. The Japanese data of franchising support the principal-agent model more than the other factors.

Can "Owners" of Convenience Stores be "Workers" under Japanese Labor Union Law?

Yoko Hashimoto (Gakushuin University)

Two decisions of the Local Labor Relations Board raised a question about the "worker" status of franchisees, because they admitted that "owners" of convenience stores of Seven-Eleven Japan and Family Mart are "workers" under Japanese Labor Union Law. The decisions could be generally approved, however, they should consider more precisely the nature of franchise agreements. With franchise agreements, franchisees are obliged to use a whole "franchise-package" and they are strictly bound to instructions from their franchisers, however, on the other hand, these "franchise-packages" make it possible for franchisees to gain a profit as business traders. Whether a franchisee is a

“worker” or not depends on each circumstance. Income could be an important factor in this decision. If a labor union organized by franchisees close a collective agreement with their franchiser, this agreement has a normative effect in the meaning of Article 16 of Japanese Labor Union Law. Namely, the “franchise agreement” should be re-classified as an “employment contract.” However the “owner” of a convenience store who is classified as a “worker” under the Japanese Labor Union Law should not be classified as an employee under the Japanese Labor Standards Law, because more and more court decisions about franchise agreements have recently formed special rules and equivalent protection so the employment contract could be realized to certain extent. This equivalent protection could justify the relative interpretation of the notions of the “employment contract.” However, the relativity of the notions of the “employment contract” caused confusion in the praxis, therefore it is desirable to amend the laws. The “owner” of convenience stores who is classified as a “worker” under Japanese Labor Union Law should not be classified as an undertaking under the Japanese Antitrust Law. However, protection of the Antitrust Law like a prohibition of unfair trades in Article 19 of the Japanese Antitrust Law should apply to the franchisees as a “worker” under Japanese Labor Union Law, because Japanese industrial relations are based not on a whole industry and the influence of collective bargaining and collective agreements is restrictive. They have no obstructive effect on free competition.

Management and Labor at Convenience Stores

Naoki Tsuchiya (Musashi University)

Convenience stores (CVS) are becoming indispensable for the daily lives of the Japanese people. The management of CVSs are mostly carried out by the members of the franchise chains. This paper examines the employment situation and working conditions of the members who work at CVSs and their relatives and employees, from the viewpoint of how it is related to the contract between the members and the chain headquarters. Although the members work for a considerable number of hours, their pay is relatively low. The majority of the employees are part-time workers on minimal wage, and their wages are clearly lower than other occupations. This is due to the reason that the management of CVS cannot stand firm without cutting the labor cost. The franchise contract between the members and the headquarters would be related to this situation. Specifically, the members are having to substantially curb the personnel expenses, because of reasons such as; high royalty rate, new services that are not economically viable due to the burden of personnel expenses are being carried out automatically or one-sidedly; having to operate during the late night working hours even if in many cases it is not economically viable due to the burden of personnel expenses; and the heavy cost burden of product waste and the difficulty to reduce the wastage. A lot of CVSs are facing labor scarcity. To solve the problem, better treatment of employees is essential, however, in many cases, this measure is difficult to achieve due the reasons mentioned above. For a sound development of CVS, a review of the relationship between the members and the headquarters is required.

Labor Sustaining the Franchise System: Focus on the Growth in Careers of a Shop Manager

Yoshinobu Igo (Teikyo University)

This article focuses on convenience stores, which are franchise-based businesses, and discusses the nature and problems of the career development and future of an employee hired by the franchised store owner. With a shift in the proportion of the pattern in which contracts are signed with the headquarters of franchises, the number of franchised stores has been increasing as the group of individuals who manage businesses and administration expands. Consequently, these businesses are dependent on the employees who have been hired by the franchised store owners to manage the stores. Focusing on the working conditions of the employees is important to predict whether their work experience will provide opportunities for them to achieve financial and vocational independence and facilitate their career growth. The discussion is based on

an interview with a current store manager who has been hired as a part-time store clerk and is hoping to be promoted to the position of a supervisor at a store where the employer owns the management rights. The assessment of the store manager's role included analyzing the situation and motives underlying the staff training and management, and the manager's efforts to be promoted to a higher position. It was evident that the store manager was facing problems with respect to career prospects. These problems arise due to the differences between the evaluations of the store manager by the franchised store owner and the headquarters with respect to addressing the issue of labor shortage. Such opposing evaluations are a result of the conflicting actions by the headquarters of the franchise. While initiating the opening of more stores in a short period through standardization, the headquarters also promote the atypical form of business for the purpose of added value. Based on the assessment of the case, issues regarding the inclusion of these workers into the labor society have been highlighted.

Franchisors' Liability to their Franchisees' Employees under US Labor Law

Masahito Toki (The University of Tokyo)

This article explores issues of a legal relationship between a franchisor and an employee of its franchisee in the United States, focusing mainly on the "joint employer" doctrine under the National Labor Relations Act. Business model franchise, which is prevalent, is characterized by that franchisors' control over their franchisees' businesses by setting and enforcing business standards in order to protect franchise brands. Recently, the National Labor Relations Board governing the Act liberalized the joint-employer standard and decided that joint-employer status could be established by indirect control over employees. Although the NLRB has not decided joint-employer status of franchisors yet, the General Counsel of the NLRB issued complaints against a franchisor and its franchisees as joint employers, claiming that the franchisor, supported by current technological advancements, exerts control that goes beyond the protection of its brand so that the franchisor controls over employment terms and conditions of its franchisees' employees. These issuances lead to discussions about a conflict with other federal statute and appropriateness of joint-employer status of franchisors. In addition to the joint employer doctrine, there is another approach that makes franchisors enforce employment laws upon their franchisees, focusing on the unique position of franchisors enforcing their business standards. Business model franchise is also widespread in Japan, so it is worth referring to these discussions in the US.