

Japan Labor Issues

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June-July 2018

Volume 2 Number 7

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● Research

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Dismissal and Refusal to Renew a Fixed-term Contract
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● Statistical Indicators



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Message from the New Editor-in-Chief

Japan's current labor policy is based around various government-led initiatives encapsulated with slogans such as "Dynamic Engagement of All Citizens," "Work-Style Reform," and "equal pay for equal work." There is proactive and energetic discussion of major policy measures addressing a full range of labor market and employment system issues, including improving labor share, promoting labor mobility, promoting employment among women, the elderly, and young people, improving the treatment of non-regular workers, preventing excessively long work hours, and improving labor productivity.

We at the Japan Institute for Labour Policy and Training (JILPT) have a significant role to play in this process. Our activities include accumulation of basic and innovative labor research grounded in various structural changes and historical and international comparisons. The surveys and research we conduct are used for planning and evaluation of Japan's labor policy, and the practical evidence and data we provide have extensive implications. JILPT brings together its research and training to foster the competency of governmental officials at the core of labor administration and management.

JILPT is the only labor policy research and training institution in Japan with a large number of researchers in a wide range of specialized labor-related fields. By adopting broad-based, interdisciplinary viewpoints on complex labor issues, we aim to elucidate policy issues swiftly and consistently stay "one step ahead of government" so as to make positive contributions to society.

I am honored to have been appointed President of the Japan Institute for Labour Policy and Training, and editor-in-chief of this journal, as of April 1, 2018. This journal was launched in summer 2017 to disseminate up-to-date information on Japan's ever-evolving labor issues to the world. We believe that in planning and proposing labor policies, it is vital to have an accurate understanding of actual workplace conditions (including clarification of problematic areas) that is global in scope.

In this journal, I aim to make full use of my long-running research and academic teaching, with a focus on econometrics and labor economics, and continue offering valuable information and insights to our readers.

Yoshio Higuchi
Editor-in-Chief, *Japan Labor Issues*
President, The Japan Institute for Labour Policy and Training



Yoshio Higuchi

NEWS

Analysis of Japan's Labor Economy 2017

Office of Counsellor for Labour Policy Planning
Ministry of Health, Labour and Welfare

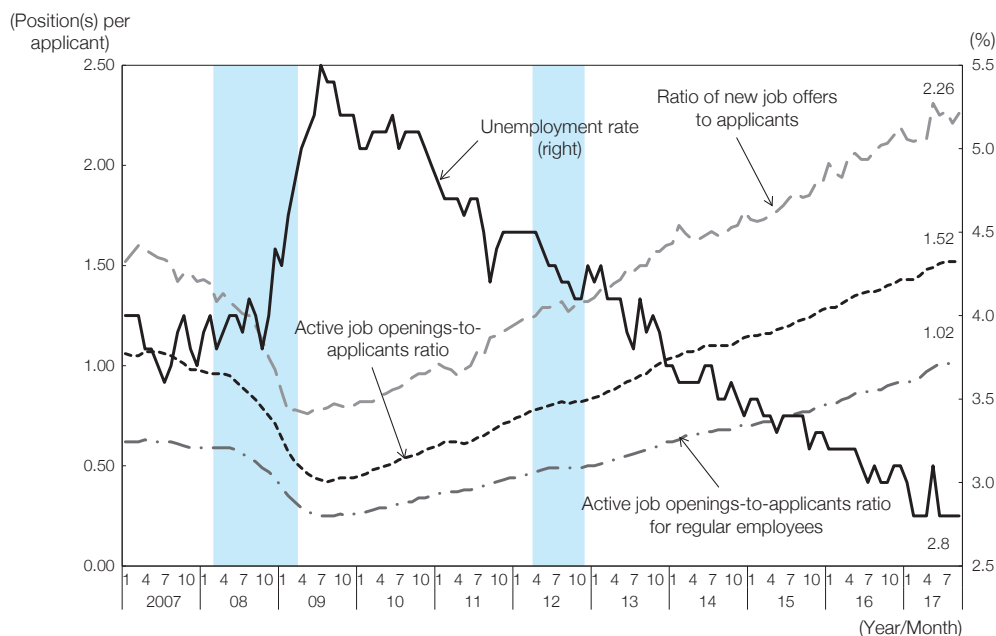
I. Employment Situation

Increase in labor demand steadily improves employment

For an overall picture of the employment situation, let us examine the change in the unemployment rate and active job openings-to-applicants ratio (Figure 1). Both unemployment rate and active job openings-to-applicants ratio have been trending upward in Japan since 2009 after the global financial crisis. As of September 2017, the unemployment rate was 2.8%, which is its lowest level since June 1994, and the active job openings-

to-applicants ratio was 1.52 positions per applicant, approaching the high level of 1.64 that it reached in January 1974. When limited to regular employment, the active job openings-to-applicants ratio, as of June 2017, rose to above 1 position per applicant for the first time since tracking of this statistic began in November 2004.

First, let us get an overall sense of surplus and shortage of employment as seen from the labor demand side (employers' perspective) by looking at the diffusion index (D.I.) of "surplus" minus "shortage" of employment in the Bank of Japan's *Tankan* (survey on short-term business outlook). The values for all enterprise sizes and all industries in the



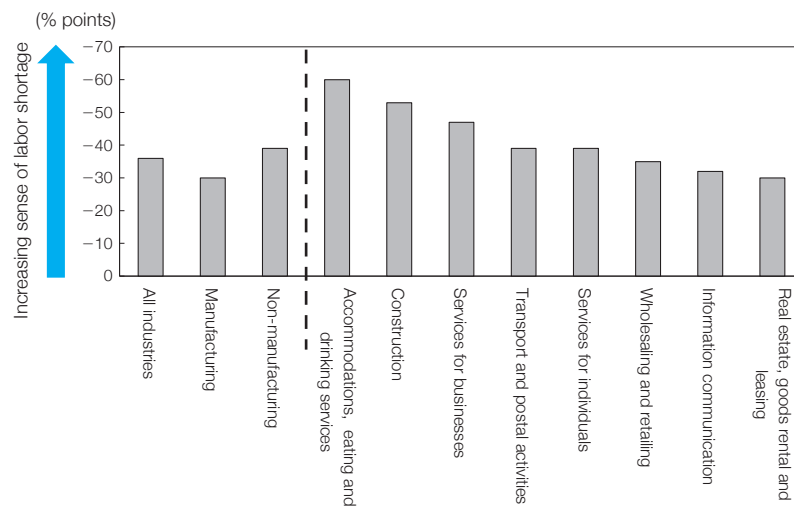
Sources: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on MHLW's *Report on Employment Service* and Statistics Bureau, MIC's *Labor Force Survey*.

Notes: 1. Data used are seasonally adjusted.

2. During the period from March 2011 to August 2011, supplementary estimates (new standards) were used because there was no nationwide collection result due to the impact of the Great East Japan Earthquake occurred in March, 2011.

3. The shadowed parts are recessionary periods.

Figure 1. Trends in unemployment rate and active job openings-to-applicants ratio



Source: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on the data from Bank of Japan, *The Short-Term Economic Survey of Enterprises in Japan (Tankan)*.

Figure 2. The change in D.I. for employment conditions by industry (The difference between April-June 2010 survey and April-June 2017 survey)

April-June 2017 survey were minus 25 percent points from the previous year, meaning perceived shortage of workers is at its highest level in around 25 years, since the January-March 1992 survey. The sense of shortage of employment is strongest in the industries of “Accommodations, eating and drinking services” and “Construction” as seen in comparison with the April-June 2010 and April-June 2017 surveys (Figure 2).

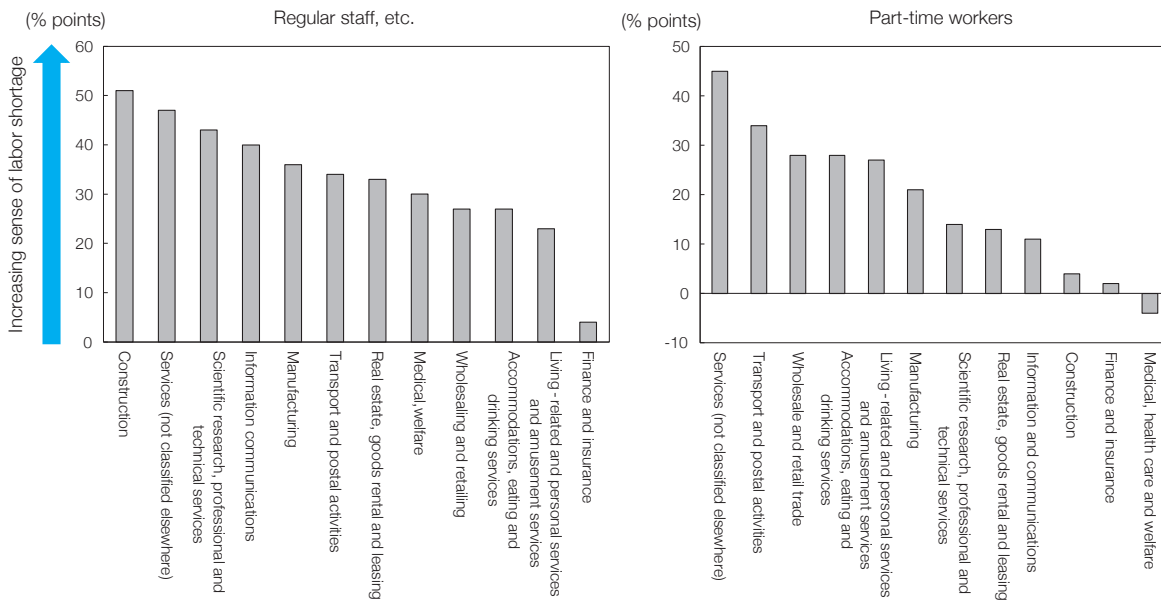
Figure 3 shows the D.I. for employers’ judgment on the employment situation in the *Survey on Labour Economy Trends* conducted by Ministry of Health, Labor and Welfare (MHLW). There is a growing trend of shortage of labor supply among regular employees, etc. in industries such as “Construction,” “Service (not elsewhere classified),” and “Information and communications” and among part-time workers in industries such as “Service (not elsewhere classified)” and “Transport and postal activities.”

As for trends related to recruitment of regular workers, the number of full-time job openings is increasing across all industries in recent years. The increase is particularly pronounced in “Manufacturing” and “Medical, health care and welfare” (Figure 4).

Countermeasures for labor shortage varies by industry

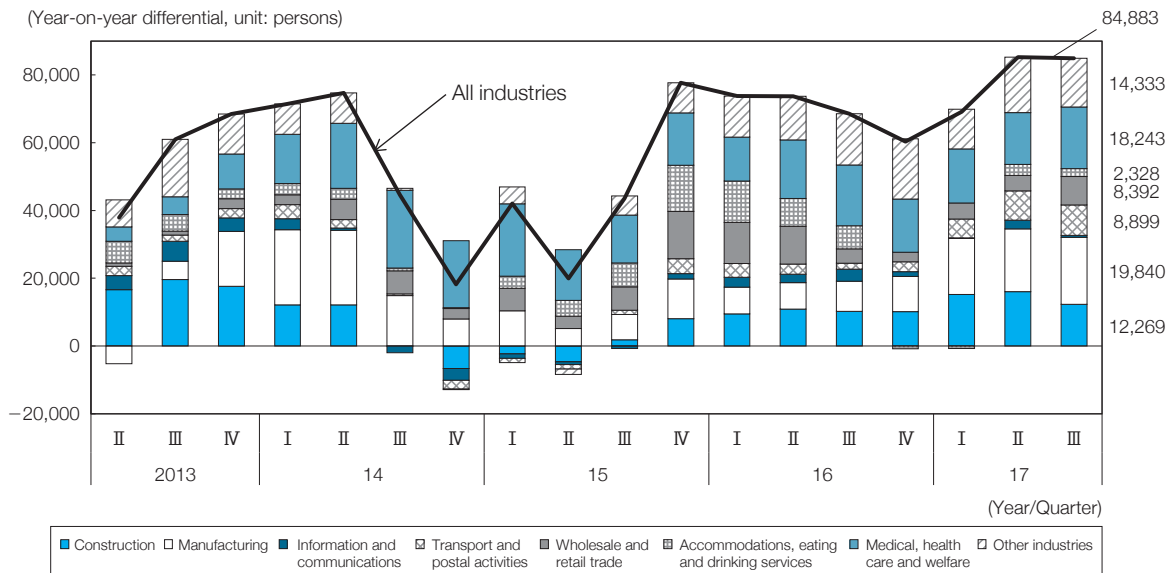
Having overviewed trends in perceived labor shortage, let us look at employers’ responses to labor shortages with a focus on differences between industries. Potential measures for employers to deal with labor shortages are mainly “hiring new workers” and “increasing overtime work hours.”

In terms of “hiring new workers,” let us examine trends in number of employees. Figure 5 shows the number of employees by type of employment in each industry since 2013. It indicates that the number of regular employees trended upward in the third quarter of 2017 in the industries of “Medical, health care and welfare” and “Transport and postal activities,” although it was not a marked increase. In contrast, not enough labor seems secured in “Construction” and “Information and communications,” which has been a strongly perceived lack of full-time employees in recent years. Meanwhile, the number of non-regular workers is trending upward in “Accommodations, eating and drinking services” and “Medical, health care and welfare.” Not enough labor seems secured in “Wholesale and retail trade” where there has been a perceived lack of part-time workers in recent years.



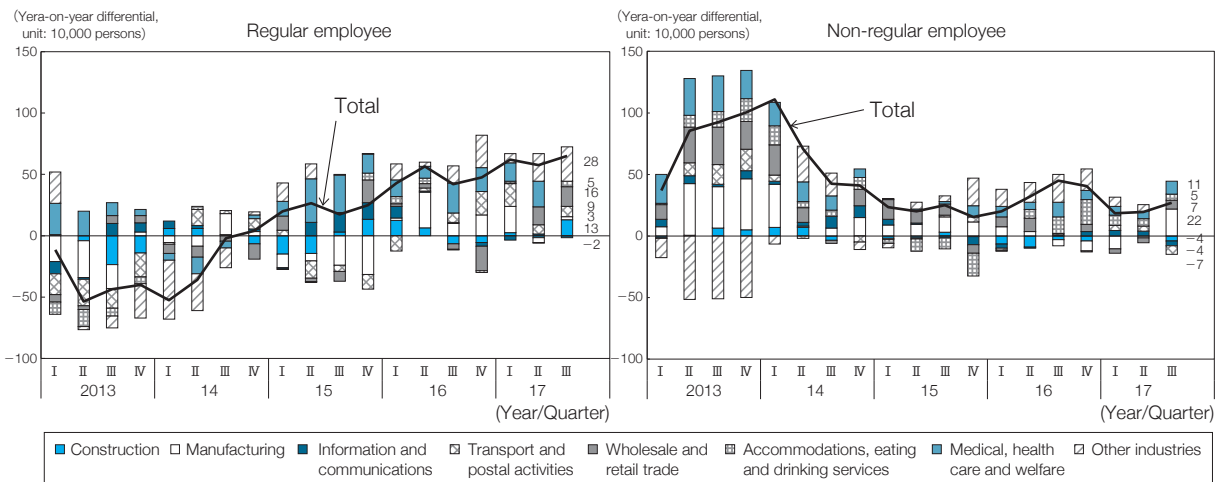
Source: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on MHLW's *Survey on Labor Economy Trends*.
 Notes: 1. "Regular staff, etc." means a person employed without specifying an employment period or a person who is hired with an employment contract for a period of one year or more, excluding "part-time workers."
 2. "Part-time worker" means a person whose prescribed working hours per day or prescribed number of working days per week are shorter than those of a regular employee at the same business.

Figure 3. Changes in D.I. for situation of surplus and shortage of workers, by industry and employment type (The difference between August 2010 survey and August 2017 survey)



Source: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on MHLW's *Employment Referrals for General Workers*.
 Note: Regarding the number of new full-time job openings by industry in the third quarter of 2017, the total for All industries was 1,236,212 persons, Construction 180,442, Manufacturing 150,681, Information and telecommunications 53,447, Transport and postal services 93,533, Wholesale and retail trade 156,455, Accommodations, eating and drinking services 77,921, Food service, and Medical, health care and welfare 281,085.

Figure 4. Trends in number of regular full-time job openings by industry

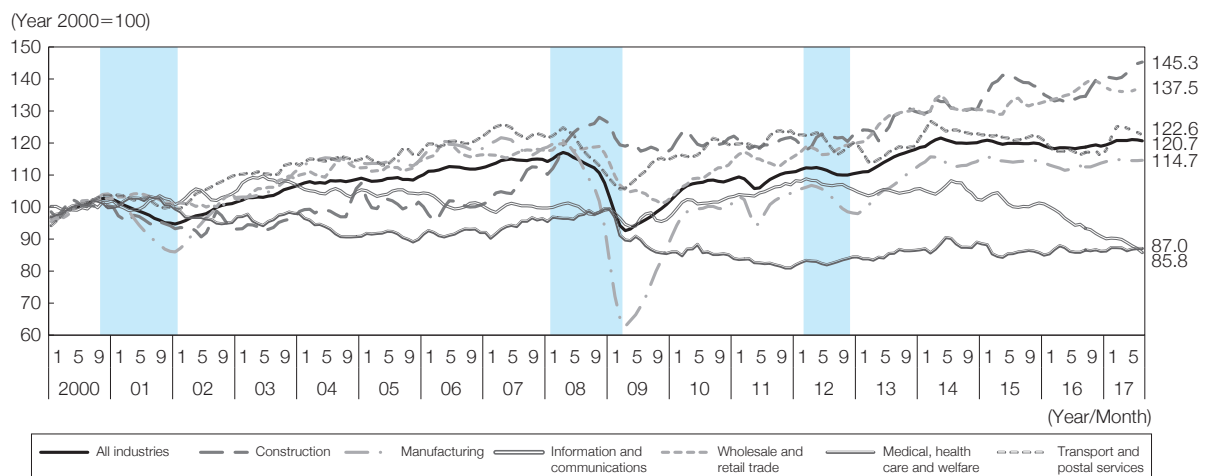


Source: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on the MIC's *Labor Force Survey* (detailed statistics).

Notes: 1. Data shows moving averages for last two quarters.

2. Numbers of persons employed in the third quarter of 2017 were: [Regular workers/employees] All industries 34.35 million persons, Construction 2.93 million, Manufacturing 7.00 million, Information and communications 1.41 million, Transport and postal services 2.34 million, Wholesale and retail trade 4.71 million, Accommodations, eating and drinking services 930 thousand, Medical, health care and welfare 4.72 million, Other industries 10.15 million; [Non-regular workers/employees] All industries 20.5 million persons, Construction 610 thousand, Manufacturing 2.85 million, Information and communications 280 thousand, Transport and postal services 920 thousand, Wholesale and retail trade 4.47 million, Accommodations, eating and drinking services 2.44 million, Medical, health care and welfare 3.03 million, Other industries 5.56 million.

Figure 5. Trends in number of regular/non-regular employees by industry



Source: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on the MHLW's *Monthly Labor Survey*.

Notes: 1. Data shows the seasonally adjusted value moving average for the last three months.

2. Seasonally adjusted values are prepared by Office of Counsellor for Labour Policy Planning of the MHLW. X-12ARIMA used.

3. The total for All industries is the number of regular workers in workplaces with 5 or more employees.

4. The overtime work hours as of August 2017 represented as time units are All industries 17.5 hours, Construction 21.2, Manufacturing 20.4, Information and communications 15.8 hours, Transport and postal services 33.5, Wholesale and retail trade 15.3, and Medical, health care and welfare 5.9.

Figure 6. Change in indicators for overtime work hours

Figure 6 gives an overview of how employers deal with the situation with respect to measures to “increase overtime work hours.” While overtime

work hours are trending upward in “Construction” and “Wholesale and retail trade,” which are struggling to secure enough workers. In “Transport

and postal services” and “Manufacturing,” the figures show increases in overtime work during past economic expansion phase in response to the economic stimulus, but have remained more or less flat even in the economic expansion phase since 2013. This may indicate the impact of enterprises’ efforts to change ways of working, including curtailing excessively long work hours, in response to the government’s Action Plan for the Realization of Work Style Reform. Overtime work hours in “Medical, health care and welfare” consistently stays flat overall, having fluctuated around the time of the 2008 global financial crisis. Meanwhile, in “Information and communications,” overtime work hours have been decreasing in recent years. According to MHLW’s *Survey on Labour Economy Trend*, the “Information and telecommunications” has a relatively high percentage of enterprises citing as a measure against labor shortages “improvement in working conditions of employees (by reducing overtime work hours, etc.)” We may infer that enterprises in this industry are actively working toward overtime reduction.

II. Wage trends

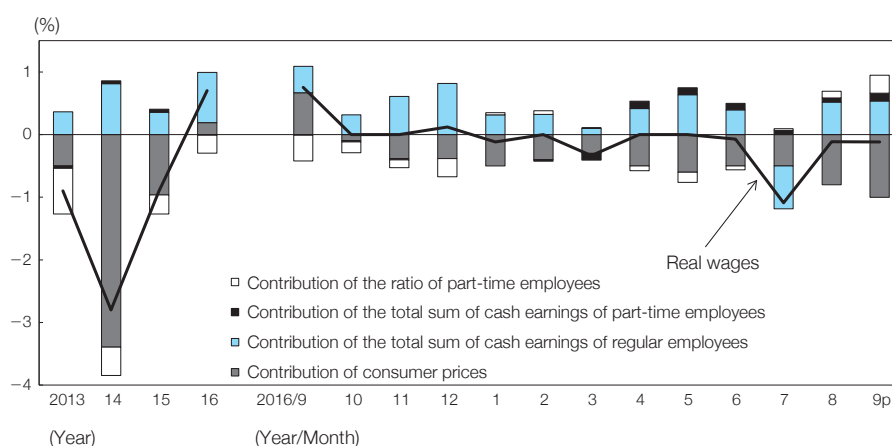
Salaries are picking up, hourly wages are trending upwards

Let us review trends in wages paid by employers.

With regard to the perceived labor shortage in particular is expected to contribute to an increase in wages through tightening of supply and demand in the labor market. When we examine trends in corporate earnings, which are the source for increasing wages, Japanese Ministry of Finance’s *Surveys for the Financial Statements Statistics of Corporations by Industry* indicates that ordinary profits levels have recovered beyond pre-global financial crisis levels, and the values for fiscal 2016 reached their highest ever. Based on these circumstances, let us analyze some trends in the share of corporate earnings distributed as worker wages and other personnel costs (referred to below as labor share).

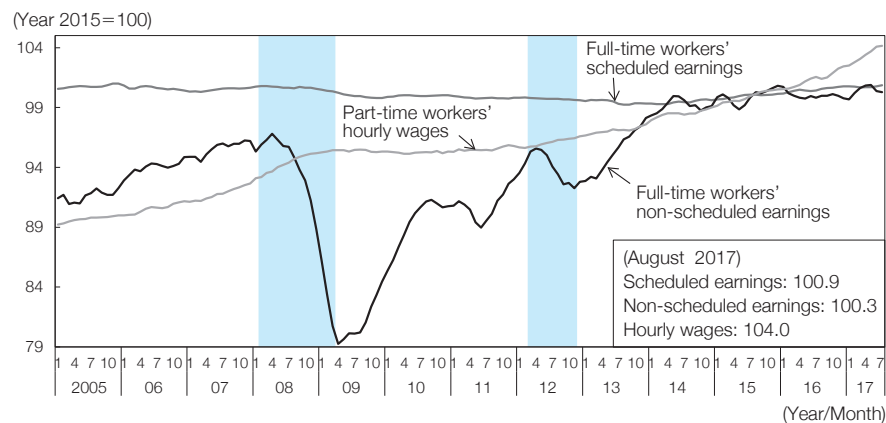
First, we examine wage trends as shown in Figure 7 through analysis of factors contributing to real wages (total cash earnings). The increase in 2016 was 0.7% year-on-year. While a rise in part-time workers as a percentage of the total workforce was a negative contributing factor, regular workers’ salaries and fluctuations in consumer prices contributed positively. The figure also shows monthly trends. Although the salaries of regular and part-time workers have made an overall positive contribution since 2017, real wages have remained generally flat with consumer price fluctuations as a negative contribution.

Next, in order to comprehend wage trends



Source: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on the MHLW’s *Monthly Labor Survey*.

Figure 7. Contribution of real wages (total cash earnings) (comparison to the previous year/to the same month in previous year)



Source: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on MHLW's *Monthly Labor Survey*.
 Note: Data used are seasonally adjusted values (3-month moving average) prepared independently.

Figure 8. Full-time workers' scheduled/non-scheduled earnings, part-time workers' hourly wages

in more detail, let us see the transition of regular workers' scheduled cash earnings (regular salary) and non-scheduled cash earnings (bonuses, etc.) as well as part-time workers' hourly wages (Figure 8). In terms of wage trends for regular workers, both scheduled and non-scheduled cash earnings have gradually recovered. Non-scheduled cash earnings, however, are not correspondingly responsive to economic stimulus as during past periods of economic growth and are only moderately rising. This is mainly because overtime work hours have been declining since 2015. Meanwhile, part-time workers' hourly wages are trending upwards.

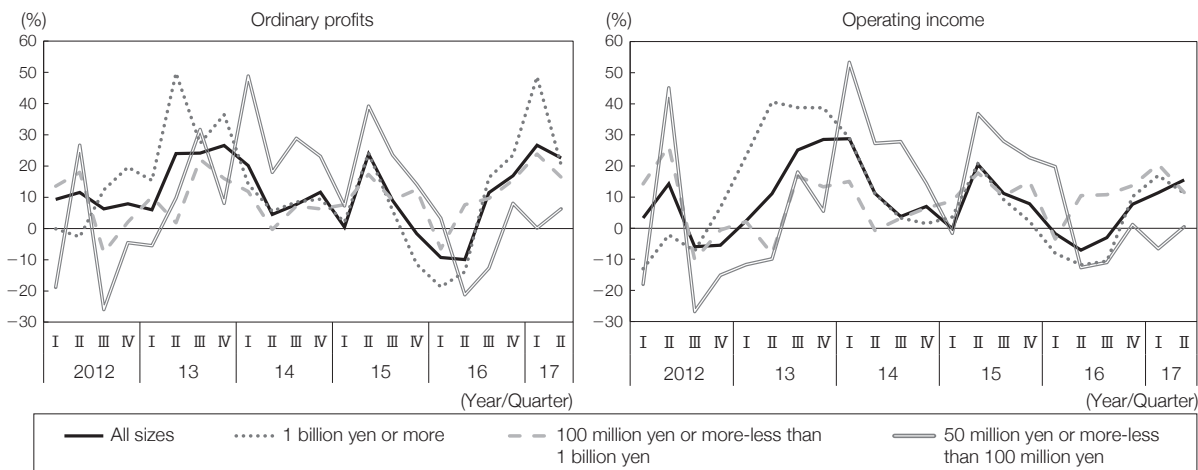
Improving labor share is needed at non-manufacturing SMEs with labor shortage

This section analyzes the relationship between corporate profits and personnel costs in terms of labor share.¹ Figure 9 shows that corporate earnings have improved not only at large enterprises² but also at small and medium sized enterprises.³ Figure 10 shows characteristics related to corporate profits and reveals that the divergence between ordinary profits and operating income has increased in recent years. The same trend can be seen at any company size, though the rate of divergence is especially high at large enterprises. Focusing on "interest received, etc.," which is a factor⁴ in divergence between ordinary profits and operating income, it is

increasing particularly at large enterprises and rising rapidly since 2016 which appears to be a significant factor.

Based on the occurrence of the above-described changes in corporate earnings, we now seek to analyze trends in labor share from the viewpoints of ordinary profits as well as operating income which constitutes the profit of an enterprise's core business. Labor share is an indicator that declines during economic growth phases and rises during recessions.⁵ This section attempts to grasp its characteristics by comparing the change in labor share between 2002 and 2006 to the transition during the period of economic growth since 2013.

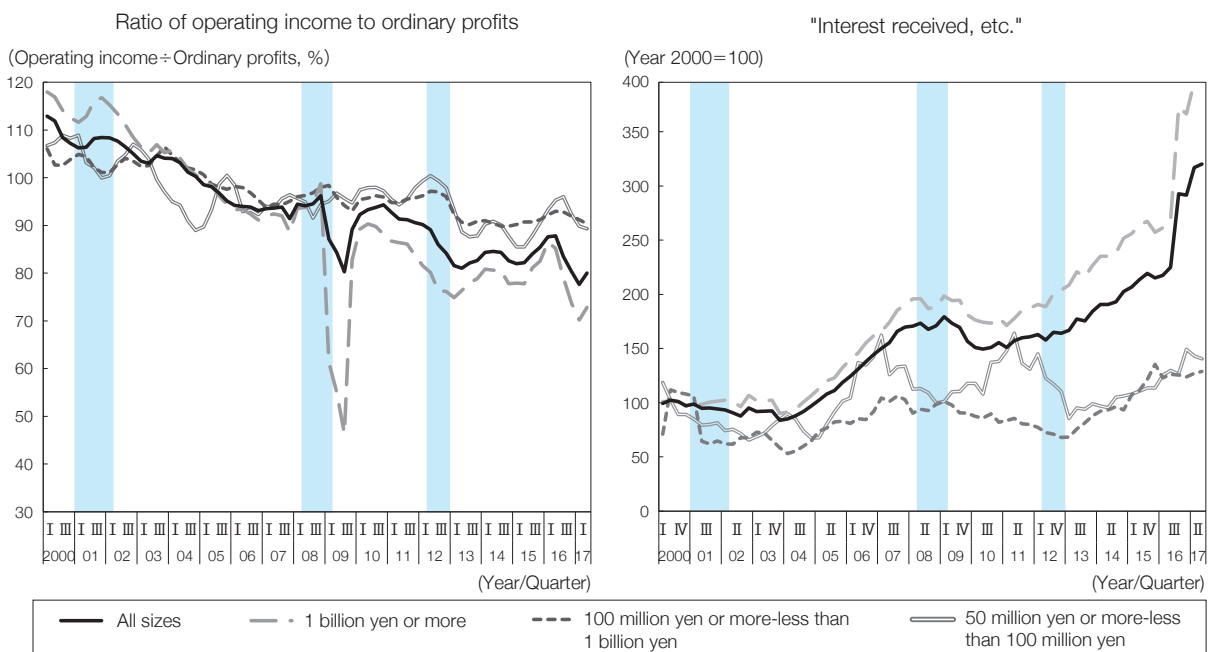
Levels of labor share at all enterprise sizes and the value based on ordinary profits since 2013 is lower than the corresponding value in 2002-2006 across all industries (Figure 11). Looking at the figures in the non-manufacturing, we see the decline rate is somewhat faster than in the past. We can infer that personnel costs are not rising to the same degree as ordinary profits. Moreover, the levels of labor share based on operating income indicates that divergence is generally narrower than in past phases. There were points during 2016 when manufacturing values exceeded those of past phases. This is considered to be the effect of temporary declines in corporate earnings due to the yen's appreciation and the stagnation of overseas economies. The decline



Source: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on MOF's *Financial Statements Statistics of Corporations by Industry*.

- Notes: 1. Rate of increase is based on comparison with the same period of the previous year.
 2. Rate of increase is the moving average for the past two quarters.
 3. Finance and insurance industries are not included.

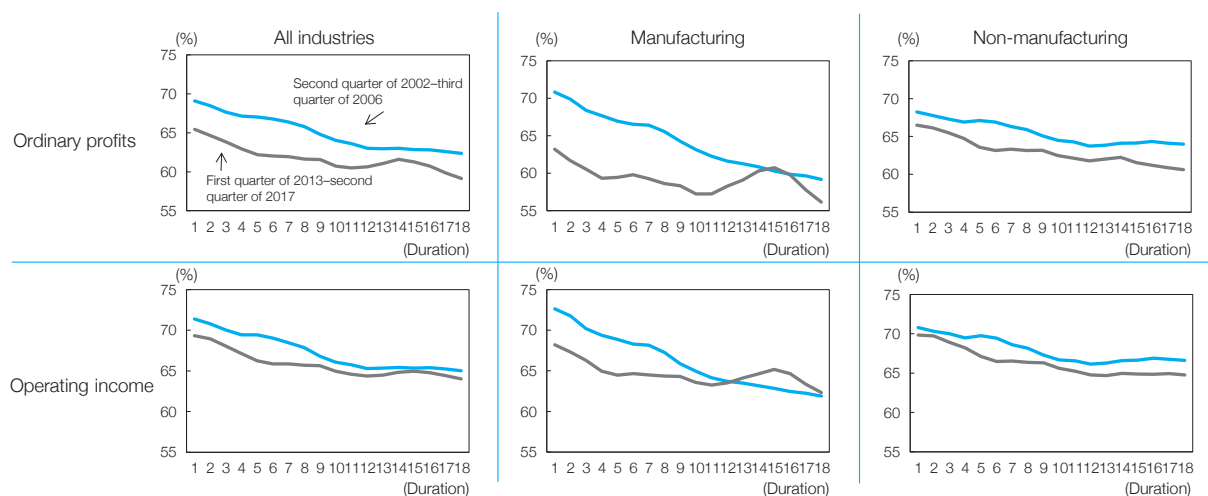
Figure 9. Increase in ordinary profits / Increase in operating income by capital amount



Source: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on MOF's *Financial Statements Statistics of Corporations by Industry*.

- Notes: 1. Data used are seasonally adjusted values prepared independently.
 2. The shadowed parts are recessionary periods.

Figure 10. Change in ordinary profits and operating income ratio by capital amount



Source: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on MOF's *Financial Statements Statistics of Corporations by Industry*.

Notes: 1. Data used are seasonally adjusted values (moving average for four quarters) prepared independently.

2. Labor share = personnel expenses ÷ added value, personnel expenses = executive salary + executive bonus + employee salary + employee bonus + benefit welfare expenses. Value added (operating income) = operating income + personnel expenses + depreciation amount. Value added (ordinary profits) = ordinary profit + personnel expenses + interest expense, etc. + depreciation amount.

Figure 11. Change in labor share by industry (all enterprise sizes)

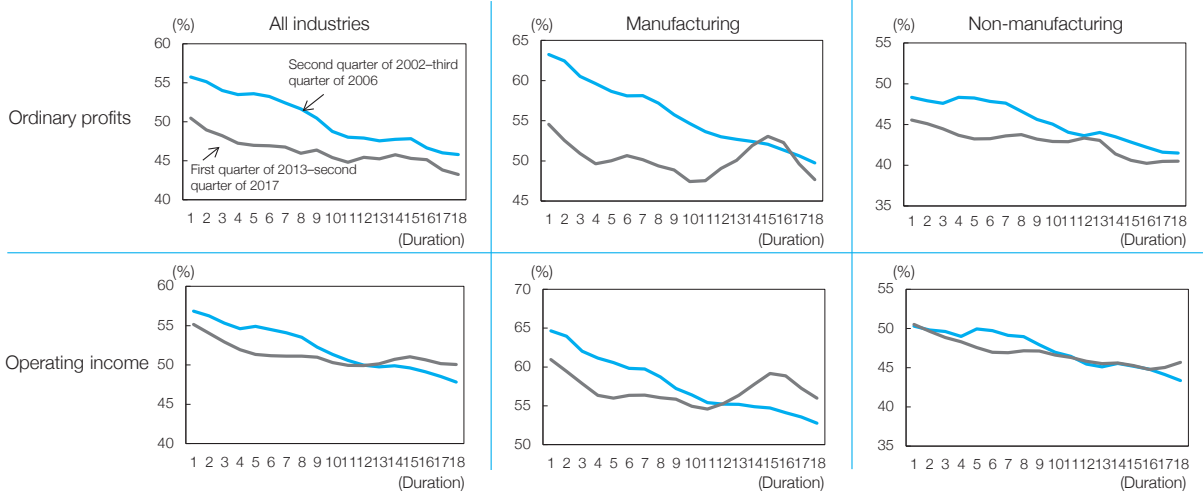
rate of labor share is somewhat moderate compared with past phases. It suggests that improvements in operating income are correlated with increases in personnel expenses.

Next, let us look at labor share in large enterprises. It appears to be trending similarly to other enterprise sizes (Figure 12). Looking specifically at labor share based on operating income in non-manufacturing industries, it has been at the same level in recent years as in past phases and has exceeded the level of past phases in the second quarter of 2017. While operating income in this period decreased by 0.3 percent points compared to the same period of the previous year, personnel expenses increased by 11.2 points compared to the same period of the previous year. This suggests that with the rise in perception of labor shortage, labor share is rising at large enterprises in non-manufacturing industries, driven by rising personnel costs.

Figure 13 shows labor share in small and medium sized enterprises. In the manufacturing, we can see that there is no influence from the appreciation of the yen, the state of overseas economies and so forth. We see similar trends in labor share based on

operating income at large and other enterprise sizes, such as shrinking degree of divergence compared with past phases. As for the change in labor share based on ordinary profits, the rate of decline is somewhat swifter than in the past, and there is no suggestion that personnel expenses are rising in line with improvements in ordinary profits. In the non-manufacturing, on the other hand, labor share divergence is smaller compared to past phases when based on ordinary profits than when based on operating income. It shows the different trends at small and medium sized enterprises from those at large and enterprises or at all other enterprise sizes. This indicates that “other non-operating expenses,” a factor in disparity between ordinary profits and operating income, is placing more pressure on the former than on the latter. Also, labor share based on operating income has remained at lower levels than during past phases.

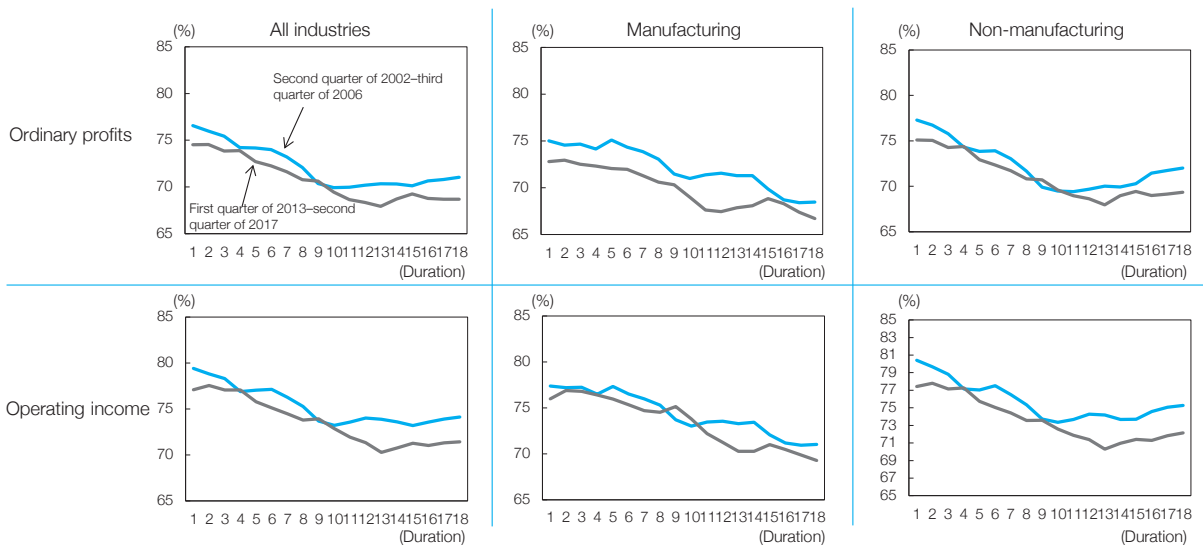
Overall, at large enterprises, labor share based on ordinary profits is lower than in the past, while there are trends toward improvement of labor share based on operating income. On the other hand, at small and medium sized enterprises, the labor share is low



Source: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on MOF's *Financial Statements Statistics of Corporations by Industry*.

Notes: 1. Data used are seasonally adjusted values (moving average for four quarters) prepared independently.
 2. Labor share=personnel expenses ÷ added value, personnel expenses=executive salary+executive bonus+employee salary+employee bonus+benefit welfare expenses. Value added (operating income)=operating profit+personnel expenses+depreciation amount. Value added (ordinary profits)=ordinary profit+personnel expenses+interest expense etc.+depreciation amount.

Figure 12. Change in labor share by industry (at large enterprises)



Source: Prepared by Office of Counsellor for Labour Policy Planning of MHLW, based on MOF's *Financial Statements Statistics of Corporations by Industry*.

Notes: 1. Data used are seasonally adjusted values (moving average for four quarters) prepared independently.
 2. Labor share=personnel expenses ÷ added value, personnel expenses=executive salary+executive bonus+employee salary+employee bonus+benefit welfare expenses. Value added (operating income)=operating profit+personnel expenses+depreciation amount. Value added (ordinary profits)=ordinary profit+personnel expenses+interest expense etc.+depreciation amount.

Figure 13. Change in labor share by industry (at small and medium sized enterprises)

compared to past phases whether based on ordinary profits or operating income. In non-manufacturing industries in particular, although labor share based

on ordinary profits has not significantly declined compared with past phases, it has greatly declined when based on the operating income from main

business operations.

While there appear to be differences among individual enterprises with regard to the two approaches, ordinary profits and operating income, in any case it is clear that in order to secure and maintain human resources amid tightening labor supply and demand, there is a need for substantive labor-management dialogue with regard to methods of distributing corporate earnings to workers.

Notes

1. In this article, labor share=personnel expenses÷added value as defined by MOF's *Financial Statements Statistics of Corporations by Industry*. Personnel expenses=executive salary+executive bonus + employee salary + employee bonus + benefit welfare expenses. Value added (operating income)=operating income+

personnel expenses+depreciation amount. Value added (ordinary profits)=ordinary profits+personnel expenses+interest expense etc. +depreciation amount.

2. In this article, companies with capitalization of 1 billion yen or more are classified as "large enterprises."

3. In this article, companies with capitalization of 50 million yen or more and less than 100 million yen shall be referred to as "small and medium sized enterprises."

4. The differential between ordinary profits and operating income consists of "interest received, etc.," "other non-operating income," "interest expenses," and "other non-operating expenses."

5. During economic expansion phases, increase in personnel expenses is curtailed compared to increase in corporate earnings, and labor's share of income declines. During recessions, since there is a so-called downward rigidity in wages, decline of wages is curtailed compared to decline of corporate profits, and labor's share of income increases.

Research notes

New Rules of Conversion from Fixed-term to Open-ended Contracts: Companies' Approaches to Compliance and the Subsequent Policy Developments

Yuko Watanabe

The Amendment to the Labor Contracts Act and Its Background

The Labor Contracts Act (LCA) was amended in August 2012 to prescribe the following three new rules regarding workers employed on contracts with fixed terms:

1. In the event that a fixed-term contract concluded on or after the day the amendment came into effect has been repeatedly renewed for more than 5 years in total, the worker in question is entitled to have their contract converted to an open-ended contract, should the worker request it¹ (Article 18).
2. In the event that a fixed-term contract has been repeatedly renewed, and is in effect what can be regarded as an open-ended employment arrangement, or the fixed-term contract worker has reasonable grounds to expect the contract to be renewed, refusal to renew the contract is not permitted when the refusal is deemed lacking reasonable grounds and socially inappropriate (the fixed-term

contract is deemed to have been renewed) (Article 19).

3. It is prohibited for an employer to subject a worker whose contract has a fixed term to unreasonable differences in labor conditions between said worker and the open-ended contract workers employed by the same employer (Article 20).

Article 19 took effect as soon as it was promulgated on August 10, 2012, due to the fact that it was not the introduction of a new rule but simply the reconfirmation and incorporation of the already established case law known as “refusal to renew rule (Yatoi-dome hōri)” into LCA. Articles 18 and 20, which introduced totally new regulations, came into effect on April 1, 2013.

The development that prompted such amendments was the all-round reduction in fixed-term contract workers that resulted from the onset of the global recession that followed the collapse of Lehman Brothers in 2008.² In December 2008, fixed-term contract factory workers and other such staff working on the production lines of automobile

1. The right to apply for conversion to open-ended term status is a formative right (*keisei-ken*), namely, a right that assumes effect with the unilateral manifestation of intent by the fixed-term contract worker alone, and does not require the consent of the employer. Moreover, “unless otherwise provided,” the conditions applied under the fixed-term contract directly before the conversion are carried over to the open-ended contract. For details, see Kazuo Sugeno, *Rōdōhō* (dai 11 han) [Labor Law (11th ed.)] p. 314 (Koubundou 2016).

2. A rapid succession of deregulations were introduced as part of the structural reform that followed the slump that hit Japan's finance and securities sector in 1997 and collapse of the IT bubble in the early 2000s, such as the 1998 amendment to the Labor Standards Act extending the general maximum limit on fixed-term contract term from 1 year to 3 years, the conversion of worker dispatch to a “negative list” system (1999), and the lifting of the ban on dispatched workers in manufacturing duties (2003). As a result, the number of non-regular workers increased rapidly from the late 1990s onward, reaching more than one-third of the total number of workers in 2007. Amid this rise, social issues developed, such as wage gaps and unequal treatment between fixed-term contract workers and regular workers engaged in the same work or pursuing the same way of working, and the existence of a certain group of workers unwillingly kept in non-regular employment and unable to secure opportunities to develop their vocational abilities.

manufacturers and other such companies had their contracts discontinued, were evicted from company accommodation without unemployment insurance payouts, and subsequently gathered in makeshift shelters set up in a park near the National Diet building. Media coverage of these workers seeing out the year in these shelters strongly impressed upon the public the need for legal regulation to limit the abusive use of fixed-term contracts. February 2009 saw the launch of discussions to investigate the possibility for amending LCA. In the process of these considerations, discussions also addressed the possibility of “entrance regulations” that place limitations on entering into fixed-term contracts, but this was met with fierce opposition from industry representatives who feared it would lead to inflexibility in the labor market. As a result, it was concluded that regulations such as the aforementioned Article 18 and Article 20 should be established.

Articles 18 to 20 of LCA are civil norms that do not involve criminal penalties or other such punishments. And yet, they are applied to all kinds of fixed-term contract workers (around 14.85 million workers), including workers in part-time or side jobs, contract employees, and workers dispatched from temporary staffing agencies.³ Moreover, according to estimates by the Ministry of Health, Labour and Welfare (MHLW), around 30% of fixed-term contract workers have been in continuous employment with their employer for a total period exceeding 5 years. Judging from such circumstances, it seemed not easy for the business community to comply with the rules. In response to a request from

MHLW, the Japan Institute for Labour Policy and Training (JILPT) has therefore sought to ascertain how companies are complying with the rules by implementing a questionnaire survey for three times, and an interview survey⁴ conducted on an ongoing basis. This paper provides an overview of the results of these surveys that relate to the rule regarding conversions from fixed-term to open-ended contracts (“open-ended conversion rule”), which has a particularly large impact on industry.

How are companies approaching compliance with the open-ended conversion rule?

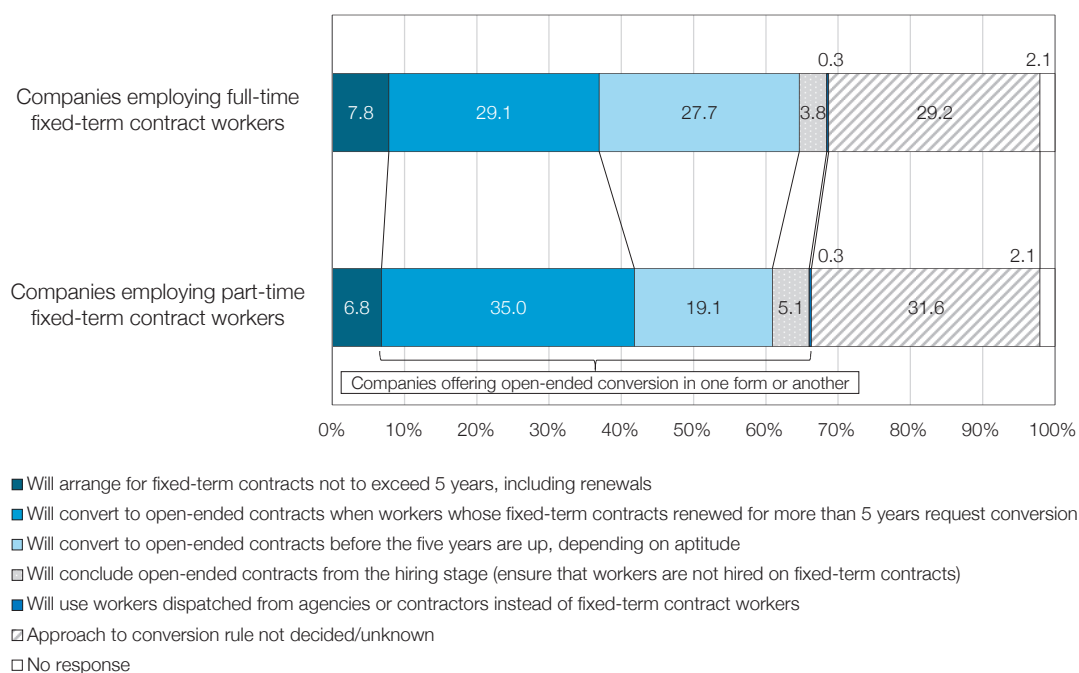
Companies seem to be positive taking steps to comply with the open-ended conversion rule. The number of companies that responded that they are “converting employees to open-ended contracts in one form or another,” significantly exceeds the number of companies that responded that they try to avoid such conversions. This trend that has remained consistent since the first questionnaire survey conducted in 2013 shortly after the amendment took effect.

How are smaller-sized companies to cope with the rule? JILPT conducted a survey in 2016⁵ with the scope expanded to include smaller-sized companies. It shows that companies that follow the legally-prescribed approach of “converting to open-ended contracts when workers whose fixed-term contracts renewed for more than 5 years request conversion” account for around 30% of companies employing full-time fixed-term contract workers, and also over one third of companies employing part-time fixed-term contract workers (Figure 1). The results also

3. A special case (effective April 1, 2014) was subsequently introduced to extend the period for 5 more years (a total exceeding 10 years), until researchers, faculty members, and other such staff at universities and other such institutions and research and development corporations are eligible for the right to apply for conversion to open-ended term status. Furthermore, a special case (effective April 1, 2015) was also established regarding high-income fixed-term contract workers with advanced specialist knowledge, etc. and older workers on fixed-term contracts for continued employment after mandatory retirement age, such that as long as the employer is providing employment management that takes into account the special nature of those workers, the worker’s right to apply for conversion does not arise for a certain period of time.

4. See JILPT research series no.122 (2014), no.151 (2016), no.171 (2017), and JILPT research material series no.195 (2017). [All are only available in Japanese.]

5. The questionnaire survey was aimed at 30,000 companies across Japan that employ 10 or more full-time workers. Valid responses were received from 9,639 companies (a response rate of 32.1%). This paper shows the results reorganized according to the distribution of the industry and company size in Japan, based on the results of a complete survey of Japan (the Economic Census). For details, see *Results of the survey on the approaches to compliance with the Amended Labor Contracts Act and special cases, and the utilization of diverse regular employees*, JILPT research series no.171 (JILPT 2017). [Only available in Japanese.]



Source: JILPT, 2017.

Figure 1. Companies' intentions to comply with the open-ended conversion rule

revealed there are companies that are prepared for open-ended conversions at an earlier stage than that demanded by the law. Around 30% of companies that employ full-time fixed-term contract workers and around a quarter of companies that employ part-time fixed-term contract workers selected the response “will convert to open-ended contracts before the five years are up, depending on aptitude.” In contrast, companies that selected the response “will arrange for fixed-term contracts not to exceed 5 years, including renewals” (in other words, they will terminate fixed-term contract before exceeding 5 year continuous employment) accounted for less than 10% of both companies employing full-time fixed-term contract workers and companies employing part-time fixed-term contract workers respectively.

Why are companies showing a positive stance toward compliance?

This brings us to the question of why companies are showing such an unexpectedly positive stance

toward the open-ended conversion rule. From the 2013 survey to the 2015 survey, the percentage of companies that responded that they would “convert employees to open-ended contracts in one form or another” rose from 42.9% to 66.7% for companies employing full-time fixed-term contract workers and from 36.0% to 63.7% for companies employing part-time contract workers. Alongside these increases, there were also growing percentages of companies noting the advantages of open-ended conversion, such as “can expect employees to stay longer and establish themselves” (from 60.9% to 71.9%) and “will lead to greater stability in securing personnel” (from 37.1% to 48.1%, multiple responses). The factors behind such a positive stance from companies include the fact that the rule was put into effect during the period of gradual economic recovery that has been in progress since December 2012 (the second longest since the Second World War). Another key factor is thought to be companies' rapidly growing fears of a potential shortage of human resources⁶ (an irreversible shortage accompanying the decreasing

6. The effective ratio of job openings to applicants (seasonally adjusted value) is 1.59 as of December 2017. This is the highest level it has been for 43 years and 11 months, since the period of high economic growth.

birth rate and aging population), prompted by the fact that the enactment of the rule also coincided with the period in which the generation born in Japan's first postwar baby boom (1947-1949) reached the age at which they completed their period of reemployment following mandatory retirement age and retired permanently (2012-2014).

Moreover, responses gathered in the interview survey in 2013 also showed companies' awareness that "while workers may be employed on fixed-term contracts, no maximum limit on contract renewals was set in the first place, and there has been a stable employment relationship with such workers over the years" as an explanation for companies' positive stance toward open-ended conversion. It was noted that "once such workers have been in employment for more than 5 years, the stance is that they are, in effect, in open-ended employment, and that their employment cannot be simply terminated (nor would there be any intention of that)."⁷ As Japan plunged into a deflationary economy from the late 1990s onward, the number of regular workers (regularly, workers employed on full-time, open-ended contracts) was reduced to its lowest recorded levels.⁸ Along with this drop in the number of regular workers, the term "fixed-term contracts" lost its true meaning, as such contracts were not always backed up a necessity for a contract period to be specified, and they came to represent one element of the employment conditions that distinguish regular employees from other types of workers.

Amid such developments, Article 18 simply sought to do away with the provision of contract periods, as opposed to demanding companies to make fixed-term contract workers into regular employees (namely, doing away with the provision of

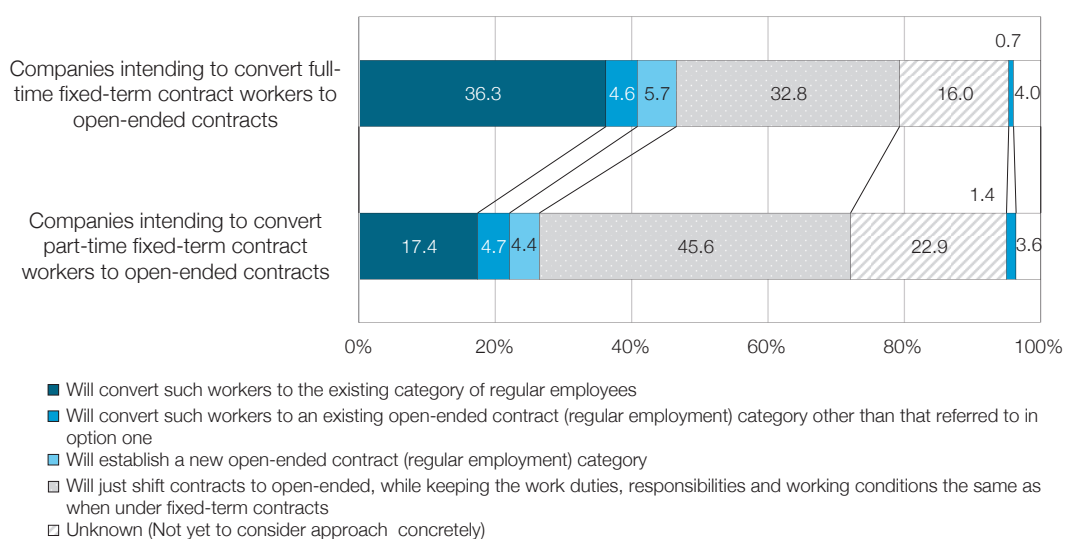
contract periods, and in addition steadily entrusting such workers with tasks demanding responsibility over the course of long-term employment, and providing such workers with treatment fitting for a core member of the employing company, rather than highly restrictive labor conditions). As such an approach does not directly result in increased personnel costs for companies, it could be noted as a possible reason for their positive stance toward open-ended conversion. In fact, looking at what forms of employment are provided to workers converted to open-ended employment in one form or another, the results of the questionnaire survey conducted by the JILPT in 2016 show that over 30% of companies intending to convert full-time fixed-term contract workers, and over 40% of companies intending to convert part-time fixed-term contract workers planned to "just shift contracts to open-ended, while keeping the work duties, responsibilities and working conditions the same as when under fixed-term contracts" (Figure 2).

What specific approaches are companies taking to compliance?

Now, let us look at the specific approaches that companies are taking to pursue compliance with the open-ended conversion rule. The 2016 interview survey revealed that some companies were establishing specific systems and other such initiatives for complying with the rule. With some companies also applying the rule to fixed-term contract workers employed prior to the enactment of the rule ahead of schedule, the survey results confirmed that moves were steadily starting to be made to convert fixed-term contract workers to open-ended contracts.

7. Looking at the situation prior to the amendment to the Act on the basis of MHLW's "2011 Survey on Fixed-Term Labor Contracts," only 12% of the businesses employing fixed-term contract workers had a maximum limit on contract renewals, and over 40% responded that they wished such workers to remain in their employment "as long as possible." Furthermore, JILPT's questionnaire survey conducted in 2016 also shows that the percentages of companies who responded that they "had set" maximum limits on the renewal of contracts was still only 16.5% among companies employing full-time fixed-term contract workers, and 8.9% among those employing part-time fixed-term contract workers.

8. *Labour Force Survey (Detailed Tabulation)* by the Ministry of Internal Affairs and Communications shows that number of regular workers was at 33.02 million people in 2013, the lowest recorded level since 2002, the period for which figures are available for comparison. However, this number subsequently rose for the first time in 8 years in 2015 to 33.17 million people, an increase of 290,000 people from the previous year, and rose further in 2016 with an increase of 500,000 people.



Source: JILPT, 2017.

Figure 2. Forms of employment in the event of open-ended conversion

Company A, a company with around 440,000 employees, for example, had as many as 197,000 fixed-term contract employees, and around half of such employees had already been in employment with Company A for a total of over 5 years. With personnel shortage gradually becoming severe, and a consequent need to secure human resources, the result of repeated deliberations between labor and management was that open-conversion would be adopted as legally prescribed and also be applied ahead of schedule for employment from October 2016 onward. In the case of fixed-term contract employees engaged in duties at post offices, etc. (with repeated contract renewal once a year for full-time employees and once every 6 months for part-time employees), it was decided that all those workers in continuous employment for over 5 years requesting conversion would successively receive the right to apply for conversion to open-ended term status, and be switched to a newly-established open-

ended contract category⁹ (mandatory retirement at age 60, reemployment until age 65 possible).¹⁰ Applications were subsequently received from around 80,000 fixed-term contract employees, and work began in April 2017 to successively switch them to open-ended contracts.

Another example is the case of food service chain Company B, a company with around 13,000 employees. While under pressure to comply with the open-ended conversion rule and expansion of the application of social insurance, Company B was pursuing efforts to expand its chain of restaurants while at the same time beginning to face a serious shortage of personnel. In April 2016, it therefore set about work to introduce a “career enhancement conversion system” to allow those fixed-term contract employees who request it the flexibility to select their way of working from a total of six types. Under the previous system, the ways of working had been polarized, with regular employees (full-

9. The basic salary and other such conditions are essentially the same as those received during employment as a fixed-term contract employee, but the following steps were introduced to cover labor conditions that are more necessary when workers convert to open-ended employment: (1) new establishment of sick leave, (2) new establishment of a system of leave of absence for injury or illness, and (3) increased flexibility with regard to the units in which annual paid leave can be taken.

10. It was also decided to introduce a system for stricter judgment for decisions regarding contract renewals after exceeding a total of four and a half years of employment for part-time fixed-term contract employees newly hired from October 1, 2016, onward (to be applied from October 2021 onward). There is a case that even companies like Company A, which seem to be adopting a positive approach toward compliance with the open-ended conversion rule, may shift to a cautious stance in the future with regard to the fixed-term contract workers they newly recruit.

time employment, can be transferred to different restaurants across Japan, including transfers requiring relocation of place of residence) on the one hand, and fixed-term contract employees (employment restricted to a specific restaurant) on the other. Company B established new categories between those two options, such as “diverse regular employees” for whom there are limitations on aspects of employment such as the scope of personnel transfers, the length of prescribed working hours (20 or 30 hours a week), and promotions to managerial positions, and “employees for whom only the contract period is switched to open-ended,” for whom it is possible to convert to open-ended employment without waiting for a total of 5 years of employment.¹¹ Since then, around 80 fixed-term contract employees have converted to regular employment, and a total of around 75 fixed-term contract employees have converted to employment as diverse regular employees. There are still no employees who have converted to the category “employees for whom only the contract period is switched to open-ended.”

As this shows, steps are gradually being made toward ensuring the clear stability of employment, as fixed-term contract workers are receiving appropriate contracts, freeing them from arrangements where they rely on repeated contract renewal (arrangements that are only open-ended employment in effect). Moreover, as this has prompted such developments as the establishment “diverse regular employment”

and other such new employment categories, it is also starting to contribute to expanding the options for ways of working between regular employment and other types of employment.

Subsequent policy developments

The right to apply for conversion to open-ended term status will start to take effect on a full scale from April 1, 2018 onward. At present, there does not seem to have been any rapid increases in cases of employers refusing contract renewals shortly before fixed-term contract workers reach a total of 5 years of employment, or other such developments that were feared when LCA was amended.¹² However, major automobile manufacturers were criticized by the press for seeking to adopt means of avoiding the open-ended conversion rule by using the loophole offered by “vacant term” (blank periods between contracts of 6 months or more, after which the total number of years in continuous employment is reset to zero).¹³ Although those means were not illegal, Prime Minister Abe was pushed for answers in the Diet and referred to the fact that the system will be reviewed 8 years after its enforcement, which is a provision set out alongside the open-ended conversion rule.

At the same time, the “Work Style Reform Bills” (an en bloc proposal for eight legal amendments) were presented to the 196th ordinary Diet Session opened in January 2018. These bills include the abolishment of Article 20 of LCA¹⁴ and the

11. When converting from fixed-term contract employment to regular employment or diverse regular employment, employees submit a recommendation letter from their manager and a resume, and undergo a screening process, which involves writing a short essay and attending an interview. To apply to switch to employment as an “employee for whom only the contract period is switched to open-ended,” employees submit an application form and other such documents.

12. The simultaneous enactment of Article 19 has also contributed to the fact that there have not been developments such as a rapid increase in cases of employers refusing to renew contracts shortly before the 5 year in total, or other such trends. Furthermore, a campaign pursued by MHLW—which sought to raise awareness of the unacceptable nature of refusing contract renewal in order to avoid open-ended conversions—also seems to have had an effect.

13. According to MHLW’s “Survey on the Open-Ended Conversion of Fixed-Term Contract Employees” (released in December 2017), all 10 major automobile manufacturers had maximum limits on fixed-term contract renewals, 7 companies had prescribed a set period between the end of contract and reemployment, 5 companies had set such a period to 6 months in line with the “vacant term” rule (LCA, Article 18), and one company had newly established such a period. Furthermore, 7 companies had introduced systems for conversion of fixed-term contract employees to regular employment, and the remaining 3 companies had converted some fixed-term contract employees to regular employment.

14. In JILPT’s questionnaire survey conducted in 2016, a question regarding the rule prohibiting unreasonable differences in labor conditions between fixed-term and open-ended contract workers showed that around 40% of companies had “no plans to review the circumstances (no problems with the current circumstances)” and over 40% were “yet to decide on an approach, including whether or not to review the circumstances.” Such responses suggest that companies have been sluggish to respond to Article 20 of LCA.

legislation of the “equal pay for equal work” principle, which is prescribed in the regulations such as Article 8 of the Act on Improvement, etc. of Employment Management for Fixed-Term/Part-Time Workers. Improvement of working conditions in the application of the equal pay for equal work principle will progress alongside workers gaining the right to apply for conversion to open-ended term status.¹⁵ Bearing that in mind, to what extent will fixed-term contract workers exercise their right to apply for conversion to open-ended term status,

and how will companies change their attitude in response to shifts in the environment resulting from amendments to the law? Attention must be paid to the ongoing developments.

As of June 29, the “Work Style Reform Bills” were enacted in the extended Diet session.

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15. MHLW’s “General Survey on Diversified Types of Employment” (2014) shows that around 40% of fixed-term contract workers “wish” to change to open-ended contracts (regardless of the total number of years they have been in continuous employment).

The Illegality of Differences in Labor Conditions between Regular Workers and Non-regular (Fixed-term Contract) Workers

The Japan Post Case

Tokyo District Court (Sept.14, 2017) 1164 *Rohan* 5

Ryo Hosokawa

Facts

The plaintiffs, X et al., were employed by Y, a company currently known as Japan Post, as non-regular workers on hourly wages, under fixed-term labor contracts that were repeatedly renewed.

Non-regular workers on hourly wages engage only in specific routine tasks and are not given managerial duties. There are limitations on the scope of their assigned duties, potential personnel reassignments, and other such elements of their employment, meaning for instance that they are generally not transferred to different positions and are not scheduled for promotion to a higher position or rank. Based on the agreements concluded at the time each of them was hired, some may work part-time hours or only between certain times.

The personnel system changed and new work regulations applied to regular workers on April 1, 2014. Regular workers employed as non-career-track workers before the new system was introduced (hereafter “former non-career-track workers”) were expected to engage in a wider range of duties and might have been transferred inside or outside of a certain post office. It was also assumed that they would have been promoted to managerial positions and be expected to take on greater roles or responsibilities.

The non-career-track workers employed under the new system (“new non-career-track workers”) engage in general work duties such as counter service, and are not expected to be given managerial duties, but may be subject to personnel transfers within a scope that does not require them to relocate their place of residence. There are no prospects

for them to be promoted to a higher position or rank within the same course of employment.

X asserted that the fact that non-regular workers on hourly wages were not granted (i) allowances for outside duty, (ii) allowances for work during the New Year’s holiday period, (iii) early morning shift allowance, (iv) special pay for work on public holidays, (v) summer and year-end bonuses, (vi) housing allowances, (vii) summer and winter vacation leave, (viii) sick leave, (ix) special allowances for work conducted at night, and (x) performance-based allowance for external or internal postal service duties, was a violation of Article 20 of the Labor Contracts Act (LCA), which prohibits unreasonable differences in labor conditions between workers with contracts that do not specify a term of employment (“open-ended contract workers”) and workers with contracts that do specify a term of employment (“fixed-term contract workers”). X therefore filed an action calling for confirmation that the work rules provisions being applied to regular workers also apply to them. As a primary claim, the action called for the payment of the equivalent amount of allowances based on the labor contract, and for the secondary claim, for the payment of damages in tort under Article 709 of the Civil Code.



Judgement

The plaintiffs’ claims were partially accepted and partially rejected. The judgement is summarized

below.

(1)

(a) Differences in labor conditions between fixed-term contract workers and open-ended contract workers constitute a violation of Article 20 of LCA only when they result from factors relating to whether a term of employment is fixed.

(b) When it is not possible to clearly determine the differences in labor conditions to be unreasonable, said differences are not a violation of Article 20 of LCA.

(c) When assessing whether differences in labor conditions are unreasonable, decisions are made on the basis of consideration of the following three factors as a whole: (i) job content, (ii) the scope within which the job content and assigned position can be changed, and (iii) any other factors. Article 20 of LCA permits a certain extent of difference in wage systems between fixed-term contract workers and open-ended contract workers. While the defendant claims that it is inappropriate to consider each difference in labor conditions individually to determine whether the difference is unreasonable or not, this criticism is not justifiable.

(2)

(a) The regular workers whose labor conditions should be compared with those of X (fixed-term contract workers), are the new non-career-track workers under the new personnel system, and the former non-career-track workers under the former personnel system.

(b) Focusing on job content, there is a significant difference between the former non-career-track workers and the fixed-term contract workers on hourly wages in terms of the content of the work they engage in and the level of responsibility involved in said work. On the other hand, between the new non-career-track workers and fixed-term contract workers, there are some commonalities with regard to their possibilities for promotions to higher positions or ranks, and a certain level of difference in terms of factors such as their working hours and the content of the duties they are expected to take on.

(c) With regard to the scope of changes in job content and assigned position, there is a significant

difference between former non-career-track workers and fixed-term contract workers on hourly wages, and also a certain level of difference between new non-career-track workers and fixed-term contract workers.

(3)

(a) The differences regarding the payment of allowances for outside duty, summer and year-end bonuses, and performance-based allowance for external or internal postal service duties are not unreasonable, given overall consideration of the following grounds: the fact that these differences originates from the differences in the wage structures between regular and fixed-term contract workers, the fact that there are significant or certain differences between the two types of workers in terms of their job content and other such factors, the fact that it is to some extent reasonable for companies to adopt the personnel measure of establishing a wage system for regular workers based on the assumption of long-term employment, and the fact that there are benefits for fixed-term contract workers on hourly wages that may serve as a substitute for such measures.

(b) With regard to early morning shift allowance, special pay for work on public holidays, and special allowances for work conducted at night, in the event that a regular worker is assigned a certain work shift, such allowances should be paid to ensure equitable treatment for the said regular worker when compared with another regular worker who was not assigned the shift. Given that fixed-term contract workers on hourly wages have their work times specified from the outset, and receive overtime pay and other such payments, it is not unreasonable for these allowances not to be paid.

(c) Allowances for work during the New Year's holiday period are fixed amounts paid in addition to base pay as compensation for work during the New Year's holiday period. There are no reasonable grounds for only regular workers who are employed on the assumption of long-term employment to be paid this special allowance while no allowance at all is paid to fixed-term contract workers on hourly wages, despite the fact that they also worked during the busiest period of the year.

(d) As the New Year's holiday period is the busiest of the year for both regular workers and fixed-term contract workers on hourly wages alike, there are no reasonable grounds for the fact that only fixed-term contract workers are not granted summer or winter vacation leave at all.

(e) Given that both new non-career-track workers and non-regular workers on hourly wages are not scheduled to be subject to personnel reassignments that require them to relocate their place of residence, there are no reasonable grounds for the fact that a housing allowance is paid only to the former, but not paid at all to the latter.

(f) Where fixed-term contract workers on hourly wages have had their contract renewed multiple times and therefore been in continuous employment with the employer for a lengthy period, there are no reasonable grounds for them not to be granted any paid sick leave.

(4)

(a) Labor conditions set out in violation of Article 20 of LCA are invalid, and cases that are judged to be a violation of said article constitute illegal conduct (Civil Code, Article 709). However, so-called supplementary effect is not admitted. In other words, it is not permitted to automatically replace the labor conditions of fixed-term contract workers with those of open-ended contract workers.

(b) While there is leeway to apply the work rules determining the labor conditions for open-ended contract workers to fixed-term contract workers through a reasonable interpretation of the work rules and other related regulations, given that company Y has set out separate work rules and other related regulations for regular workers and fixed-term contract workers respectively, it is not possible to apply the labor conditions of open-ended contract workers to fixed-term contract workers in this way.

(c) On the other hand, the differences with regard to the allowances for work during the New Year's holiday period, housing allowance, summer and winter vacation leave, and sick leave are violations of Article 20 of LCA, and the non-payment of these allowances to X constitutes illegal conduct.

(5)

(a) In the event that it is unreasonable for fixed-term contract workers to be subject to labor conditions that are not the same as those for open-ended contract workers, the employer should be expected to pay the total difference between the allowances and other such benefits as damages.

(b) In contrast, where fixed-term contract workers are granted no such allowances or other such benefits at all, or the difference in the quality or amount of the payments is unreasonable, it is extremely difficult to specifically determine the amount of allowances that should be paid. Therefore, for the allowances for work during the New Year's holiday period and housing allowance, a reasonable amount of damages shall be determined in line with Article 248 of the Code of Civil Procedure.*

*Article 248 of the Code of Civil Procedure stipulates that "If damage is found to have occurred, but, due to the nature of the damage, it is extremely difficult to prove the amount of damage that occurred, the court may reach a finding on the amount of damage that is reasonable, based on the entire import of oral arguments and the results of the examination of evidence."

Commentary

Under the typical employment system in Japan, employers provide regular workers (namely, workers hired directly by the employer on full-time, and open-ended contracts) with substantial employment security, and focus primarily on their internal labor markets by providing seniority-based wages and opportunities for personnel development within the organization. At the same time, unlike European countries, which have relatively strictly regulated the use of fixed-term contracts and other such atypical employment, Japan has not legally regulated the use of atypical employment. Atypical employment in Japan generally supported the long-term employment system as a buffer alleviating the impact of economic changes, largely through the employment of workers wishing to earn a wage to supplement existing household income, such as housewives or students in part-time jobs. However, from the late 1990s, there was an increase in both the number of workers in atypical employment and the proportion of workers in atypical employment whose

work is the sole source of household income. Since the 2000s, particularly following the onset of the 2008 financial crisis, atypical employment has come to be recognized as a key issue to be addressed when developing employment policy.

Prompted by the factors described above, amendments were made to LCA in 2012 to prescribe new rules regarding fixed-term labor contracts. One of those provisions is Article 20 of LCA, which was the point at issue in this case. Article 20 prohibits unreasonable differences in labor conditions due to the existence of a fixed-term. However, Article 20 does not strictly stipulate the principle known as “equal pay for equal work.” That is, while it is not necessary for the work of fixed-term contract workers to be the same as that of open-ended contract workers in order for Article 20 to be applied, on the other hand, even if both types of workers engage in the same work duties, there is no demand for them to immediately have the same labor conditions. It is simply the case that in the event that a difference in labor conditions between the two types of workers is judged to be unreasonable when reviewed in light of the factors for consideration listed in Article 20, said difference is illegal.

While there are no Supreme Court precedents regarding Article 20 of LCA, there has already been a succession of judgements in the lower courts. The main judicial precedents include:

A. The *Hamakyorex* case (Osaka High Court, July 26, 2016. Judgement: It was determined unreasonable that the employer was not paying fixed-term contract workers allowances such as commuting allowances, allowances for accident-free driving, and temporary leave allowances, which were paid to regular workers. In this case the fixed-term contract workers and regular workers both engaged in the same work as truck drivers, but were subject to different personnel management systems, covering elements such as the scope of potential job transfers and possibilities for promotion).

B. The *Nagasawa Unyu* case (Tokyo High Court, November 2, 2016. Judgement: While both regular workers and fixed-term contract workers reemployed after mandatory retirement age engaged

in the same duties (transportation services), it was determined that it was not unreasonable for there to be a 20 percent difference in wages between the two types of workers).

C. The *Metro Commerce* case (Tokyo District Court, March 23, 2017. Judgement: The differences in labor conditions between typical regular workers and fixed-term contract workers working as kiosk sales staff in the subway were determined not to be unreasonable).

The key points of the Tokyo District Court’s decision in the *Japan Post* case (September 14, 2017) are as follows.

(i) This judgement is significant in that it determined differences in labor conditions (namely, the allowances or leave granted) between regular workers and fixed-term contract workers (non-regular workers on hourly wages) who pursue different duties to be unreasonable. This differs from the aforementioned case A and case B, in which the actual job contents of the regular workers and the fixed-term contract workers were the same, and also differs from case C, in which it was ultimately concluded that the differences in labor conditions were not unreasonable.

(ii) This judgement is significant in that it determined that when comparing the differences in job content and labor conditions of fixed-term contract workers with regular workers, the comparison was only made with the job content and labor conditions of (new and former) non-career-track workers—that is, those regular workers employed by Y who are closer in position to non-regular workers (fixed-term contract workers)—as opposed to regular workers in general. This differs from case C, in which the labor conditions of fixed-term contract workers were compared with those of regular workers in general, consequently emphasizing the differences in job content and resulting in hardly any relief measures being approved at all. Regarding the type of workers that should be used as comparison, Article 20 of LCA does not stipulate any provisions. Since it is unclear on what grounds the court selected (new and former) non-career-track workers as the subject

for comparison, this will continue to be a point of contention in the future.

(iii) This judgement is in line with the overall trend in judicial precedents in regards to the following points. First, with regard to the differences in labor conditions, it was determined that when considering whether the differences in the labor conditions are unreasonable, the differences should each be addressed separately, rather than as a whole. Second, it determined that employers are not necessarily expected to provide proof that differences in labor conditions are reasonable, and in cases where it is not possible to determine differences to be unreasonable, said differences in labor conditions are not in violation of Article 20 of LCA (however, this is a point of contention in academic theories).

(iv) This judgement determined that it is to some extent permitted to establish differences in wage systems between regular workers employed on the assumption of long-term employment and fixed-term contract workers employed on the assumption of short-term employment, and for there to be differences in labor conditions as a result of such wage systems. This approach seems to have been adopted to account for the distinctive characteristics of the Japanese employment system.

(v) In this judgement, the decision is in line with previous judicial precedents and the general trend in academic theory, in that it is a violation of Article 20 of LCA for there to be significant differences in the payment of certain allowances and other such benefits where there are no significant differences in the job content or other such factors related to the

purpose of those allowances.

(vi) In this judgement, it was determined that where there is a violation of Article 20 of LCA, the labor conditions of regular workers cannot automatically be substituted for the labor conditions of fixed-term contract workers. While there are some arguments against this, this is in line with many academic theories and previous judicial precedents. Moreover, it determined that when calculating the damages on the grounds of illegal conduct (Civil Code, Article 709), it is necessary to determine a reasonable amount of damages on the basis of Article 248 of the Code of Civil Procedure. As mentioned above, Article 20 of LCA prohibits unreasonable differences, rather than strictly prescribing the principle of equal pay for equal work. Namely, as Article 20 permits a certain level of difference, it is difficult to determine an amount of damages based on illegal conduct. This appears to be why it was decided that damages would be determined at the discretion of the court under Article 248 of the Code of Civil Procedure.

As of June 1, 2018, after completion of this article, the Supreme Court made a decision in the aforementioned *Nagasawa Unyu* case (Tokyo High Court, November 2, 2016). The detail of the case will be covered in October 2018 issue.

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Termination of Employment Relationships in Japan (Part II):

Dismissal and Refusal to Renew a Fixed-term Contract

Hirokuni Ikezoe

This time, we look at dismissals and refusal to renew fixed-term employment contracts.*

I. Dismissal

Dismissal is an employer's manifestation to an employee of their intention to terminate the employment contract. Unlike resignation or termination of an employment contract by mutual consent, the employment contract relationship may be dissolved in the case of dismissal, as a result of the employer unilaterally manifesting their intention to end the contract. Provisions to protect employees are therefore set out in the Labor Standards Act (LSA) and Labor Contracts Act (LCA).

A. General

The Labor Standards Act prohibits dismissals in the periods of absence from work due to injuries or illnesses suffered in the course of employment nor within 30 days thereafter, and in the periods of absence from work by women before and after childbirth nor within 30 days thereafter (Article 19). Furthermore, statutes prohibits discriminatory or retaliatory dismissals on specific grounds such as gender or union activities (such statutes includes LSA Article 3 and 104, Paragraph 2; the Act on Equal Employment Opportunity between Men and Women, Article 6 (Clause 4) and 9; the Act on Care Leave for Child or Other Family Members, Article 10 and 16; and the Labor Union Act, Article 7).

Dismissals in general, such as dismissals on the grounds of lack of ability or incapacity to perform work duties, have essentially been regulated by the case law called the "abuse of the right to dismiss"

theory (*Kaiko-ken ranyō hōri*). This theory, which is for screening and restricting employers' exercise of the right to dismiss employee (manifestation of the intention to dismiss employee), was established by the Supreme Court rulings in the mid-1970s (The *Nihon Shokuen Seizo Co.* case, Supreme Court, Second Petty Bench [Apr. 25, 1975] 29 *Minshu* 456; and the *Kochi Hoso Co.* case, Supreme Court, Second Petty Bench [Jan. 31, 1977] 268 *Rohan* 17).



As formulated by the Supreme Court, the "abuse of the right to dismiss" theory states that in the event that a dismissal lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms, it will be considered an abuse of the employer's right to dismiss employee and therefore null and void (ruling on the *Nihon Shokuen Seizo Co.* case, 1975). The Supreme Court also set out the specific standard for the judgement used in the theory by declaring that employers cannot always dismiss employee even in the event that there are normal grounds for a dismissal, and when a dismissal is notably unreasonable in the specific circumstances concerned and cannot be considered appropriate in general societal terms, said manifestation of the intention to dismiss employee shall be deemed to be an abuse of the right of dismissal and therefore null and void (The *Kochi Hoso Co.* case, 1977).

By the 2003 Revision of the Labor Standards Act, this unwritten case law was incorporated into the Act as the explicit provision (Article 18-2). This

step was taken because the theory was not statutory provision and therefore lacked clear social bearing, despite having served a key role in the regulation of dismissals in Japan (securing employment and ensuring long-term continuous employment). It was also considered necessary to put the theory in the statutory provision in order to put a stop to irresponsible dismissals in recession periods. The theory is now, as it is, moved into the Labor Contracts Act enacted in 2007 and prescribes that “if a dismissal lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms, it is treated as an abuse of the rights and is invalid” (Article 16).

Let us turn our eyes to policy discussion in Japan with this theory. The current Japanese government is trying to change the legal rule of dismissal theory mentioned above, because it is difficult to anticipate final judgement in the court through this theory for the parties involved. So, the government is considering for developing a system of handling dismissal disputes such that clear anticipations can be made regarding the result of disputes, and for introducing monetary resolution system on dismissal disputes. There is some possibility that such future developments might undermine the socially valuable and important function that the “abuse of the right to dismiss” theory has played.

The factors behind policy discussion are as follows.

—In the event that a dismissal is determined null and void, employers are expected to pay lost wages (the wages the employee should have earned), because the employment contract is considered to have continued to exist.

—Moreover, while in the theory it is possible for the employee concerned to resume their employment, it is difficult for them to do so when the employer does not approve resumption of employment, as the employee is not considered to have the right of reinstatement.

This is why the introduction of a system for the monetary resolution of dismissal disputes is being discussed.

B. Collective / Economic Dismissal

In Japan, employment adjustment is largely made by reducing overtime hours or using other means without dismissing regular employees. Companies have tried as far as possible to avoid eliminating regular employees from the company unless the business is in particularly severe difficulty. This is due to the fact that for various reasons Japanese companies place importance on long-term continuous employment, and the fact that the “abuse of the right to dismiss” theory has made it difficult to actually dismiss employees.

While there are no explicit statutory provisions regarding collective/economic dismissal, a legal theory known as the “collective/economic dismissal” theory (*Seiri-kaiko hōri*) has been formed on the basis of precedents from the lower courts (The *Omura Nogami* case, Nagasaki District Court Omura Branch, [Dec. 24, 1975] 242 *Rohan* 14; and the *Toyo Sanso* case, Tokyo High Court [Oct. 29, 1979] 30 *Rominshu* 1002). This theory was derived from the “abuse of the right to dismiss” theory.

Under the “collective/economic dismissal” theory, judgements as to whether a collective/economic dismissal is null and void are made by closely examining the facts of each case on the basis of the following “four criteria” regarding the employer’s situation and actions.

Whether the employer (i) had the business necessity to reduce the number of employees, (ii) did its utmost to fulfil its duty to endeavor to avoid dismissal, for instance, by reducing overtime hours, transferring employees within the company or making temporary transfers to another company while maintaining employment relationship with the original company (*shukkō*), ceasing to hire new employees, temporarily suspending business, soliciting voluntary resignation, or reducing the number of non-regular employees, (iii) used objective and reasonable standards for selecting the employees to dismiss (for instance, the number of times an employee has been late or absent, a history of behavior infringing upon company discipline, or a relatively low financial impact for the employee such as in the case of an employee without dependents),

and (iv) provided sufficient explanation regarding the developments leading up to the collective/economic dismissal and the timing when and method by which it would be carried out, etc., and then engage in discussions with the employees or the labor union, listening to opinions and making an effort to secure employees' understanding.

This method of making judgements based on the "four criteria" above is thought to have been developed on the basis of Japanese companies' approaches to employment adjustment. The fact that this theory demands multiple concrete grounds for dismissal—unlike the case of dismissals in general, which result from factors such as a lack of ability on the part of the employee—is thought to be because collective/economic dismissals are only allowed as a result of the financial circumstances of a company.

II. Refusal to renew fixed-term contracts

When a term specified in a fixed-term contract expires, it stands to a reason that the contract will be terminated. But there are also cases in which the contract relationship is continued or repeatedly renewed beyond the agreed term. Because the expiration of the agreed term is not dismissal, the "abuse of the right to dismiss" theory is not applied directly when the disputes appears in the court. Moreover, it is the non-regular employees that are employed under such contracts. There is therefore a greater tendency for them to be the target of employment adjustment, in comparison with regular employees whose dismissal are strictly restricted under the theory. Such termination of the contract relationship due to the expiration of the contract term is known as *Yatoi-dome* (refusal to renew a fixed-term contract).

There are two main types of fixed-term contract where refusal to renew is addressed as a problem in the court: (i) Cases in which the employee fulfils the same duties and is under the same employment management as employees working under open-ended contracts, and the renewal procedures at the time of the expiry of the contract term have not been conducted appropriately (The *Toshiba Yanagimachi Factory* case, Supreme Court, First Petty Bench [Jul.

22, 1974] 28 *Minshu* 927). That is, in this kind of case, issue is whether the employment relationship is in reality similar to employment under an open-ended contract. (ii) Cases in which the contract term is clearly defined, and the contract renewal procedures have been appropriately conducted, but the employee is expected to continue their employment (The *Hitachi Medico* case, Supreme Court, First Petty Bench [Dec. 4, 1986] 486 *Rohan* 6). In this kind of case, it is the main issue whether there can be found employees' expectation to continue their employment relationship with looking precisely into every circumstances in the case.

In addressing the refusal to renew fixed-term contracts of non-regular employees, courts have applied the "abuse of the right to dismiss" theory by analogy and declared the refusal to renew contracts on the basis of the expiry of the contract term to be null and void when the refusal to renew the contract lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms, therefore determining that the original contract relationship remains in place (the fixed-term contract is deemed renewed). This is known as the "refusal to renew fixed-term contracts" theory (*Yatoi-dome hōri*). The essence of this theory has been incorporated in the Labor Contracts Act as Article 19 by the 2012 amendment.¹

There is also the issue of whether it is acceptable to terminate a fixed-term contract midway through the contract period.

Article 628 of the Civil Code permits the immediate termination of the contract by the parties involved in cases where there are unavoidable reasons. If the unavoidable reasons have arisen from the negligence of either of the parties, that party shall be liable to the other party for damages. However, it is not necessarily clear on whether it is possible to terminate a fixed-term contract midway through the contract period if there are no unavoidable reasons for doing so.

Therefore, the Labor Contracts Act, Article 17 (Paragraph 1) prescribes that in regard to the termination of a fixed-term contract by an employer, "an Employer may not dismiss a Worker until the

expiration of the term of such labor contract, unless there are unavoidable circumstances,” clearly restricting the right of the employer to terminate a fixed-term contract during the contract period. Unavoidable circumstances are interpreted as grave circumstances that may invalidate the specification of the term within the contract. Possible examples of this are difficulty continuing to operate the business, difficulty to perform work, or severe non-fulfillment of obligations or illegal conduct.

Furthermore, the 2012 amendment to the Labor Contracts Act prescribes that in cases where fixed-term employment contracts have been repeatedly renewed, and the total continued contract term exceeds 5 years, in the event that the employee applies to the employer for the conclusion of an open-ended contract (that is, exercises the right to apply to convert to open-ended employment), the employer will be deemed to have accepted said application (Article 18). In other words, the amended act enables such atypical employees to convert from fixed-term to open-ended contracts. This provision was set up to eliminate the instability of the employment of fixed-term contract employees. While the “refusal to renew fixed-term contracts” theory only allows for the renewal of fixed-term contracts by a court ruling, this provision is an important policy measure that transcends the legal effect of above theory.

However, some major companies are indicating a policy with which they will once terminate fixed-

term contracts intending its total continued contract period will not reach qualified continued 5 years and over to convert to open-ended contracts. Whether the contract period fulfills qualified continued 5 years depends upon the length of an interval (“vacant term”) between one fixed-term contract and the subsequent fixed-term contract. Statutory provision specifies that in the event that there is a vacant term more than 6 months between one contract and the subsequent contract, the total contract period will not be regarded as continuous and the contract period that expired prior to the vacant term is not included in the total continued contract period. It is therefore difficult to clearly anticipate the future of policies concerning stabilizing employment for non-regular employees on fixed-term contracts.

* This is a series of three articles on the topic of the termination of employment relationships in Japan. Part I (April-May issue, vol.2, no.6) looks at resignation and termination of employment contracts by mutual consent. Part III (October issue) will cover the mandatory retirement age system.

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1. Article 19 of the LCA stipulates that “If, by the expiration date of the contract term of a fixed-term labor contract which falls under any of the following items, a Worker applies for a renewal of the said fixed-term labor contract, or if a Worker applies for the conclusion of another fixed-term labor contract without delay after the said contract term expires, and the Employer’s refusal to accept the said application lacks objectively reasonable grounds and is not found to be appropriate in general societal terms, it is deemed that the Employer accepts the said application with the same labor conditions as the contents of the prior fixed-term labor contract:
(i) the said fixed-term labor contract has been repeatedly renewed in the past, and it is found that terminating the said fixed-term labor contract by not renewing it when the contract term expires is, in general societal terms, equivalent to terminating a labor contract without a fixed term by expressing the intention to fire a Worker who has concluded the said labor contract without a fixed term;
(ii) it is found that there are reasonable grounds upon which the said Worker expects the said fixed-term labor contract to be renewed when the said fixed-term labor contract expires.”

Economy

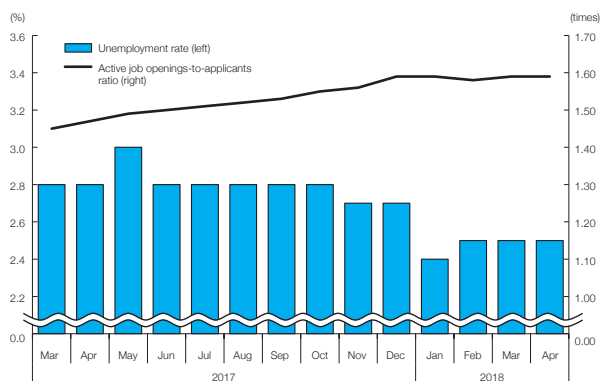
The Japanese economy is recovering at a moderate pace. Concerning short-term prospects, the economy is expected to continue recovering, supported by the effects of the policies, while employment and income situation is improving. However, attention should be given to the uncertainty in overseas economies and the effects of fluctuations in the financial and capital markets. (“Monthly Economic Report,”¹ May, 2018).

Employment and unemployment (See Figure 1)

The number of employees in April was 1.59 million increase over the previous year. The unemployment rate, seasonally adjusted, was 2.5%².

Active job openings-to-applicants ratio* in April, seasonally adjusted, was 1.59³.

* Active job openings-to-applicants ratio: An indicator published monthly by MHLW, showing the tightness of labor supply and demand. It indicates the number of job openings per job applicant at public employment security offices.



Source: “Labour Force Survey”²; “Employment Referrals for General Workers.”³

Figure 1. Unemployment rate and active job openings-to-applicants ratio (seasonally adjusted)

Wages and working hours (See Figure 2)

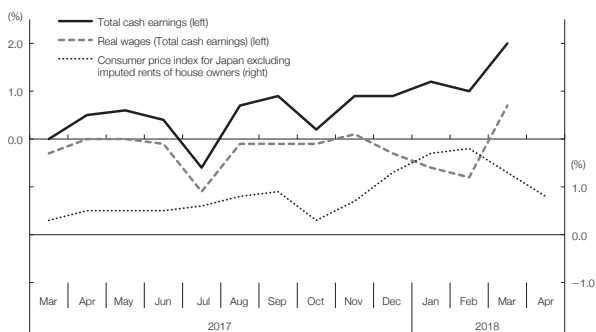
In March, total cash earnings (for establishments with 5 or more employees) increased by 2.0% and real wages (total cash earnings) increased by 0.7% year-on-year. Total hours worked decreased by 1.3% year-on-year, while scheduled hours worked decreased by 1.5%⁴.

Consumer price index

In April, the consumer price index for all items increased by 0.6% year-on-year, the consumer price index for all items less fresh food rose by 0.7%, and the consumer price index for all items less fresh food and energy increased 0.4% year-on-year⁵.

Workers’ household economy

In March, consumption expenditure by workers’ households decreased by 0.6% year-on-year nominally and decreased by 1.9% in real terms⁶.



Source: “Monthly Labor Survey”⁴; “Consumer Price Index.”⁵

Figure 2. Total cash earnings / real wages annual percent change

See the websites below for details.

The Japan Institute for Labour Policy and Training. “Main Labor Economic Indicators,” <http://www.jil.go.jp/english/estatis/eshuyo/index.html>

Notes: 1. Cabinet Office, “Monthly Economic Report” analyzes trends in the Japanese and world economics, and indicating the assessment by the Japanese government. Published once a month, <http://www5.cao.go.jp/keizai3/getsurei-e/index-e.html>

2. Ministry of Internal Affairs and Communications (MIC), “Labour Force Survey,” <http://www.stat.go.jp/english/data/roudou/results/month/index.htm>

3. Ministry of Health, Labour and Welfare (MHLW), “Employment Referrals for General Workers,” http://www.mhlw.go.jp/english/database/db-l/general_workers.html

4. MHLW, “Monthly Labour Survey,” <http://www.mhlw.go.jp/english/database/db-l/monthly-labour.html>

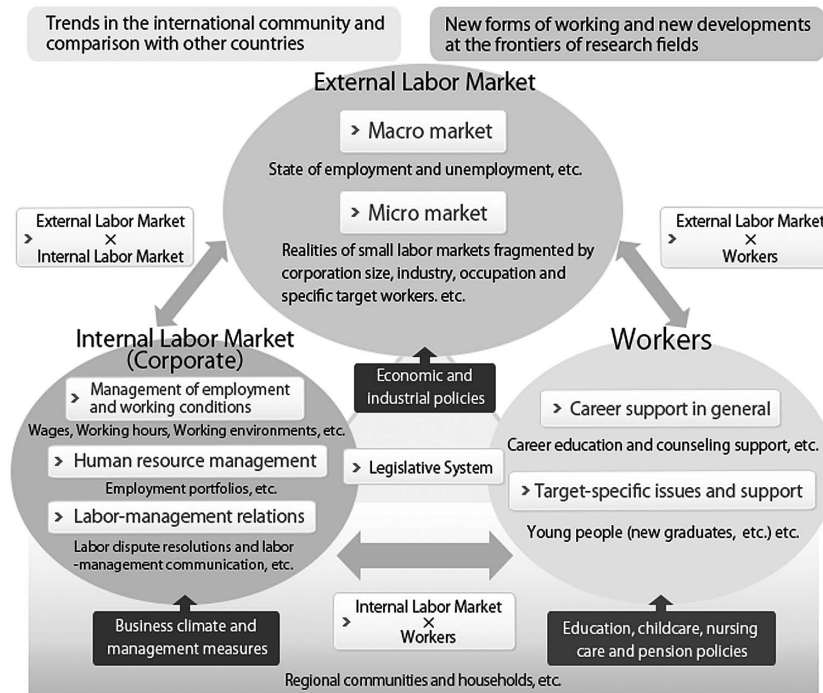
5. MIC, “Consumer Price Index,” <http://www.stat.go.jp/english/data/cpi/index.htm>

6. MIC, “Family Income and Expenditure Survey,” <http://www.stat.go.jp/english/data/kakei/index.htm>

JILPT Research Activity

The Japan Institute for Labour Policy and Training is conducting surveys and research focused on producing valuable insights that assist the Ministry of Health, Labor and Welfare in planning and pursuing labor policies and initiatives.

The Fields of Our Research



Comprehensive Research on Labor Policies

The following research projects are now being conducted in FY 2017-2021.

Research on Employment Systems

This research analyzes the current state and directions of Japan's long-term employment systems amid significant changes in industrial and demographic structures, using an analytical approach that incorporates a range of perspectives including the viewpoints of companies, workers, and society as a whole. Once we have established an overview of the current state and changes in Japanese employment systems, we consider how employment systems should be developed in the future.

Research on Labor and Employment Policies Adapted to Correspond with Changes, etc. in Demographic and Employment Structures

As Japan experiences rapid population aging and decline and a continued increase in non-regular workers, this project encompasses surveys and research that contribute to promoting measures and presenting policy implications

in areas such as the creation of a society where people remain in the workforce throughout their lives (*shōgai gen-eki shakai*) and the improvement of working conditions for non-regular workers.

Research on Potential Future Developments in Employment and Labor along with Technological Innovation, etc.

In light of major economic and social trends—including the rapid progress of technological innovation in A.I., the internet of things (IoT), and other such areas, etc., and changes in the structure of labor supply and demand—this research looks ahead to consider potential developments in employment and labor, and employment opportunities in the regional community, and also presents policy implications for the future.

Research on Worker and Corporate Behavior Strategies amid “Work Style Reform”

In preparation for “Work Style Reform,” this research picks out the issues involved in the behavior strategies of both workers and companies—such as the appropriate state of working hour systems and other such aspects of

human resources management, promotion of the active participation of women, and balancing child-rearing and long-term care for families, with pursuing a career—and sets out policy implications that contribute to improving the quality of employment.

Research on Vocational Skills Development Suited to Diverse Needs

This research ascertains and analyzes the various needs involved in enhancing vocational skills, and sets out policy implications regarding the appropriate state of infrastructure for vocational skills development across Japan as a whole, human resource development in new industrial fields, etc., and mechanisms for young people to make a smooth transition into employment and develop careers.

Research on Career Formation Support toward the Achievement of a “Society in which All Citizens are Actively Engaged” (*zen’in-sanka-gata shakai*)

This research looks at the actual state of work and job-seeking environments to identify the issues that need to be addressed—such as the appropriate state of lifetime career development support, job matching and counselling to promote the labor participation of people who have difficulties in the job-seeking activities, and the development of occupational information and tools suited to the current age—and proposes effective support methods.

Research on Mechanisms for Establishing Terms and Conditions of Employment, Centering on Labor Management Relations

This research ascertains the actual state of the changes in the notion of employees and labor-management relations and the ongoing shifts in mechanisms for establishing terms and conditions of employment amid increasing diversity in ways of working. While also comparing domestic developments with international trends, we identify the challenges with regard to labor law and policies, and present policy implications to prepare for developments in the future.

Results of Research Activities

The results of our research activities will be published quickly in research reports on labor policies, newsletters and on the web site with an eye to contributing to the planning and drafting of labor policies and the stimulation of policy discussions among different strata. At the same time, the Institute will organize policy forums and other events to provide opportunities for open discussion on policies.

Collection and Analysis of Information on Labor and Related Policies

JILPT collects and analyzes a variety of labor-related statistical data and information, both domestically and internationally, with the aim of contributing to promote research and debate on labor policy.

Domestic Labor Information

Information on domestic labor trends, such as employment, human resource management, industrial relations and so on, is gathered and sorted through surveys including “Monitoring Survey on Business and Labor” and other researches which are carried out through questionnaires or interviews to businesses, management and labor organizations.

International Labor Information

- Information on the labor situation in key countries is continuously and systematically assembled, and then sorted by country as well as by policy issue.
- JILPT networks with foreign research institutions, participates in joint field surveys when necessary, and collects information on pressing issues for labor policy research.

Compilation and Dissemination of Various Statistics Data

A variety of statistical data related to labor is collected from a broad range of information sources. This data is analyzed and processed, and is used to provide information that cannot be obtained from existing numerical data.

Research Report

JILPT regularly publishes research reports as results of various researches and studies conducted.

- *Japan Labor Issues* (monthly)
- JILPT Research report
- JILPT Report

International Research Networks

Creating Networks with Foreign Institutions

JILPT networks with research institutes in foreign countries with the aim of exchanging and utilizing to the extent possible the results of each other’s research activities including joint study programs.

Accepting Foreign Researchers and Intellectuals, and Sending Researchers Abroad

Exchange researchers and intellectuals are undertaken to foster research into Japanese labor issues, as well as creating a basis for future joint international research.

**Series: Japan's Employment System and Public Policy
2017-2022**

JILPT researchers review Japanese employment systems and policies and analyze current labor situations in this series. It covers each researcher's field of speciality in labor studies and rotates in five years.

**What is Japanese Long-Term Employment System?
Has it Vanished?**

Vol.1, No.1, September 2017

Recent company surveys reveal that 80% of large and medium sized Japanese corporations want to maintain long-term stable employment for as many employees as possible. On the other hand, the average tenures of university/postgraduate degree holding male employees in their early 50s tend to be shortened in large corporations, albeit gradually. Longer term, continuous employment is now being requested by the government in a society with a declining population.



Makoto Fujimoto

Recruitment and Hiring in Japan

Vol.1, No.2, October 2017

The recruiting and hiring practices of human resources in Japan considerably differs between regular employees and non-regular employees such as part-time workers, between new graduates and mid-career hiring, and between large corporations and small and medium enterprises. This article examines issues such as methods of recruitment and hiring, attributes expected of core human resources by companies, and aspects prioritized by job seekers when choosing workplaces.



Shinsaku Matsumoto

Allocation and Transfer in Japan

Vol.2, No.4, January 2018

There are advantages in allocation and transfer by Japanese companies. Companies can adjust internal staff allocation flexibly without being limited to specific jobs to suit the situation of individual employees and business environment. Also, companies can develop employees capable of handling a wide range of work operations. Conversely, these methods are highly likely to have disadvantages for employees because their needs with regard to career formation and their home lives are not taken into account. Recently, new arrangements are spreading among them such as “self-declaration system” and “in-house recruitment system” to reflect those wishes of employees.



Hodaka Maeura

Termination of Employment Relationships in Japan

(Part I) **Resignation and Termination of Employment Contracts
by Mutual Consent**

Vol.2, No.6, April-May 2018

(Part II) **Dismissal and Refusal to Renew a Fixed-term Contract**

Vol.2, No.7, June-July 2018

(Part III) **Mandatory Retirement Age System**

Vol.2, No.9, October 2018



Hirokuni Ikezoe

What's on Next Issue

Japan Labor Issues

Volume 2, Number 8, August-September 2018

tentative

Country Reports by promising researchers presented at the 2nd JILPT Tokyo Comparative Labor Policy Seminar (Tokyo, March 27-29, 2018) on “Looking back at the policy responses to changes in employment structure and forms—The future as seen from here”

Australia

- ❖ A System “on Life Support”? The Changing Employment Landscape and Collective Bargaining in Australia, **Ingrid LANDAU**

Cambodia

- ❖ Employment Contract in Cambodia—A Focus on Rules Transforming Fixed-duration to Undetermined Duration Contract, **Kanharith NOP**

China

- ❖ The Destiny of Web Platform Workers in China: Employees, Nothing or Third Option?, **Hui YU**
- ❖ A Brief Analysis on the Influence of ICT Change on China’s Labor Market, **Xiaomeng ZHOU**

India

- ❖ Trade Union Strategy and Responses to Changes in Employment Structure and Forms in India, **Manoranjan DHAL**

Indonesia

- ❖ The Dynamics of Minimum Wage (MW) in Indonesia’s Manpower System, **Ikomatussuniah**

Japan

- ❖ Are Long Working Hours in Japan Becoming Invisible? Examining the Effects of ICT-based “Spatial Flexibility” on Workloads, **Tomohiro TAKAMI**
- ❖ Japan’s Married Stay-at-home Mothers in Poverty, **Yanfei ZHOU**

Korea

- ❖ Narrowing the Gaps among the Workers: Changes in Korea, **Sukhwan CHOI**

Malaysia

- ❖ Changes in Employment Structure in Malaysia: The Way Forward, **Beatrice Fui Yee LIM**

Myanmar

- ❖ The Policy Responses to Changes in Employment Structure and Forms, **Thatoe Nay NAING**

Taiwan

- ❖ Technological Innovation and its Challenges to Taiwan’s Employment Law—Telework as an Example, **Bo-Shone FU**

Thailand

- ❖ Thailand Policies for the Age of Rapid Technology Change, **Praewa MANPONSRI**

Vietnam

- ❖ Wage Policy in the Current Context of Industrial Relation in Vietnam, **Phuong Hien NGUYEN**



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