

## The decreasing protection by labor unions

In the past, disputes between labor and management usually referred to group-level disputes arising between unions and companies. However, these types of disputes have been recently decreasing in number while individual management and labor disputes, or disputes originating between individual employees and companies, are on the rise.

Lying in the background is the increased variety of working styles, and the move towards individualization in human resource management as responses to these changes. As a result, we are seeing more firms terminating employees and modifying working conditions disadvantageously in order to reduce costs, with correlating incidents of harassment.

There is also a relationship with reduced unionization rates. In the past it was typical for a labor union to address an employee's grievances and complaints, and make a request to the company for resolutions. Aside from large firms which can have unionization rates of 55%, most places have no unions, with rates of unionization at small and medium-sized firms around 17% and rates dropping to 1% in small businesses (2002). Because of such backgrounds, individual management and labor disputes have become a problem that cannot be socially neglected.

In the past, mechanisms for resolving disputes were primarily courts, the Labor Standards Inspection Offices, and labor administration offices. Out of these mechanisms, the courts were the ultimate arbiters for resolving disputes, but they cost too much time and money. Resolving conflicts through other mechanisms ran into problems within the scope of the related dispute and effectiveness of the resolutions.

Because of this, the Law for Promoting the Resolution of Individual Labor Disputes was enacted in July 2001 and took effect in October.

This law first institutes a consultation desk as the interim for individual labor and management disputes. Information would then be provided to the consultant concerning means of resolving the dispute,

and consultations would be conducted one more time with the company or employee. This consultation and provision of information is extremely important, as there may be many people with no legal knowledge.

## Effective consultations

If disputes cannot be resolved even through these means, a system is in place where the head of the regional labor office can offer advice and instructions. Afterwards, a person knowledgeable in labor problems can also provide their good offices to resolve a dispute, depending on what is necessary.

In FY 2004, the numbers of consultations brought to consultation desks in one year was approximately 824,000 (an increase of 12.2% over the prior year). Among these, the number of consultations that did not involve legal violations was approximately 160,000 (also an increase of 13.7%).

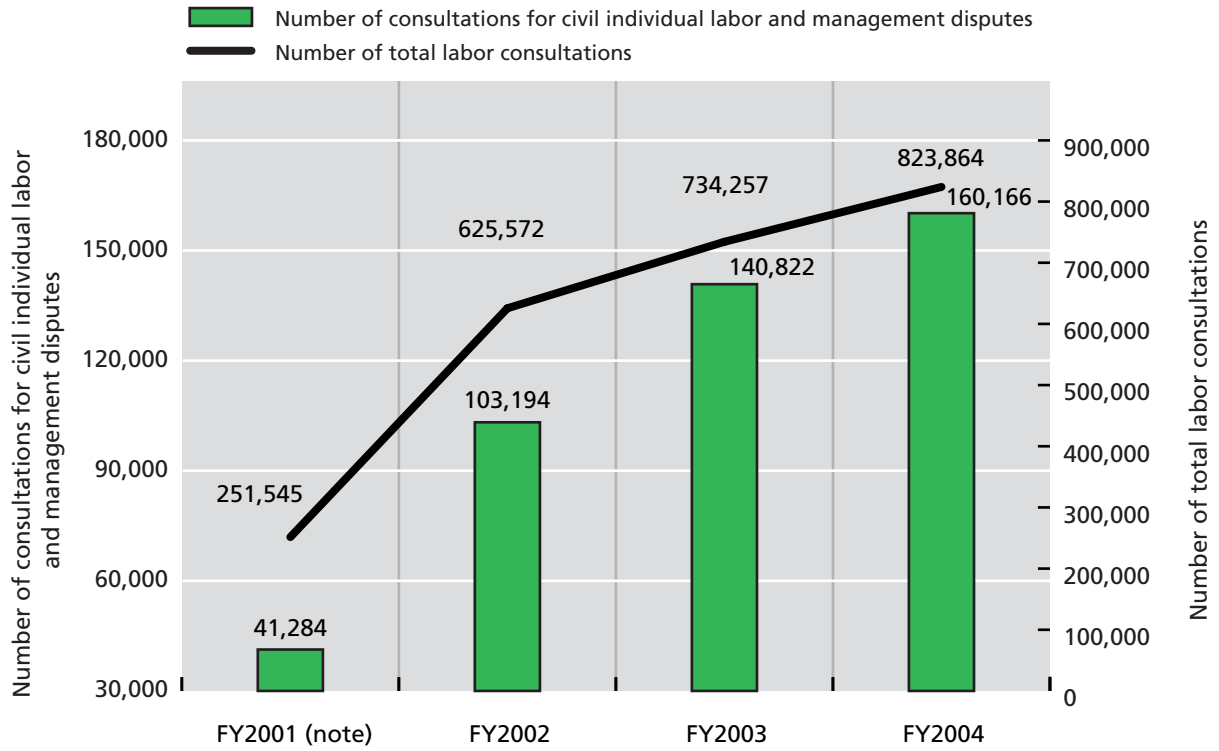
The primary contents of these consultations include those related to the termination of an employment, which is particularly numerous at 27%, and 16% for those related to disadvantageous modification of working conditions. Issues related to inducements toward retirement, sexual harassment, and overall areas of harassment and bullying approximately total 17%. Issues discussed in consultations reflect recent economic conditions.

Since the number of incidents involving conciliation, advice and guidance are between 5,000 and 6,000, one can see that dispute resolution at the level of consultations are functioning quite effectively.

Reform of the labor tribunal system\* will soon be undertaken as part of the reforms for the judicial system. In addition to administrative consultation and information dissemination, this would add one more step to the enhancement of the individual labor and management dispute resolution system, in order to maintain the court system as the final arbiter for dispute resolution.

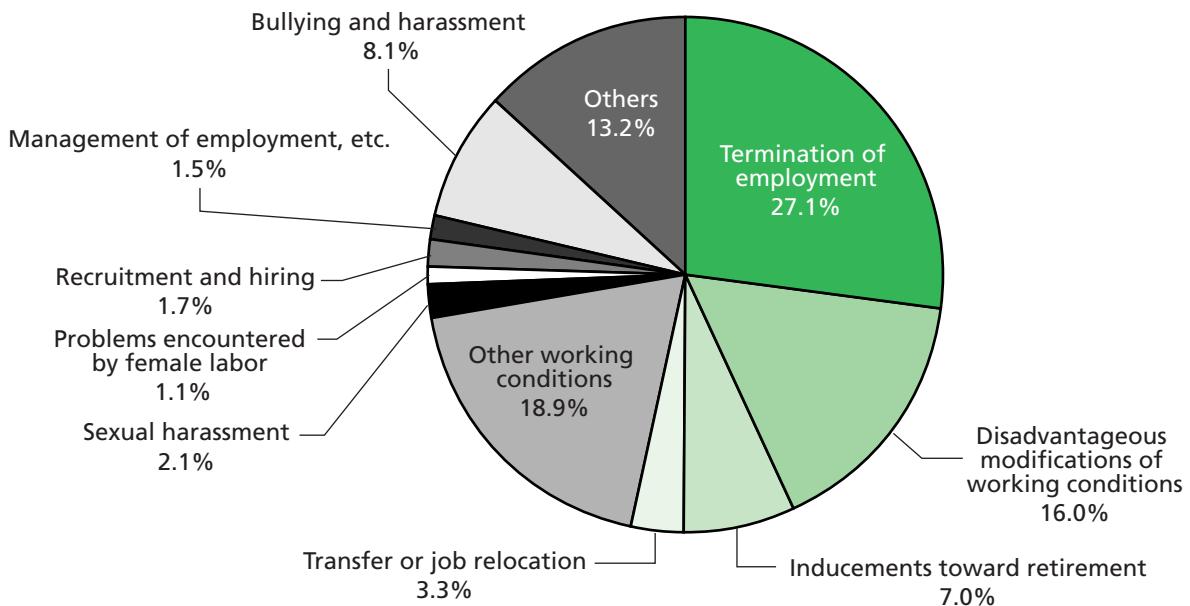
\*Labor Tribunal Law was enacted in May 2004, and will be in effect within 2 years from the date of promulgation.

### 11-1 Shift in the number of consultations



Note: The number of instances for Fiscal Year 2001 are for the bottom-half of that fiscal year (October 1, 2001 to March 31, 2002).  
 Source: Ministry of Health, Labour and welfare (announcement of finding in newspapers on May 23, 2005).

### 11-2 Breakdown of consultations for civil individual labor and management disputes



Source: Ministry of Health, Labour and welfare (announcement of finding in newspapers on May 23, 2005).