Workplace Bullying in Japan

Shino Naito
The Japan Institute for Labour Policy and Training

1. Introduction

Workplace bullying has been exposed much more as a social problem in recent years in Japan. It shall be explained in detail later, but if we look at a breakdown of labour counseling at prefectural Labour Bureaux, 6,627 (5.8%) of these cases were "bullying and harassment" in FY2002, but in FY2012 it had rapidly increased to 51,670 cases (17.0%), becoming the most common consultation for the first time.[1] And in courts and labour tribunals, cases related to workplace bullying are on the rise. Psychological injuries including suicide due to workplace bullying, which are determined as industrial accidents, are also increasing.

In response to this situation, the Government has started taking countermeasures. In July 2011, the Ministry of Health, Labour and Welfare (MHLW) set up the "Round-table Conference regarding Workplace Bullying and Harassment" (hereinafter "Round-table Conference"), which then launched the "Working Group for the Round-table Conference regarding Workplace Bullying and Harassment" (hereinafter "Working Group"). After repeated discussions, as commissioned by the Round-table Conference, the Working Group released a report on 30th January, 2012. In response, the Round-table Conference published its "Recommendations for Prevention and Resolution of Workplace Power Harassment"[2] on 15th March.

In this paper, I shall look at the general situation with regard to workplace bullying in Japan, specifically the current situation, the consequences and impacts (for companies, victims, colleagues), the background and reasons for the occurrence, the national policies, the intervention and prevention on the part of companies and trade unions, and the role and functioning of voluntary organizations.

2. Current situation with regard to workplace bullying

In Japan, there have ever been only two large scale nationwide surveys of employees regarding workplace bullying. One was conducted by the All-Japan Prefectural and Municipal Workers Union (JICHIRO) in 2010, the "100,000 Persons Power Harassment Survey" (hereinafter "JICHIRO Survey").[3] Another was conducted in 2012 by MHLW,

---

[1] Ministry of Health, Labour and Welfare, *Enforcement Status of Individual Labour Dispute Resolution System in FY2012* (released on 31st May, 2013).

[2] The words "Power Harassment" was created by a consultant Yasuko Okada in 2001. After that, it spread nationwide and has been used as words meaning workplace bullying and harassment.

[3] A questionnaire was sent to 103,827 persons extracted from among JICHIRO members nationwide, and responses were collected from 62,243 persons (response rate: 59.9%). This survey targeted all employees including non-permanent

"Workplace Power Harassment Survey (employee survey)" (hereinafter "MHLW Survey").[4] This section provides an overview of the current situation with regard to workplace bullying in Japan, based on mainly these two surveys' results.

2.1 Prevalence

I will start with prevalence (experiences) of workplace bullying, by gender, age, type of employment, occupation, organisational status, number of employees, and industry.

According to the MHLW Survey, 25.3% of all respondents experienced workplace bullying in the past three years. By gender, it was 26.5% of males and 23.9% of females, which showed a slightly higher percentage of male experienced bullying.

In the JICHIRO Survey, 21.9% experienced workplace bullying in the past three years (3.4% were seriously bullied). 10.6% were bullied more than three years ago. Thus the total percentage of workplace bullying victims was 32.5%, about one in every three persons. Viewed by gender, it is 19.8% of males (3.5% were seriously bullied), and 24.5% of females (3.2% were seriously bullied). The percentage is slightly higher for females.

According to a survey conducted by the Japan Institute for Labour Policy and Training (JILPT) on bullying conciliation cases in prefectural labour bureaux in FY2008 and 2011, 45.0% were males, 54.6% females and 0.4% unknown among the cases in 2008. Among the cases in 2011, 39.8% were males, 59.8% females and 0.4% unknown, thus higher percentages of female victims applied for the conciliation. [5]

If we look at the percentages of bullying victims in the past three years by age group, it was the highest in the 30-39 age group at 27.2%, 25.7% in the 40-49 age group, 24.8% in the 50 and older age group, and the lowest in the 20-29 age group at 23.3% in the MHLW Survey.

The percentages of male victims in the past three years by age group in the JICHRO Survey were, in descending order, 20.8% in the 40-49 age group, 20.7% in the 30-39 age group, 18.3% in the 20-29 age group, 18.1% in the 50-59 age group, 10.6% in the 60 and older age group, and 7.2% in the 10-19 age group. 40-49 was the peak age group, with not much difference in the percentages from the 20s to 50s age groups which were around 20%. On the other hand, the percentages were low at around 10% in the 60 and older and 10-19 age groups. The percentages of female victims in decreasing order were 26.3% in the 40-49 age group, 25.3% in the 30-39 age group, 24.8% in the 50-59 age group, 21.8% in

---

employees. *JICHIRO, Power Harassment 10 mannin Jittai Chōsa Hōkokusho*, Chingin Shiryō No. 191 (November 2011).

[4] MHLW survey (employee survey) was conducted online, targeting 10,075 persons consisting of (a) 9,000 persons extracted by random sampling from among male and female workers aged between 20 and 64 and employed at enterprises or organizations nationwide (excluding government employees, self-employed workers, enterprise managers and officers), and (b) 1,075 persons extracted as special samples from among workers who have experienced workplace bullying in the past three years. In random sampling, samples were assigned to the groups defined by gender, age, and employment status (permanent/non-permanent) based on the Employment Status Survey by MHLW, so that the sample structure would be close to the actual labour structure in Japan. MHLW, *Report of Workplace Power Harassment Survey* (December 2012).

[5] Shino Naito, Circumstances of Bullying/Harassment as Seen in the Cases of Conciliation by Labor Bureaux. In the Japan Institute for Labour Policy and Training (JILPT), *Content Analysis of Individual Labor Dispute Resolution Cases—Termination, Bullying/Harassment, Reduction in Working Conditions, and Tripartite Labor Relationships—*, JILPT Research Report No. 123 (June 2010), which analysed the 260 conciliation cases concerning bullying dealt with by four labour bureaux in FY2008; and JILPT, *Shokuba no Ijime, Iyagarase, Power Harassment no Jittai—Kobetsu Rōdō Funsō Kaiketsu Seido ni okeru 2011 nendo no Assen Jian wo Taishō ni—* (Actual Situation of Workplace Bullying/Harassment—Focusing on Conciliation Cases in the Individual Labour Dispute Resolution System in FY2011—), forthcoming, which analyses the 284 conciliation cases concerning bullying dealt with by six labour bureaux in FY2011.

the 20-29 age group, 15.6% in the 60 and older age group, and 13.3% in the 10-19 age group. Similar to males, 40-49 was the peak age group, with the percentage of around 20% to 25 % in the 20s to 50s age groups. On the other hand, it was low at around 15% in the 60 and older and 10-19 age groups.

The JILPT Survey also shows that there is a greater tendency of bullying in the 30-39 and 40-49 age groups. In the bullying conciliation cases of 141 applicants which contained age information in documents in FY 2011, 32.9% of the cases were in the 40-49 age group, and 28.7% in the 30-39 age group, showing high percentages in the 30-39 and 40-49 age groups. On the contrary, the percentages were low at around 10% in the 50-59, 60 and older, and 20-29 age groups. Looking at the surveys done so far, it can be said that more workplace bullying victims are in the 30-39 and 40-49 age groups in Japan (Table 1).

Table 1: Number of bullying conciliation cases in labour bureaux (by age group)

	Number of workplace bullying cases	Percentage	Percentage if exclude unknown
10-19 age groups	1	0.4	0.7
20-29	16	5.7	11.2
30-39	41	14.4	28.7
40-49	47	16.5	32.9
50-59	19	6.7	13.3
60 & older	19	6.7	13.3
Unknown	141	49.6	
Total	284	100	100

Sources: JILPT survey which analysed the contents of 284 bullying conciliation cases dealt with by six Labour Bureaux in FY2011.

Regarding types of employment, 22.0% of permanent employees and 21.0% of non-permanent employees were bullying victims in the past three years in the JICHIRO Survey, showing no major difference in both percentages. But among the non-permanent employees, 31.2% of agency workers were victims, which is comparatively higher. JILPT Survey also indicates that, among the applicants of bullying conciliation cases in FY2011, agency workers were 8.5% of the all applicants, which exceeds their percentage of all workers nationwide (1.7%).

On the other hand, the result of the MHLW Survey shows that the percentages of victims were 26.8% of male permanent employees, 29.0% of female permanent employees, 20.9% of male non-permanent employees and 19.3% of female non-permanent employees. Thus, compared to non-permanent employees, greater percentages of both male and female permanent employees were bullied.

Looking by occupation in the MHLW Survey, there were no major differences between occupations. In the JICHIRO Survey, bullying was the highest in nursing at 32.0%, followed by childcare 25.0%, other medical care jobs 25.0%, and welfare jobs 23.2%. Compared to other jobs like clerical 20.1% or technical jobs 20.8%, it was higher in medical and welfare jobs.

By organisational status of people who experienced bullying in the past three years in

the MHLW Survey, it is higher in the managerial level at 31.1% than in non-managerial levels at 24.8%. The JICHRO Survey shows that there was no major difference between managers as a whole and non-managerial employees, but looking at a breakdown of managers, the percentages were 18.2% of assistant section managers, 20.8% of subsection chiefs, and 22.7% of chiefs. Thus the lower the rank in management, the higher the ratio of bullying.

Concerning experiences of workplace bullying by number of employees in organisations, the ratio was the highest at 27.4% in organisations with 100 to 299 employees, and lowest at 25.0% in organisations with 99 or less employees. This showed that a certain number of employees felt they were bullied regardless of the size of their organisations (MHLW Survey).

The MHLW Survey indicates that the prevalence of bullying by industry is similar at around 25 %. For example, the percentage of the financial and real estate industry was the highest at 27.6% and the lowest one was 23.3% in the wholesale/retail, restaurant and hotel industry.

In the JILPT Survey on bullying conciliation cases in FY2011, the largest number of cases (54) were in the medical and welfare industry (19.0% of the 284 cases in the survey), followed by 53 cases in the manufacturing industry (18.7%) and 44 cases in the wholesale and retail industry (15.5%). Considering that their percentages of all Japanese industries are 5.9% for the medical and welfare industry and 9.9% for the manufacturing industry (as of 2007), we may point out high prevalence in these two industries (however, since this survey covered people who suffered workplace bullying and applied to prefectural Labour Bureaux for conciliation, we need to keep in mind that it may not directly reflect the attributes of the victims of workplace bullying).

2.2 Consequences

Among the impacts of workplace bullying, with regard to those on mental health, survey conducted by Tsuno et al. showed that the risk of psychological stress reaction was 4 to 5 times higher and of onset of PTSD symptoms was 8 times higher in workplace bullying victims, compared to those who were not exposed to bullying, after controlling some factors like individual attributes, occupational attributes, and support of superiors and colleagues. [6]

Regarding the relationship between the experience of bullying and mental and physical health, the group which experienced workplace bullying showed damage of mental and physical QOL, especially impacts on the mental QOL is big. The result suggests that workplace bullying may negatively affect the mental well-being of the victims (Hyogo Institute for Traumatic Stress, 2012). [7]

Regarding the relationship between workplace bullying and work performance, a mild

---

[6] This survey was conducted in 2009 on bullying among municipal employees (civil servants) of Kanto region. A questionnaire was sent to 4,702 persons who were members of labor unions in the Kanto region, and responses were collected from 2,194 persons (response rate: 46.7%). Kanami Tsuno, Tetsuya Morita, Akiomi Inoue, Kiyoko Abe and Norito Kawakami, "Rodosha ni okeru shokuba no ijime no sokutei houhou no kaihatsu to sono jittai kenkou eikyou ni kansuru chousa kenkyu," *Sangyo Igaku Journal (Occupational Health Journal)*, 34, 3, 2011, pp79-86.

[7] This Survey was conducted by the Hyogo Institute for Traumatic Stress in January and February 2011 on workers in five private companies in Hyogo prefecture. A questionnaire was sent to 1,102 workers, and responses were collected from 739 persons (response rate: 67.1%). Kiyoshi Makita, Sayaka Yamamoto, Saeko Takada and Horoshi Kato, The relationship between workplace bullying and health-related QOL or Presenteeism, *Shinteki Trauma Kenkyu (Japanese Bulletin of Traumatic Stress Studies, Official Journal of Hyogo Institute for Traumatic Stress)*, 8, 2012, pp11-18.

correlation was found between bullying and three scales, which are time management, mental-interpersonal demands, and output demands. The more the exposure, the lower was the performance in these three aspects (Hyogo Institute for Traumatic Stress, 2011a).[8] In another survey by the institute, work performance of the victims was lower than those who were not exposed to workplace bullying (Hyogo Institute for Traumatic Stress, 2011b).[9]

3. Background and reasons for the occurrence of workplace bullying

As the background or cause behind workplace bullying and harassment, "changing business environment and workplace environment" have generally been given in Japan. To be specific, they are factors such as "trend of pursuing results due to harsher competition, resulting from economic globalization," "workplace has become to have no enough employees due to too much work volume of each person," "managers have been pushed to achieve their own results, and it became difficult for them to give their individual subordinates suitable and appropriate advice," [10] "due to progress in information processing equipments, work has shifted to individual work units rather than team units," "Like performance-based system, personnel management has become individualized, with harsher competition between employees" and "workers of various types of employment and working conditions work together," etc. [11] Thus, these factors and their resulting weakening of human relations in the workplace can be considered as the background and causes of workplace bullying problems.

In the "Interview Survey on Employers and Trade Unions' Measures against Workplace Bullying, Harassment, and Power Harassment" conducted by JILPT in 2011 at 33 employers and trade unions, when we asked them "What do you think are the background and causes behind occurrence of power harassment? (multiple answers)," the answers were as shown in Table 2. [12] The top 5 answers were "overwork and stress caused by staff cuts or too few staff," "lack of workplace communication," "results improvement pressure from employers or performance-based system," "managers are too busy for their work to care about their subordinates" and "diverse types of employment." This is not a result of quantitative survey; rather it is based on the feelings of people working on harassment in each organization. This result is backed by the background and cause often given for workplace bullying so far: "changing business environment and workplace

---

[8] Kiyoshi Makita et al, "shokuba ni okeru harassment koui no ninshiki ni tsuite no ishiki chosa," short-term research in FY2010, on the survey, *supra note* 7.

[9] This survey was conducted by the Hyogo Institute for Traumatic Stress in October and November 2011 on nurse staff of hospitals in Hyogo prefecture. A questionnaire was sent to 3,300 nurse staff, and responses were collected from 1,410 persons (response rate: 42.7%). Kiyoshi Makita et al, "shokuba ni okeru jisatsu risk to shokuba nai stress to no kanrensei," short-term research in FY2011.

[10] 21 Seiki Shyokugyou Zaidan (Japan Institute of Workers' Evolution), *Shokuba ni okeru Power Harassment no Bōshi no tameni (For prevention of power harassment in the workplace)* (third edition, 2011), p 3.

[11] Bureau of Industrial and Labor Affairs, Tokyo Metropolitan Government, *Shokuba no Ijime—Hakken to Yobō no tameni— (To Find and prevent workplace bullying)* (2011), p 8.

[12] This survey was conducted from May to December 2011 by JILPT, holding interviews with 39 organisations (employers and trade unions) engaged in carrying out proactive measures to prevent and resolve harassment. The measures taken by 33 organisations (15 employers, 18 trade unions (11 enterprise unions, 6 industrial unions, and 1 craft union)) are recorded in the following report: JILPT, *Shokuba no Ijime Iyagarase Power Harassment Taisaku ni kansuru Rōshi Hearing Chōsa—Yobō Kaiketsu ni muketa Rōshi no Torikumi (Interview Survey on Employers and Trade Unions' Measures against Workplace Bullying, Harassment, and Power Harassment: Challenge to Prevent and Resolve Harassment)*, JILPT Research Material Series No. 100 (April 2012).

environment."

Besides, "changes in employees' side" and "greater social awareness" were also given as the reasons for workplace bullying and harassment turning into a social problem.[13] The former means that workers have less respect for the seniority system, so it is easier for them to complain, and workers have more diverse values. Another reason was sometimes pointed out that the modern workers have less stress tolerance.

Table 2: Background and causes of harassment

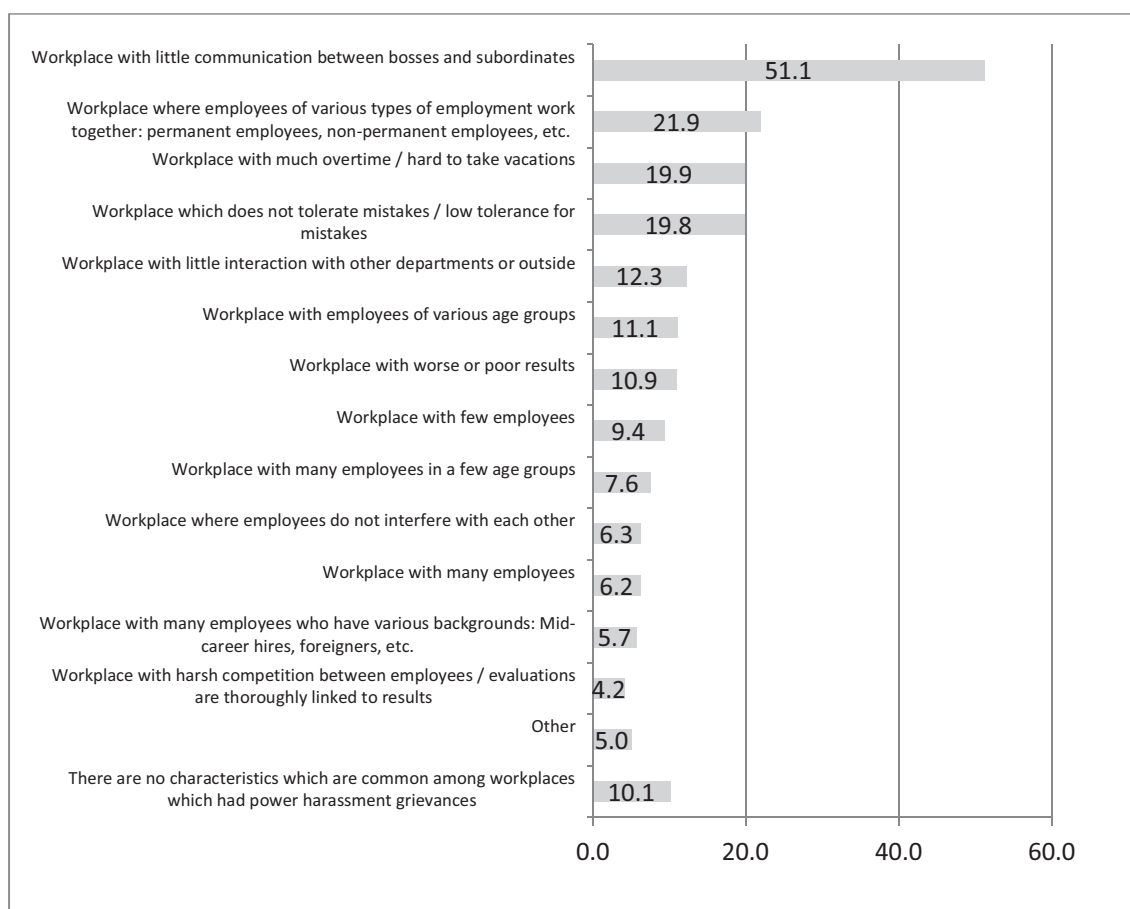> **"What do you think could be backgrounds and causes of harassment?**
> ● Overwork and stress caused by staff cuts or too few staff
> ● Lack of workplace communication
> ● Results improvement pressure from employers or performance-based system
> ● Managers are too busy for their work to care about their subordinates
> ● Diverse types of employment
> ● Relationship similar to apprenticeship system unique to industry
> ● Business structure changes (resulting in personnel transfers) and changes of workplace environment
> ● Low wage structure of industry
> ● Weaker human relations and lack of trusting relations between bosses and subordinates, or between colleagues
> ● Personalities and lack of awareness of harassment on the side of bullies
> ● Lack of training for managers
> ● Weak awareness of human rights and respect for individual
> ● Disappearance of people in the workplace who helped to solve problems
> ● Less communication ability
> ● Weakening management abilities of managers
> ● Sense of right because pay money (when harassers are customers)

Sources: JILPT "Interview Survey on Employers and Trade Unions' Measures Against Workplace Bullying, Harassment, and Power Harassment" (2011).

Also, the MHLW employer survey asks about characteristics of workplaces where workplace bullying occurs. Common characteristics of workplaces with grievances related to workplace bullying are: "workplace with little communication between bosses and subordinates" (most common at 51.1%), followed by "workplace where employees of various types of employment work together: permanent employees, non-permanent employees, etc." (21.9%), "workplace with much overtime / hard to take vacations" (19.9%), "workplace which does not tolerate mistakes / low tolerance for mistakes" (19.8%) (Fig. 1).

[13] Japan Institute of Workers' Evolution, *supra note* 10, p. 3.

Fig. 1: Characteristics which are common among workplaces which had grievances on bullying

Characteristic	Value
Workplace with little communication between bosses and subordinates	51.1
Workplace where employees of various types of employment work together: permanent employees, non-permanent employees, etc.	21.9
Workplace with much overtime / hard to take vacations	19.9
Workplace which does not tolerate mistakes / low tolerance for mistakes	19.8
Workplace with little interaction with other departments or outside	12.3
Workplace with employees of various age groups	11.1
Workplace with worse or poor results	10.9
Workplace with few employees	9.4
Workplace with many employees in a few age groups	7.6
Workplace where employees do not interfere with each other	6.3
Workplace with many employees	6.2
Workplace with many employees who have various backgrounds: Mid-career hires, foreigners, etc.	5.7
Workplace with harsh competition between employees / evaluations are thoroughly linked to results	4.2
Other	5.0
There are no characteristics which are common among workplaces which had power harassment grievances	10.1

(Responses: Employers which had grievances on power harassment in past three years. n=1571, %)

Sources: MHLW Survey (employer survey) (December 2012).

On the other hand, the MHLW employee survey also compared people who suffered or saw workplace bullying in their current workplace in the past three years, with people who did not suffer nor saw workplace bullying in their current workplace in the past three years and sought characteristics of workplaces where bullying occurs. These are items chosen by large percentages of people who experienced bullying in their current workplace, and which have a large gap versus people who did not experience bullying: "workplace with much overtime / hard to take vacations" (40.5% of those who experienced bullying, 22.2% of those who did not experience bullying, difference of 18.3 percentage points), "workplace which does not tolerate mistakes / low tolerance for mistakes" (29.7% of those who experienced bullying, 11.8% of those who did not experience bullying, difference of 17.9 percentage points), "workplace with little communication between bosses and subordinates" (35.2% of those who experienced bullying, 17.8% of those who did not experience bullying, difference of 17.4 percentage points) (Fig. 2). Both the employer survey and employee survey show similar trends regarding characteristics of workplaces where bullying occurs.

119

Fig. 2:   Workplace characteristics (by experience of power harassment)
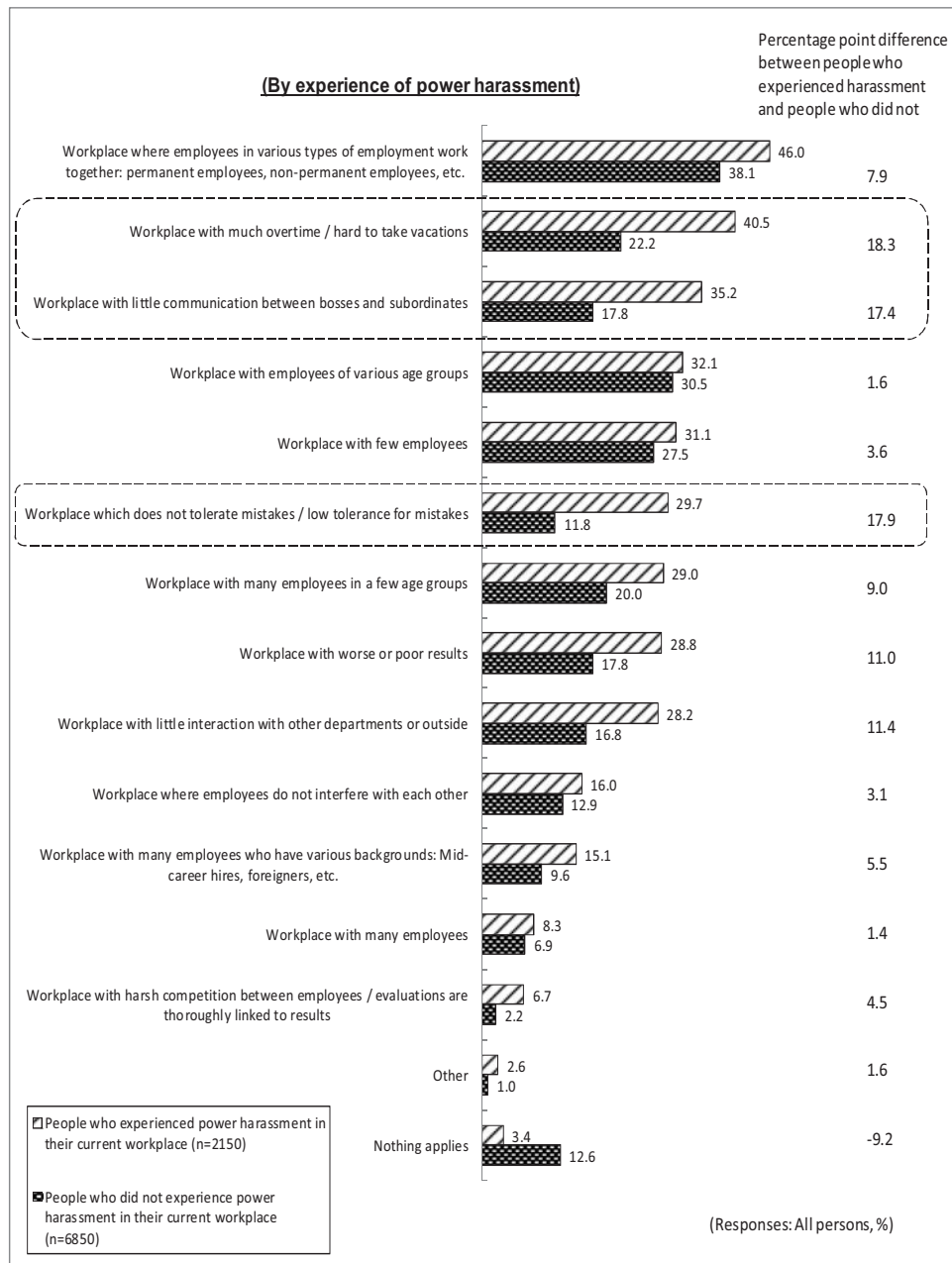
Sources: MHLW Survey (employee survey) (December 2012).

The MHLW employee survey also has questions on the situation of workplace communication, which similarly compare people who experienced power harassment in the current workplace with those who did not experience it.

In response to the question as to whether "it is easy to communicate to my company that I feel worries, dissatisfaction or problems," the total of "does not apply at all" plus "does not apply much" was 64.0% among people who experienced bullying, which is nearly double the 35.9% of people who did not experience bullying (Fig. 3). Similarly, in

response to the question as to whether "it is easy to communicate to my boss that I feel worries, dissatisfaction or problems," the total of negative replies was 57.9% of people who experienced bullying, which is nearly double the 31.9% of people who did not experience bullying (Fig. 4).

On the other hand, a total 34.6% of victims of power harassment in their current workplace replied "does not apply at all" or "does not apply much" regarding the question about whether "There is smooth communication between colleagues," and a total of 39.9% regarding the question about "I have a colleague with whom I can discuss issues other than work." On the other hand, 36.0% gave affirmative replies of "Applies very much" or "Applies somewhat" for "There is smooth communication between colleagues," and a total 37.5% gave affirmative replies for "I have a colleague with whom I can discuss issues other than work" (Fig. 5 and 6).

From these survey results, as a communication problem behind bullying, one can say that "ease of consulting with and talking with company and boss" is most important. Communication among colleagues seems to be next most important.

Fig. 3:   It is easy to communicate to my company that I feel worries, dissatisfaction or problems.
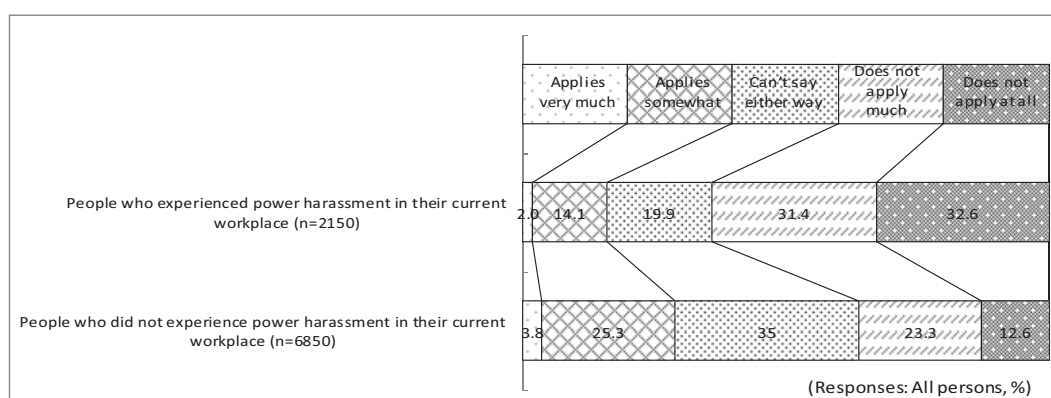

	Applies very much	Applies somewhat	Can't say either way	Does not apply much	Does not apply at all
People who experienced power harassment in their current workplace (n=2150)	2.0	14.1	19.9	31.4	32.6
People who did not experience power harassment in their current workplace (n=6850)	3.8	25.3	35	23.3	12.6

(Responses: All persons, %)

Fig. 4: It is easy to communicate to my boss that I feel worries, dissatisfaction or problems.

	Applies very much	Applies somewhat	Can't say either way	Does not apply much	Does not apply at all
People who experienced power harassment in their current workplace (n=2150)	2.4	20.3	19.4	27.9	30.0
People who did not experience power harassment in their current workplace (n=6850)	4.8	32.2	31.1	20.7	11.2

(Responses: All persons, %)

Fig. 5: There is smooth communication between colleagues.

	Applies very much	Applies somewhat	Can't say either way	Does not apply much	Does not apply at all
People who experienced power harassment in their current workplace (n=2150)	6.0	30.0	29.4	21.9	12.7
People who did not experience power harassment in their current workplace (n=6850)	8.7	39.9	33.7	12.2	5.5

(Responses: All persons, %)

Fig. 6: I have a colleague with whom I can discuss issues other than work.

	Applies very much	Applies somewhat	Can't say either way	Does not apply much	Does not apply at all
People who experienced power harassment in their current workplace (n=2150)	8.4	29.1	22.6	21.2	18.7
People who did not experience power harassment in their current workplace (n=6850)	7.8	31.2	30.9	18.1	11.8

(Responses: All persons, %)

Sources (Figures 3 to 6): MHLW Survey (employee survey) (December 2012).

4. National policies on workplace bullying

4.1 Disputes on workplace bullying

Japan has no legislation specific to workplace bullying at this moment, but this does not mean that there are no disputes on workplace bullying.

As I wrote at the start, in the labour counseling at prefectural labour Bureaux, 6,627 (5.8%) of these cases were "bullying and harassment" in FY2002, but in 2012 it had rapidly increased to 51,670 cases (17.0%), becoming the most common consultation for the first time.[14] Its rate of increase is 12.5%, the highest pace among all disputes in 2012.

When we look at consultation cases dealt with by the Tokyo Metropolitan Labor Consultation Center, the number of consultations related to "bullying and harassment" continued an increasing trend from 5,960 cases (6.4%) in FY2008 to 7,962 cases (7.9%) in 2012, although the total number of cases remains almost unchanged in the past five years.[15]

A questionnaire survey on those who have used the labour tribunals shows that 24.3% (73 respondents, multiple answers) of workers filed a complaint about "power harassment," and 13.3% (40 respondents, multiple answers) about "bullying/harassment other than sexual harassment and power harassment."[16] It is clear that a considerable number of bullying and harassment cases have been handled not only by labour consultation of administrative bodies, but also by labour tribunals.

And it is a matter of course that the bullying and harassment cases that are brought to regular courts are also on the quick rise in recent years. Although exact number is unknown, nearly 100 cases on bullying have thus far been disputed in regular courts.

According to a survey on large companies conducted by the Japan Industrial Safety and Health Association (2005), 33% (69 companies) responded that they have faced power harassment and related issues, and 10% (21 companies) have dealt with them occasionally; revealing that power harassment has been occurred in 43% of companies.[17]

Another survey on companies (mostly large companies) (2010) indicates that 9.8% of surveyed companies responded that power harassment and related issues have at least doubled, and 44.8% of companies answered that the number of cases has increased although not doubled, indicating a staggering 54.6% of companies answered that the number of cases has increased.[18]

The recent MHLW Survey showed that 45.2% of the surveyed companies dealt with the issue of power harassment raised by employees during the past three years, and the average number of cases which those companies dealt with was 6.4 cases. As shown thus far, it is clear that cases of workplace bullying/harassment occur in a number of companies, and the number of cases is increasing in recent years.

Furthermore, among the cases with mental injuries which were determined as industrial accidents and compensation for workers was approved, the number of mental

---

[14] *Supra note* 1.

[15] Bureau of Industrial and Labor Affairs, Tokyo Metropolitan Government, Rōdō Sōdan oyobi Assen no Gaiyō (heisei 24 nendo) (Overview of labor consultation and conciliation (FY2012)) (April 2013).

[16] The University of Tokyo Institute of Social Science, Rōdō Shinpan Seido ni tsuite no Ishiki Chōsa Kihon Hōkokusho (Basic report of the attitude survey on the labour tribunals system) (October 2011), p. 111.

[17] Japan Industrial Safety and Health Association, Power Harassment no Jittai ni kansuru Chōsa Kenkyū Hōkokusho (Study report on the actual situation of power harassment) (March 2005), p. 13.

[18] Power Harassment Study Group, cuorec3, Inc., Shokuba no Power Harassment Taisaku Torikumi Jōkyō ni kansuru Jittai Chōsa Hōkokusho (Survey report on the actual situation of the measures against power harassment in the workplace) (March 2011), p. 18.

injuries caused by "serious harassment, bullying or assault" increased as well: 16 cases in 2009, 39 cases in 2010, and 40 cases in 2011 (Table 3). Also increasing in recent years is the number of cases of mental injuries and suicide which were determined as industrial accidents, caused by "troubles with superiors, colleagues and subordinates".

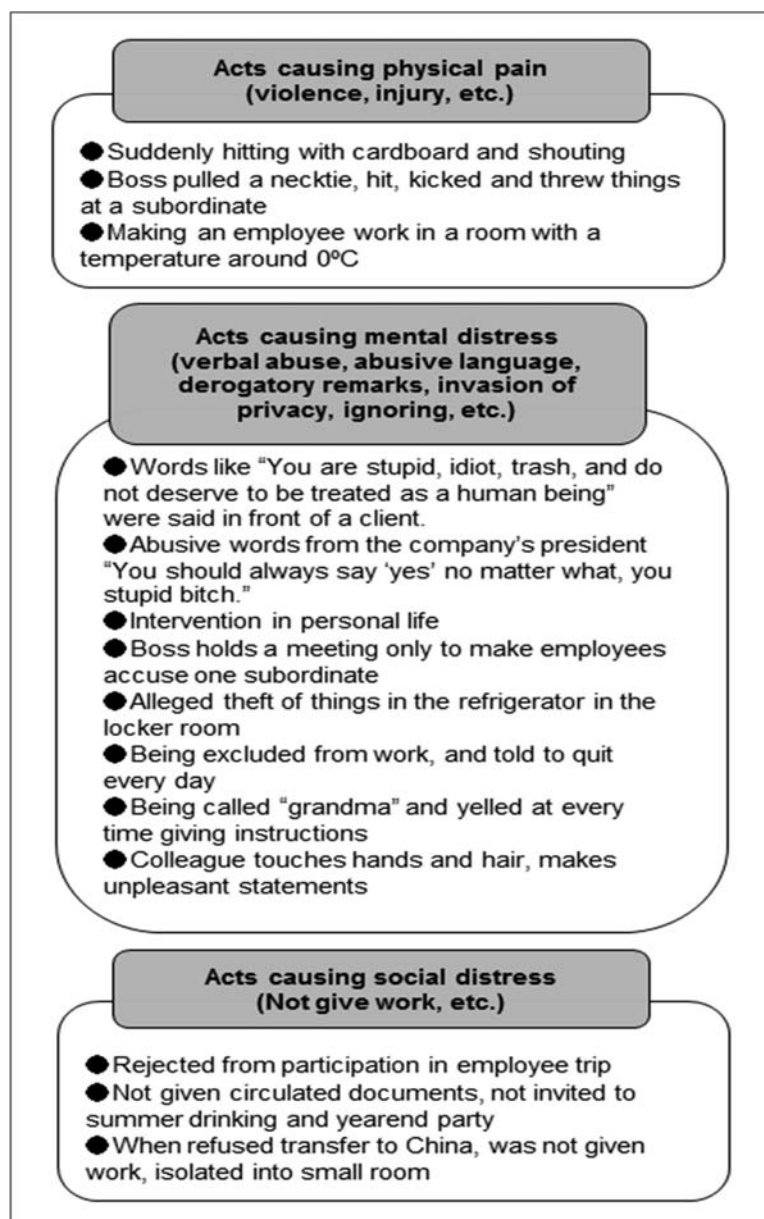**Table 3: Compensation as industrial accidents for workers with mental injuries**

			FY2009	FY2010	FY2011
Number of applications for compensation as industrial accidents for workers with mental injuries			1136	1181	1272
	Number of cases with compensation decision		234	308	325
		Received (serious) harassment, bullying or assault	16 (of which 1 was suicide)	39 (of which 5 were suicide)	40 (of which 3 were suicide)
		Trouble with superiors	9 (of which 1 was a suicide case)	17 (of which 2 were suicide)	16 (of which 4 were suicide)
		Trouble with colleagues	0	0	2 (of which none were suicide)
		Trouble with subordinates	0	1 (of which 1 was suicide)	2 (of which 1 was a suicide)

Sources: "Status of workers' accident compensation for brain and heart diseases and mental injuries" FY2009-2011, MHLW.

Now, we turn our attention to what kind of bullying happens in the workplace. According the JILPT Survey which analyzed the bullying conciliation cases of FY2008, various kinds of bullying were reported from the applicants, including violence, injury, verbal abuse, abusive language, derogatory remarks, invasion of privacy, ignoring and exclusion from work.[19] Actual behaviors are listed in Table 4.

---

[19] Shino Naito, *supra note* 5, at 97.

Table 4: Bullying acts reported in conciliation cases dealt with by labour bureau

Acts causing physical pain (violence, injury, etc.)

● Suddenly hitting with cardboard and shouting
● Boss pulled a necktie, hit, kicked and threw things at a subordinate
● Making an employee work in a room with a temperature around 0ºC

Acts causing mental distress (verbal abuse, abusive language, derogatory remarks, invasion of privacy, ignoring, etc.)

● Words like "You are stupid, idiot, trash, and do not deserve to be treated as a human being" were said in front of a client.
● Abusive words from the company's president "You should always say 'yes' no matter what, you stupid bitch."
● Intervention in personal life
● Boss holds a meeting only to make employees accuse one subordinate
● Alleged theft of things in the refrigerator in the locker room
● Being excluded from work, and told to quit every day
● Being called "grandma" and yelled at every time giving instructions
● Colleague touches hands and hair, makes unpleasant statements

Acts causing social distress (Not give work, etc.)

● Rejected from participation in employee trip
● Not given circulated documents, not invited to summer drinking and yearend party
● When refused transfer to China, was not given work, isolated into small room

Source: JILPT, Content Analysis of Individual Labor Dispute Resolution Cases: Termination, Bullying/Harassment, Reduction in Working Conditions, and Tripartite Labor Relationships (JILPT Research Report No. 123, June 2010).

4.2 Measures of the Government

In response to this situation, the national government started taking countermeasures. As I mentioned in the beginning, MHLW established the "Round-table Conference" in July 2011 and the "Working Group" was launched by the Conference. After repeated discussions, Working Group put together a report in January, 2012 (hereinafter "Report"). Following the Report, the Round-table Conference published its "Recommendations for Prevention and Resolution of Workplace Power Harassment" (hereinafter "Recommendations") in March 2012.

Regarding the Round-table Conference, in the light of the situation where bullying/harassment cases in the workplace are on the rise, the Government set up it from July 2011 and March 2012, to hold discussions about approaches and measures for prevention and resolution of workplace bullying, participated in by the representatives of employers/employees, experts and government officials.

Commissioned by the Round-table Conference, the Working Group was established to clarify the points of issue, which was also participated in by the representatives of employers/employees, experts and government officials. The points of issue to be clarified by the Working Group were (1) the state of the issue and necessity of measures, (2) what kinds of behaviors should be prevented and resolved, (3) the ideal policies for this issue. The Working Group held six meetings to hear from experts and have discussions on three points of issue. It then put together the Report in January 2012. In response to this, the Round-table Conference published the Recommendations in March 2012.

4.2.1 Report by the Working Group

The Report compiled by the Working Group was to address the following issues raised by the Round-table Conference:
1) Why we should address workplace bullying/harassment problems (current situation of the problem, necessity/significance of addressing the problem and background of the problem)
2) What kind of acts should be eliminated from workplace (necessity of common recognition, categories of bullying) and
3) How we can eliminate power harassment from workplace (measures of employers and trade unions etc. for prevention and resolution)

(1) Necessity/significance of addressing the problem

The Report listed the following two points with respect to the necessity/significance of addressing the problem:
(a) Bullying, harassment, and power harassment are unforgivable behaviors that deeply undermine the dignity and personality of workers, and
(b) Such behavior inflicts a huge loss not only on the harassed person, but also on the people around him, the offender and the company.

With respect to the point (b) "loss," the report requests companies to take proactive measures in order to prevent losses caused by bullying, harassment and power harassment at the workplace, such as decline in productivity and outflow of human resources, and in order to boost enthusiasm of the workers, increase productivity of the entire workplace and enhance vitality of the workplace, thus advocating active significance of efforts, not just aversion of losses.

(2) Definition of acts to be eliminated from the workplace

The words like "bullying/harassment" and "power harassment" mean different things to different people, so it is necessary to share the recognition among employers/trade unions and people concerned as to what kind of acts should be eliminated from workplace. Thus, the Working Group suggested that the following acts be called "workplace power harassment" and should be eliminated from the workplace, and that employers and trade unions should work together for prevention and resolution. The Working Group defines workplace power harassment as "an any act by a person using his/her superiority in the workplace, such as job position or human relationship with a co-worker, which causes such

co-worker mental distress or physical pain or a degradation of the working environment beyond the appropriate scope of business."

In the definition of the "workplace power harassment," the term "superiority" in the workplace is not limited to job position, but includes various superiority like human relationships or presence of expert knowledge; it includes any acts between seniors and juniors or between colleagues of equal standing or even from subordinates to superiors, not only typical acts from superiors to subordinates.

The definition of "workplace power harassment" identifies the scope of the concerned parties as a co-worker and it applies to any worker working in the same workplace, regardless of whether they are permanent or non-permanent employees (including agency workers). However, acts of a third party, such as a client or business partner, students and guardians, and patients and patients' family, are not included in the definition of "workplace power harassment" in this Report. This is one of the main discussions in the meetings of the Working Group: to what extent should the scope of the concerned parties be broadened? (Whether a third party of a client/business partner etc should be included as a harasser?) Regrettably, such third parties were not included in this Report, but this is not to say that such acts by a third party are condoned. Rather, it should be interpreted that such acts have not included yet in this Report which is the first Government initiative against bullying in the workplace. As evidence to that, the report raises awareness by stating that "besides relations between employees in the same workplace, acts of clients or business partners may be occurred, which undermine the dignity and personality of an employee, based on their business power relationship."

(3) Categories of power harassment

The Report by the Working Group categorizes power harassment in six categories based on the judicial precedents. However, these six categories do not cover all the real acts of workplace power harassment, and it is noted that some acts not in these six categories may also be considered power harassment.

(i) Assault or injury (physical abuse)
(ii) Intimidation, defamation, insult, or slander (mental abuse)
(iii) Isolation, ostracization, or neglect (cutting off from human relationships)
(iv) Forcing an employee to perform certain tasks which are clearly unnecessary for the business or impossible to be performed, or interrupting with their normal duties (excessive work demands)
(v) Ordering an employee to perform menial tasks which need far below the employee's ability or experience and not providing any work at all for an employee, without any business reasonableness. (insufficient work demands)
(vi) Excessively inquiring into the private affairs of an employee (invasion of privacy)

It is often argued that it is difficult to draw the line between power harassment and business instructions, but employers and trade unions need to prevent and address the issue of any acts "beyond the appropriate scope of business" as defined in the earlier mentioned definition of "workplace power harassment." Even if an individual employee feels dissatisfaction with an instruction, warning or guidance necessary for business, it does not fall into a category of "workplace power harassment" as long as such act is within the appropriate scope of business.

Then, the Report gives a guideline of "appropriate scope of business" for each of the

six categories. The "physical abuse" acts (i) are thought to exceed the appropriate scope of business even if it relates to the performance of business. Also, the "mental abuse" acts (ii) or "cutting off from human relationships" (iii) are believed, in principle, to exceed the appropriate scope of business since they are usually unnecessary for business. On the other hand, with regard to categories (iv) through (vi), it may be difficult to draw the line between harassment and acts falling under appropriate guidance. What actions are beyond appropriate scope of business is affected by the type of business as well as by corporate culture, and the actual decision may depend on the situation where the acts are conducted or on whether the acts are continuous. Therefore, each company and workplace should obtain internal consensus and specify the scope.

4.2.2 Recommendations of the Round-table Conference

In response to the Report by the Working Group, the Round-table Conference released its Recommendations in March 2012. Based on the Report, the Recommendations provide a strong message by calling for actions of each individual from his/her standpoint, to prevent and resolve the issue and emphasize the significance of efforts towards resolution, because any worker may be involved in a harassment incident.

It is a matter of course that employers and trade unions should exert concerted efforts for prevention and resolution of harassment issues, and members of the workplace are requested to address the issue from their respective positions.

Top management should foster corporate culture so as to not generate any such problems, and expressly state that no power harassment should be tolerated at the workplace, while acting as a role model. Superiors should not commit any act of power harassment, and should not allow subordinates to commit any act of harassment. But they should not hesitate to give necessary guidance. Individual workers are expected to be aware of difference in sense of values of each other, accept each other, respect the personality of others, have appropriate communication for mutual understanding and cooperation, not to overlook problems, and support each other by calling out to each other without isolating the victim of power harassment. And the national government and organisations of employers and trade unions are expected to publicize this Recommendations etc and provide support for measures taken by a wide range of companies. The Recommendations then concludes that this is the first step towards eliminating power harassment from the workplace, and creating society where the dignity and personality of workers are respected.

5. Intervention and prevention on the part of employers and trade unions

5.1 Actual situation

Unfortunately, not many employers in Japan have taken measures against workplace bullying so far. Employers which answered that they have taken any measure for its intervention and prevention are only 45.4% (MHLW Survey). And the situation varies by number of employees. 76.3% of Employers with more than 1,000 employees tackle this issue; however, only 18.2% of employers with less than 100 employees take any measure.

On the other hand, to what extent do trade unions tackle this issue? Since we have had no statistical nationwide data on the actual situation of the measures by trade unions yet, we cannot grasp the situation accurately and in details. In an easy questionnaire conducted

by JILPT for about 30 unions (industrial unions and large enterprise unions) in May 2011, approximately two thirds of the unions do not tackle workplace bullying at all.

5.2 Characteristics of measures taken by employers and trade unions: helpline, questionnaire surveys, awareness raising, etc.

5.2.1 Measures suggested in the Report

Not many employers and trade unions take measures at this moment, but nevertheless some organisations have started proactive measures for this issue. The second part of the Working Group Report describes the measures to prevent and resolve workplace power harassment, which should be taken mainly by employers and trade unions (Table 5). The descriptions in this part are based on the interview survey conducted by JILPT, targeting 33 employers and trade unions engaged in carrying out proactive measures to cope with workplace bullying.[20]

Table 5: Major measures taken by employers and trade unions, reported by the Working Group

For prevention of workplace power harassment

○ Send a clear message from top management
▶ Top management should clearly show a policy to eliminate power harassment from their workplace.
○ Make rules
▶ Introduce harassment-related provisions in the work rules, conclude a collective agreement, develop measures and guidelines for prevention and resolution.
○ Identify the actual situation
▶ Conduct questionnaire surveys for employees.
○ Educate
▶ Provide training programs.
○ Raise awareness
▶ Announce and raise awareness of the organization's policy and measures.

For resolution of workplace power harassment

○ Set up a place for consultation and resolution
▶ Set up an in-house or outside helpline desk; assign a person in charge at each workplace
○ Prevent recurrence
▶ Provide training for those who have committed harassment, so as to prevent them from committing it again.

5.2.2 Characteristics of major measures in the JILPT Survey

According to the JILPT interview survey, the top three measures taken by employers

---

[20] See the JILPT interview survey, *supra note* 12.

and trade unions to cope with harassment are: (1) set up and operate a helpline; understand the actual situation by questionnaire surveys; and (3) provide awareness raising, training, and education.

The first measure, to set up and operate a helpline, is the most popular measure carried out by employers. There are three ways of implementing this measure: having an in-house helpline, an outside one, or both. Most employers and trade unions set up their own helpline separately, while in some cases, employers and trade unions set up and operate it jointly.

The second measure, to understand the actual situation by questionnaire surveys, was carried out by about one-third of the employers and trade unions targeted in the JILPT survey. Some of them not only use the questionnaire survey to understand the actual situation of harassment, but also give feedback information of the survey results to the employees who participated in the survey.

As for the third measure, to provide awareness raising, etc., most of the surveyed companies carried out awareness-raising activities as well as training and educational programs with regard to harassment, such as clarifying the anti-harassment policy, announcing the availability of a helpline, and introducing example cases. Training was provided mostly by outside specialists or in-house staff specialized in this issue, whereas some employers assign the managerial personnel in the workplace to provide training for each office or for non-managerial personnel.

There are two measures that were not carried out by many companies, but seem to be important. One is to promote communication and create an open atmosphere in the workplace. As the lack of workplace communication was frequently mentioned as one of the factors causing harassment, some employers and trade unions took measures to enhance communication among personnel.

The other measure is to hold discussions and share information on harassment between labour and management. At companies which have trade unions, this measure seems to be conducive to prevention and resolution of harassment.

One of noticeable measures ascertained through the JILPT survey is the support provided by industrial unions to their member unions. Some industrial unions provide their member unions with model collective agreements on harassment, or support for the conclusion of such agreements, while others make a collective request for the introduction of anti-harassment regulations or establishment of a helpline. According to the JILPT Survey, many member unions working on measures against harassment received support from industrial unions. Probably, under the present situation where individual member unions have only limited knowledge of harassment or experience in coping with harassment, support from industrial unions serves as a great driving force for their member unions, so it is hoped that superior organisations like industrial unions will increase such support in the future.

5.2.3 Measures taken by trade unions

The Working Group Report states that as the first step, employers must advocate a clear policy that workplace power harassment must be eliminated, that is, the report states that employers must take the initiative in coping with this issue. However, as mentioned above, the JILIPT survey has revealed that, focusing on companies that have trade unions, greater progress has been made in anti-harassment measures in the organisations. This suggests that it is vital for trade unions to engage in measures against workplace bullying

and power harassment, independently or jointly with employers. Brief descriptions of the measures actually taken by trade unions are provided below, based on the results of the JILPT survey.

(1) Gunze Trade Union

The union takes the following measures. (i) It conducts a biennial survey of union member satisfaction, which asks questions about power harassment and requests free form comments on this issue, in order to understand the actual situation of harassment. (ii) A harassment helpline is set up at the headquarters and each local office, and personnel from both labor and management are assigned to this helpline. A poster is put up at each workplace to indicate the person in charge of consultations in the helpline and the flow of the consultation process. Issues brought to the helpline by workers are forwarded to the company on the basis of necessity and the workers' consent, so that labor and management can share information and tackle the issues together. The company and the union hold a central helpline meeting twice a year and discuss measures against harassment, including harassment consultation services. (iii) Prevention of harassment is included in the training topics for union executives.

(2) YA Trade Union

The trade union of Company YA (retailer of perishable goods, etc.) takes the following measures. (i) In response to the request for awareness-raising activities from workers complaining harassment, the union prepared and put up a poster saying "STOP Power Harassment." (ii) In order to understand the actual situation of harassment, the union conducted a questionnaire survey on harassment, targeting not only union members but also all workers, including non-permanent employees. (iii) In the survey, many workers answered that they are ignored when they say greeting words to their superiors (24%). The union found the need to stimulate communication among employees, and launched campaigns to encourage employees to exchange greetings and say words of thanks to each other. (iv) The union operates two helplines to deal with harassment, one operated jointly with the employer and the other operated independently by the union.

(3) Nippon Care-service Craft Union, YB Branch

(i) The union branch concluded with the company (YB) a collective agreement on harassment, using a model agreement prepared by the industrial union with which it is affiliated, UA Zensen. (ii) At the union's request, the employer subsequently introduced "harassment regulations" as detailed rules for its work rule.

(4) YC Trade Union

The trade union of YC Group (wholesale/retailing business) takes the following measures. (i) The union conducts an annual questionnaire survey for union members, which asks questions on power harassment and requests free form comments on this issue. (ii) After a series of power harassment incidents occurred, a labor-management human rights committee was set up to discuss the issue of violation of human rights through power harassment. The committee analyzed the causes of the incidents, and considered how to resolve and prevent such incidents. (iii) The union reported the power harassment incidents and the developments in labor-management discussion on this issue as running stories on its newspaper, thereby raising awareness of union members.

(5) YD Trade Union

The trade union of YD Group (pharmaceutical-related business) takes the following measures. (i) As it saw an increase in the number of complaints about power harassment, the union considered it important to improve workers' communication skills so that they would not be harassed by others nor harass others, and introduced an awareness-raising program designed for building good human relationships in the workplace by understanding themselves and others. Specifically, it prepared comics-style serial booklets which depict actual harassment incidents that occurred in the company, and distributed them to all union members on a bimonthly basis. (ii) A labor-management grievance committee meeting was held twice or three times a month to share information on the complaints (including those on harassment) brought to the employer and the union, and to discuss how to resolve these complaints.

6. Roles and functions of voluntary organizations

Unfortunately, there are only a few private organizations in Japan that carry out activities to cope with workplace bullying. One such organization is the Association Against Workplace Moral Harassment (AAWMH), which is based in Osaka. People who suffered moral harassment at their workplaces founded this group, wishing to be of some help to other people who are experiencing the same kind of suffering as theirs. Actually, the founders first got together when they invited Dr. Marie-France Hirigoyen, a French psychiatrist and a leading expert in moral harassment study, to Japan for a lecture meeting in February 2006. Those who prepared for this event became a group; they did not break up after the event but continued activities together, such as holding gatherings to study and develop understanding of moral harassment, participating in international conferences, and discussing preventive measures while using examples from those implemented abroad. Finally, in May 2007, they made a fresh start as AAWMH. The group has made it a goal to provide information on workplace moral harassment to the public, support victims, and identify the actual situation of damage, through partnerships with other relevant organizations. Presently, the group provides telephone consultation services to hear complaints on workplace bullying, three days a month, two hours per day.

Another private organization is the Bullying/Mental Health Worker Support Center, which is based in Tokyo. This is an organization established in October 2010 by Mr. Shigeru Chiba, who had long been engaged in consultation services for complaints about workplace bullying and mental health issues in Tokyo Managers' Union. Presently, the center carries out the following activities: 1. hearing complaints from workers who have experienced workplace bullying or harassment or become mentally sick due to overwork, and providing advice and support for trade unions and other groups engaged in providing mental health care in the workplace; 2. helping workers who have experienced workplace bullying or harassment or become mentally sick due to overwork, in their process to return to their workplaces, claim industrial injury compensation, and file actions when necessary; 3. providing workers with learning and training programs on measures against workplace bullying and mental health care; 4. collecting and providing information on workplace bullying and mental health care; and 5. putting together information on the complaints on workplace bullying brought to each community union and the measures taken to resolve them, and drafting guidelines for prevention of workplace power harassment, and proposing policies toward the Government like MHLW.

In Japan, where workplace bullying has not yet been studied very actively among academics, private organizations seems to have played and are currently playing a certain role in this field, in making the actual situation public and responding to workers' complaints of workplace bullying.

7. Critique and conclusion

According to the situation on workplace bullying in Japan I referred above, I should point out some implications and critiques as conclusion. Firstly, significance to tackle workplace bullying and knowledge of consequences after bullying has not been shared in the society. Therefore not many employers and trade unions are implementing the intervention and prevention. Even if they take some measures, their effectiveness is much questioned. For example, very few workers (1.8% in companies' helpline; 1.4% outside consultation helpline) consult the matters with the helpline, and 46.7% did (maybe could) nothing at all after they were bullied (MHLW Survey). National policies for raising awareness seem to be urgent. And especially trade unions appear to be reluctant to tackle workplace bullying. Thus, the superior organisations like Rengo (national center) or industrial unions should also increase support toward member unions in the future.

Secondly, as for the present national policies on workplace bullying like Round-table Conference's Recommendations, there is no binding power and the effectiveness is very limited. It is essential for us to examine what kind of enforcement system against workplace bullying will be needed in the near future.

Finally, before considering the policies, one of the principal problems here is the lack of academic studies on bulling in the workplace. Only few research surveys or studies operated in Japan so far and it causes limited understanding of the actual situation in this country which should be base for considering the appropriate policies. And also background or causes behind bullying and measures of intervention and prevention by organisations have not researched enough yet. It is much hoped that more academic interest pour into the issue of workplace bullying and can offer the effective measures to eliminate it from the workplace.