

Japan Labor Issues

Spring 2024

Volume 8 Number 47

- **Special Feature on Research Papers (III)**
Changes in Industrial Structure and Work Styles in Japan
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Post-Industrialization and Employment Fluidity: A Focus
on Workers' Careers
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Article
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- **Series: Japan's Employment System and Public Policy**
Will the Japanese Long-Term Employment System
Continue to be Maintained?
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Japan Labor Issues website

<https://www.jil.go.jp/english/jli/index.html>

To sign up for mail delivery service

<https://www.jil.go.jp/english/emm/jmj.html>

Published by

The Japan Institute for Labour Policy and Training

8-23, Kamishakujii 4-chome, Nerima-ku, Tokyo 177-8502, Japan

<https://www.jil.go.jp/english/>

ISSN 2433-3689

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Special Feature on Research Papers (III)

Japan Labor Issues is pleased to present its annual special feature on research papers. The Editorial Office has selected significant papers from various relevant ones written in Japanese and published within a year or two, from the viewpoint of communicating the current state of labor research in Japan to the rest of the world.

This year, seven papers will be presented for four parts (I-IV). They address the latest subjects or conventional themes on labor and offer useful information and deeper insights into the state of labor in Japan. We hereby sincerely thank authors for their kind effort arranging their original papers for the benefit of overseas readers.

Editorial Office, *Japan Labor Issues*

Changes in Industrial Structure and Work Styles in Japan

YAMASHITA Mitsuru
OGAWA Shinichi

The purpose of this paper is to review the relationship between industry and the labor force by looking back historically at industries in Japan. In considering the relationship between industry and labor, the important factors are the homogeneity within each industry, the heterogeneity between industries, and the impact that the rise and decline of industries has on the labor force. In this paper, we examine the relationship between the transformation of the industrial structure and the labor force from the 1940s onward, distinguishing three periods: the 1940s–1960s, the 1970s–1980s, and the 1990s–2010s. Regarding the period of the 1940–1960s, we explore how the industrial structure transformation was brought about by the historical events: the wartime regime, postwar reconstruction, and high economic growth. After the rapid heavy industrialization under the wartime regime, there was a shift in the industrial structure centered around the emergence of the machinery industry during a time of high economic growth. After World War II, dealing with declining industries became an important issue for both the government and labor unions. During the period of high economic growth, as automation was introduced mainly in the process industry and its use became common in operations, the labor skills required changed over time. In the following 1970s and 1980s, post-industrialization progressed. With the introduction of microelectronics and office automation, technological innovation affected a wider range of industries and work styles. In addition, non-regular employment expanded after the 1970s, primarily in wholesale and retail trade, and restaurants. The 1990s–2010s were marked by the development of information technology and the expansion of the care service industry. As the service sector expanded, the share of non-regular employment continued to increase, but this growth has slowed down in recent years.

- I. Introduction
- II. 1940s–1960s: Wartime regime and postwar reconstruction, high economic growth, and industrial structure transformation
- III. 1970s–1980s: Post-industrialization, growing technological innovation and expanding non-regular employment
- IV. 1990s–2010s: Information technology development, care service industry expansion, and growing non-regular employment
- V. Conclusion

I. Introduction

The purpose of this paper is to review the relationship between industry¹ and the labor force by looking back historically at industries in Japan. There are various factors that define labor, including occupation, size of company, gender, age, educational attainment, forms of employment, ethnicity, and companies' home and location countries, as well as industry. This paper considers the impacts of industrial structure changes on labor.

The first important factor in considering the relationship between industry and labor is the homogeneity within each industry. In many countries that have been industrialized through manufacturers' shift to the core of industry, companies and workers have formed organizations within each industry. This assumes that the business environment and the technology used are homogeneous and that there is commonality in the way of working.

The second important factor is the heterogeneity between industries. In developed countries, modernization has been accompanied by the transition from the primary industry to the secondary and tertiary industries and the further differentiation and development in the tertiary industry. The labor skills required in the services industry, including face-to-face services, differ far from those required in the manufacturing industry. Amidst progress in informatization, further new skills and work styles are required.

The third important factor is the impact that the rise and decline of industries has on the labor force. The rise and decline of industries are divided into an industry's replacement of another industry and deindustrialization in which an industry in one country replaces its rival in another country. As the rise and decline of industries are natural in a capitalist economy, addressing declining domestic industries has been one of the key industrial policies since World War II.

The following analyzes labor in major Japanese industries in each period.

II. 1940s–1960s: Wartime regime and postwar reconstruction, high economic growth, and industrial structure transformation

We here review the characteristics of industries and work styles that symbolize the 1940s–1960s period from the perspectives of 1) the wartime regime and postwar reconstruction, 2) high economic growth, and 3) the routinization of industrial structure transformation. Specifically, we analyze 1) rapid wartime machinery industry expansion and industrial structure changes during postwar reconstruction; 2) transition from the light industry to heavy chemical industries and declining agricultural population; and 3) great progress in technological innovation in the manufacturing industry that produced structural changes in relations between industries, within each industry, and within individual companies, distinguishing employment as a major issue.

1. Wartime regime and postwar reconstruction

Let us examine changes in share of wartime manufacturing production by sector (Table 1). “Wartime” here refers to the period between the Second Sino-Japanese War (1937–1945) and World War II (1941–1945). The first important characteristic is a substantial shrinkage of the daily necessities sector as compared to the prewar average (1934–1936). Under the wartime regime, the shares of food and textile sectors, which are related to daily necessities, declined dramatically. Particularly, the share of the textile, which represented the largest industrial sector, decreased substantially from 31.3% before the war to 5.9% in 1945.

In the cotton-spinning industry, which experienced a particularly substantial decline, more than 60 companies before the war were integrated into the “big ten” spinners by 1943 due to the government's wartime industry realignment. In the final days of the war, cotton spinners' machines became subject to the metal provision order for weapon production. Their buildings that lost spinners were used for producing aircrafts and ships (Abe 2021, 50).

Table 1. Production share of manufacturing by sector (Before WWII to 1955)

(Unit: %)

	Before WWII	1940	1942	1945	1947	1950	1955
Food	10.7	9.1	7.7	5.3	10.1	12.6	18.2
Spinning and weaving	31.3	18.4	12.6	5.9	12.3	22.0	16.1
Sawing, planing and wood products	2.3	3.8	3.6	5.0	9.8	4.4	4.8
Printing and bookbinding	2.0	1.3	1.3	1.0	2.1	2.6	2.8
Chemical	16.6	17.1	15.2	9.2	18.8	22.8	20.2
Ceramics	2.7	2.9	2.6	2.4	4.6	3.6	3.6
Metal	17.2	21.8	22.7	18.8	14.8	16.8	17.3
Machinery and apparatus	13.4	23.8	32.2	51.3	27.3	13.7	15.1
Others	3.8	2.0	1.9	1.0	0.3	1.5	2.0
Total (million yen)	10,828	27,092	32,039	43,966	281,108	2,167,579	6,217,760
Heavy industry	30.6	45.6	54.9	70.1	42.1	30.5	32.4
Heavy and chemical industry	47.2	62.7	70.1	79.3	60.9	53.3	52.6
Food and textile products	42.0	27.5	20.3	11.2	22.4	34.6	34.3

Source: Takeda 2007, Table 1-7 (pp. 42–43). Figures before 1947 are based on Bank of Japan n.d., “Honpo keizai tokei” [Economic statistic of Japan], and figures after 1950 are on Ministry of International Trade and Industry, 1961, “Kogyo tokei goju nen shi” [History of the census of manufactures].

Note: Data “before WWII” represent 1934–36 averages.

The second important characteristic is the expansion of heavy chemical and machinery industries. The production share for the machinery industry at the center of weapons production expanded from 13.4% before the war to more than 50% in 1945, representing the largest industrial sector. Metal and machinery production combined account for 70.1% of manufacturing production in 1945. This share failed to be topped even in 1960, indicating how rapid wartime industrial structure changes were (Takeda 2007, 42–43).

The rapid wartime changes in the industrial structure brought about considerable changes in structure of the labor force. After rising by 210,000 during the 1914–1920 World War I period and by 300,000 during the 1932–1936 period during the expansion of heavy chemical industries, the number of machinery industry workers largely increased by 1.3 million between 1936 and 1940, around the Second Sino-Japanese War, and by 2.22 million between 1940 and 1944, around the Pacific War (Sawai and Tanimoto 2016, 319).

Labor might have apparently moved from agriculture as the largest prewar industry, as well as textile and commerce industries. The labor mobility was accompanied by growth in women’s labor in agriculture. From 1936 to 1944, the number of men in the agriculture and forestry industries decreased by 2.04 million, while the number of women in the industry increased again by 1.07 million. In the postwar era, the sector’s share increased again by 2.64 million of men and 890,000 of women (Sawai and Tanimoto 2016, 361).

2. High economic growth

Japan’s high economic growth generally refers to the 1955–1973 economic expansion period when high economic growth rates were realized. Regarding the analysis of the industry-labor relationship, the first attention-attracting point of the period is industrial structure transformation, including heavy chemical industries’ development into Japan’s industry leader in tandem with the decline of the textile industry, known as the prewar industry leader. From 1965, production goods producers, such as giant steelworks and large-capacity thermal power stations, as well as automobile and electrical appliance industries as consumer goods producers, became internationally competitive (Hazama 1994, 9). Second, the industrial structure transformation was accompanied by labor force growth amidst the sharp population expansion (from some 72 million in 1945 to about 104 million in 1970) and by qualitative labor force change through educational reforms to continuously improve educational

attainment. The qualitative labor force change and technological innovation as the most important factor behind high economic growth were peculiar to economic growth.

In the 1955–1970 high economic growth period, employment decreased by approximately 6 million in the primary industry while increasing by 8.5 million in the secondary industry and by 10.4 million in the tertiary one (Table 2). The 1955–1970 period featured a decline in the number of self-employed and family workers, indicating an increase in employees (Table 3). However, these changes were attributable primarily to drops in self-employed and family workers in the agriculture and forestry industry. Manufacturing and services industries in a wide sense showed a slightly different trend. While self-employed and family workers decreased sharply in the agriculture and forestry industry, self-employed workers increased in manufacturing, wholesale and retail trade, eating and drinking services, finance and insurance, and real estate industries. In the services industry, both self-employed and family workers increased (Sawai and Tanimoto 2016, 424–425).

Among manufacturers, the textile industry posted a decrease in its share of employment since 1965 as shown by Table 2, while the machinery industry raised its employment share sharply from 3.1% in 1955 to 7.4% in 1970, winning the highest share among the industrial divisions (Okazaki 1996). Its employment increased by 2.64 million during the 1955–1970 period. In the machinery industry, small, medium, and micro enterprises were then increasing amidst the repetition of launches and bankruptcies and organized into multilayered supplier systems, contributing to high economic growth (Hazama 1994; Ueda 2011).

Table 2. Employment structure by industry (1940–1975)

(Unit: % or 1,000 persons)

	Employment share							Change					
	1940	1950	1955	1960	1965	1970	1975	1940-50	1950-55	1955-60	1960-65	1965-70	1970-75
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	3,143	3,635	4,458	3,914	4,477	905
Primary industry	44.3	48.3	41.0	32.6	24.6	19.4	13.9	2,816	-1,097	-1,872	-2,501	-1,651	-2,718
Secondary industry	26.0	21.9	23.5	29.2	32.0	34.0	34.0	-631	1,408	3,542	2,481	2,464	341
Mining	1.8	1.7	1.4	1.2	0.7	0.4	0.3	-7	-56	3	-206	-110	-84
Construction	3.0	4.3	4.5	6.1	7.1	7.6	9.0	550	251	897	724	540	808
Manufacturing	21.1	16.0	17.6	21.8	24.2	26.0	24.8	-1,174	1,213	2,643	1,962	2,034	-383
Food	1.4	2.2	2.1	2.1	2.3	2.1	2.1	325	37	94	200	-20	40
Textile	3.9	3.1	3.2	3.2	3.0	2.7	2.2	-158	153	134	51	-17	-287
Metal	1.4	0.9	0.9	1.4	1.5	1.5	1.4	-129	33	241	86	108	-37
Metal products	0.7	0.7	1.0	1.5	2.0	2.5	2.4	24	139	279	270	354	-2
Machinery	6.4	2.7	3.1	4.9	5.9	7.4	7.1	-1,098	237	944	651	1,042	-101
Others	7.3	6.3	7.3	8.7	9.5	9.8	9.6	-139	613	951	704	567	4
Tertiary industry	29.7	29.8	35.5	38.2	43.4	46.7	52.1	958	3,324	2,788	3,935	3,66	3,282
Wholesale and retail trade	12.6	11.1	13.9	15.8	18.0	19.3	21.4	-135	1,510	1,437	1,654	1,497	1,305
Finance and Insurance	0.8	1.0	1.5	1.6	2.0	2.1	2.6	74	231	124	256	146	295
Transport and communications	4.2	4.4	4.6	5.0	6.0	6.2	6.4	205	223	396	647	371	158
Services	8.9	6.5	8.4	10.2	11.0	12.1	14.4	-577	962	1,160	809	1,056	1,332
Others	3.1	6.7	7.1	5.6	6.4	7.0	7.2	1,390	399	-329	569	596	193

Source: Okazaki 1996, Table 4 (p. 73). Figures are based on Toyo Keizai Shinpo-sha, ed., 1991, "Kanketsu showa kokusei soran" [The comprehensive census of Japan in the Showa era], vol. 1.

Table 3. Number of employed persons by industry and employment status

(Unit: 10,000 persons)

	Self-employed worker	Family worker	Employee	Total	Self-employed worker	Family worker	Employee	Total	Self-employed worker	Family worker	Employee	Total
	All industries				Agriculture and forestry				Non-agriculture and forestry			
1955	1,040	1,385	1,690	4,115	533	1,027	44	1,604	508	358	1,646	2,512
60	1,033	1,151	2,273	4,457	508	820	65	1,393	524	331	2,208	3,063
65	968	992	2,783	4,743	441	673	41	1,155	528	320	2,742	3,590
70	977	805	3,306	5,088	363	451	29	843	614	354	3,277	4,245
75	939	628	3,646	5,213	303	286	29	618	637	343	3,617	4,597
80	951	603	3,971	5,525	253	249	30	532	698	354	3,941	4,993
	Manufacturing				Wholesale and retail trade, eating and drinking places, Finance and insurance, and Real estate				Services			
1955	109	92	555	756	212	191	312	715	130	46	274	450
60	94	64	793	951	230	191	427	848	133	46	373	552
65	103	67	987	1,157	213	177	566	956	133	44	450	627
70	149	85	1,144	1,378	226	186	731	1,143	143	49	558	750
75	135	72	1,138	1,345	243	185	868	1,296	146	50	659	855
80	161	71	1,135	1,367	252	184	1,003	1,439	159	54	788	1,001

Source: Sawai and Tanimoto 2016, Table 6-23 (p. 424). Figures are based on Toyo Keizai Shinpo-sha, ed., 1991, "Kanketsu showa kokusei soran" [The comprehensive census of Japan in the Showa era], vol. 1 (pp. 74–78), which was originally from the Statistics Bureau of the Ministry of Internal Affairs and Communications, 2013, *Labour Force Survey*.

3. Industrial structure transformation

The high economic growth period featured industrial structure transformation in which some industries' expansion was combined with the decline of the textile industry, including spinning as the biggest modern industrial sector before the war, and with a sharp reduction of coalmines through an energy policy turnaround. Regarding the impact of industrial structure transformation on labor, the coal industry's decline in the late 1950s led to harsh labor-management conflicts, such as the 1960 Mitsui-Miike Struggle, largely affecting rural economies. The impact of cotton spinning's decline differed far from that of the coal industry's setback. This was because the cotton-spinning and coal industries had different employment share and cotton-spinning factories were located more evenly nationwide than coalmines (Abe 2021, 63).

Technological innovation in the 1960s featured automation at electricity, chemical and other production sites. From an earlier stage, workers in process industries engaged in monitoring meters for equipment to quickly find problems and anomalies. As automation helped to increase production process scales as well as production, in-house education made progress to enable workers to gain knowledge for controlling production equipment. The development of multiskilled workers was promoted to keep capacity utilization rates high. When automation was introduced, various problems needed to be resolved. As production was stabilized, however, production operations were divided into complex decision-making and tedious management. In such labor environment, labor management gave priority to assessing the attitudes and capabilities for stable working (Shiba 1961; Matsushima 1962; Hazama 1963, 1994).

In the high economic growth period, business environment differences between industries emerged, leading

working conditions to differ by industry. In response, each industry organized its *sangyo-betsu ro-shi kaigi* (respective labor-management congress) from the late 1960s. This trend later spread to many industries. Such labor-management practices indicate that labor and management became conscious of sharing business environment problems on an industry-by-industry basis (Koshiro and JTUC Research Institute for Advancement of Living Standards 1995, 429).

III. 1970s–1980s: Post-industrialization, growing technological innovation and expanding non-regular employment

This section summarizes the characteristics of symbolic industries and work styles in the 1970s–1980s from three aspects: 1) post-industrialization, 2) growing technological innovation, and 3) expanding non-regular employment. Post-industrialization was symbolized by the expansion of the tertiary industry or the expansion of service economy. Growing technological innovation was symbolized by the introduction of microelectronics and office automation technologies. Expanding non-regular employment was related partly to post-industrialization and a rise in women’s share of the labor force.

1. Post-industrialization

Post-industrialization generally refers to social and economic transformation where manufacturing replaces the industry core, which is industrialization (“*kogyoka*” or “*sangyoka*,” see note 1), and then tertiary sector, exemplified by commerce and services, takes over its place. While post-industrialization is often linked to computer technology development and characterized as the rise of the knowledge society (Drucker 1969; Hayashi 1969; Bell 1973; Uchida 1975), computer technology impacted not only the tertiary industry but also manufacturing, as indicated by the abovementioned automation and as described later.

As symbolized by the term “services economy,” post-industrialization also represents a shift from the society dominated by industries for developing, manufacturing, and selling goods (manufacturing, and wholesale and retail trade) to the society characterized by the increasing presence of the services industry for developing and marketing intangible services. The shift is clearly indicated by the chronological trend of employment share by industrial division (Japan Standard Industrial Classification before the revision in March 2002)², based on the *Population Census* (Figure 1).

The employment share for “manufacturing” in all industries continued to increase from 1950 to 1970 before turning downward. The share decreased persistently from 26.1% in 1970 to 19.4% in 2000. The employment share for “wholesale and retail trade, eating and drinking places” continued to rise from 1950 to 1985 before leveling off or falling slightly. The share dropped from 22.9% in 1985 to 22.7% in 2000.

The employment share for “services” continued to increase from 1920 to 2000, but was limited to 14.6% in 1970, below 26.1% for “manufacturing” and 19.3% for “wholesale and retail trade, eating and drinking places.” The share for “services” rose to 22.5% in 1990, slightly higher than 22.4% for “wholesale and retail trade, eating and drinking places” and to 24.8% in 1995, above 21.1% for “manufacturing.” “Wholesale and retail trade, eating and drinking places” and “services” are both classified as the tertiary industry. As seen by industrial division, the employment share for “wholesale and retail trade, eating and drinking places” declined in line with service economization. Since the 1970s, employment has structurally shifted from manufacturing tangibles to sell them through goods-dominant logic (*monozukuri*) to creating intangibles to through service-dominant logic (*kotozukuri*). Communications with customers are relatively important in “services,” as well as “wholesale and retail trade, eating and drinking places.” This implies an increase in employed workers who engage in “emotional labor” (Hochschild 1983; Ishikawa and Murofushi 2000), which requires controlling reacting emotions that occur when dealing with customers.

their high international competitiveness through micro-electronization in the 1970–1980s period, with Japanese production systems attracting attention. In the mid-1980s, frontline workers’ small-group quality circle (QC) activities to solve business problems peaked mainly among manufacturers in Japan (Ogawa 2020). Ogawa (2022) details the history of small-group activities at Japanese companies.

Symbolizing office automation were automatic ticket gates for railways (transport) and the financial industry’s cash dispensers (CDs) and automatic teller machines (ATMs). Regarding office work, personal computers began to be used for document preparation, computing, and database management. Office automation was exploited to streamline reception and office work.

3. Expanding non-regular employment

Since the 1970s, the diversification of employment has made progress, expanding non-regular employment in Japan. Non-regular employment’s share of total employment has increased both for men and women, but the share for women has been higher than for men.

Figure 2 shows the trend of non-regular employees’ share of all employees other than board members by industrial division from 1982 to 1997, based on the *Employment Status Survey*, the most chronologically retroactive statistics among relevant surveys. It covers five industries (“construction,” “manufacturing,” “transport and communications,” “wholesale and retail trade, eating and drinking places,” and “services”) in which the number of employees (including both men and women) other than board members continuously exceeded 3 million, of industries in which non-regular employment shares were consistent throughout the survey period.

Only in the “construction” industry, the non-regular employment share for the total employees, for men, or for women decreased throughout the survey period. In other four industries, the non-regular employment share



Source: Created by the authors based on the Statistics Bureau of the Ministry of Internal Affairs and Communications, *Employment Structure Survey*.

Notes: 1. Figures for 1982 are total of “part-time workers, *arbeit* (temporary workers)” and “*shokutaku* (entrusted employees), etc. and other”; for 1987 and 1992 are total of “part-time workers,” “*arbeit*,” “*shokutaku*, etc.,” “dispatched workers,” and “other”; and for 1997 are total of “part-time workers,” “*arbeit*,” “*shokutaku*, etc.,” “dispatched workers from temporary labour agencies,” and “other.”

2. Figures between 1982 and 1992 are “employees excluding executives of private company or corporation.”

3. Figures for 1982 are “wholesale and retail trade.”

Figure 2. Non-regular employees’*1 share of all employees excluding executives*2 by industry (1982–1997)

followed an uptrend throughout the period (the share for women in the “manufacturing” industry decreased slightly from 1987 to 1992), indicating the same trend as for “all industries.” In all the five industries, however, the non-regular employment share for women was higher than for men.

The non-regular employment shares for total employees and women in “wholesale and retail trade, eating and drinking places,” were higher than in other four industries. The non-regular employment share of the industry for women in particular was as high as 42.5% in 1982, 50.4% in 1987, 52.7% in 1992, and 60.9% in 1997. While women’s share of the total labor force turned upward in the 1970s, the so-called housewife part-timers, who work to supplement the family income, accounted for a considerable portion of the increased share.

Figure 2 symbolically indicates that “wholesale and retail trade, eating and drinking places,” including chain stores, served as a major employer of housewife part-timers.³ Although non-regular employees mostly engage in auxiliary jobs, employers have been required to simplify and standardize essential jobs and streamline capacity development in order to expand the use of non-regular employees. Although chain stores employed skilled meat and fish processors in their initial development stage, stores themselves promoted the simplification, standardization, and manualization of such processing jobs in the 1970s-1980s. Through the internalization of skill development, housewife part-timers and other non-regular employees have been allowed to undertake the essential jobs (Honda 2010, 71–81).⁴

Given that non-regular employment has expanded mainly in the tertiary industry, it may be one-sided to depict the post-industrialization society as a knowledge society. The post-industrialization society can be described as a society in which companies try to enhance business management by applying job simplification and standardization in the manufacturing industry to the tertiary industry.

IV. 1990s–2010s: Information technology development, care service industry expansion, and growing non-regular employment

This section summarizes the characteristics of symbolic industries and work styles between the 1990s and the 2010s into three elements: 1) information technology development, 2) care service industry expansion, and 3) growing non-regular employment. Information technology development is symbolized by the generalization of information technology (information and communications technology) use. The care service industry expansion refers to the expansion of childcare, nursing care, and other care services and an increase in the number of employees for these care services. The growing non-regular employment refers to the non-regular employment expansion continued from the 1970s–1980s period.

1. Information technology development

Since the 1990s, personal computers and mobile terminals have widely diffused, leading to the generalization of the use of websites, e-mails, social networking services, and other information technologies, or information and communications technologies.⁵ Although the development of Internet and e-mail technologies’ predecessors started in the 1960s, these technologies were made available for a wide range of people in the 1990s when easily handled operating systems were installed in personal computers.

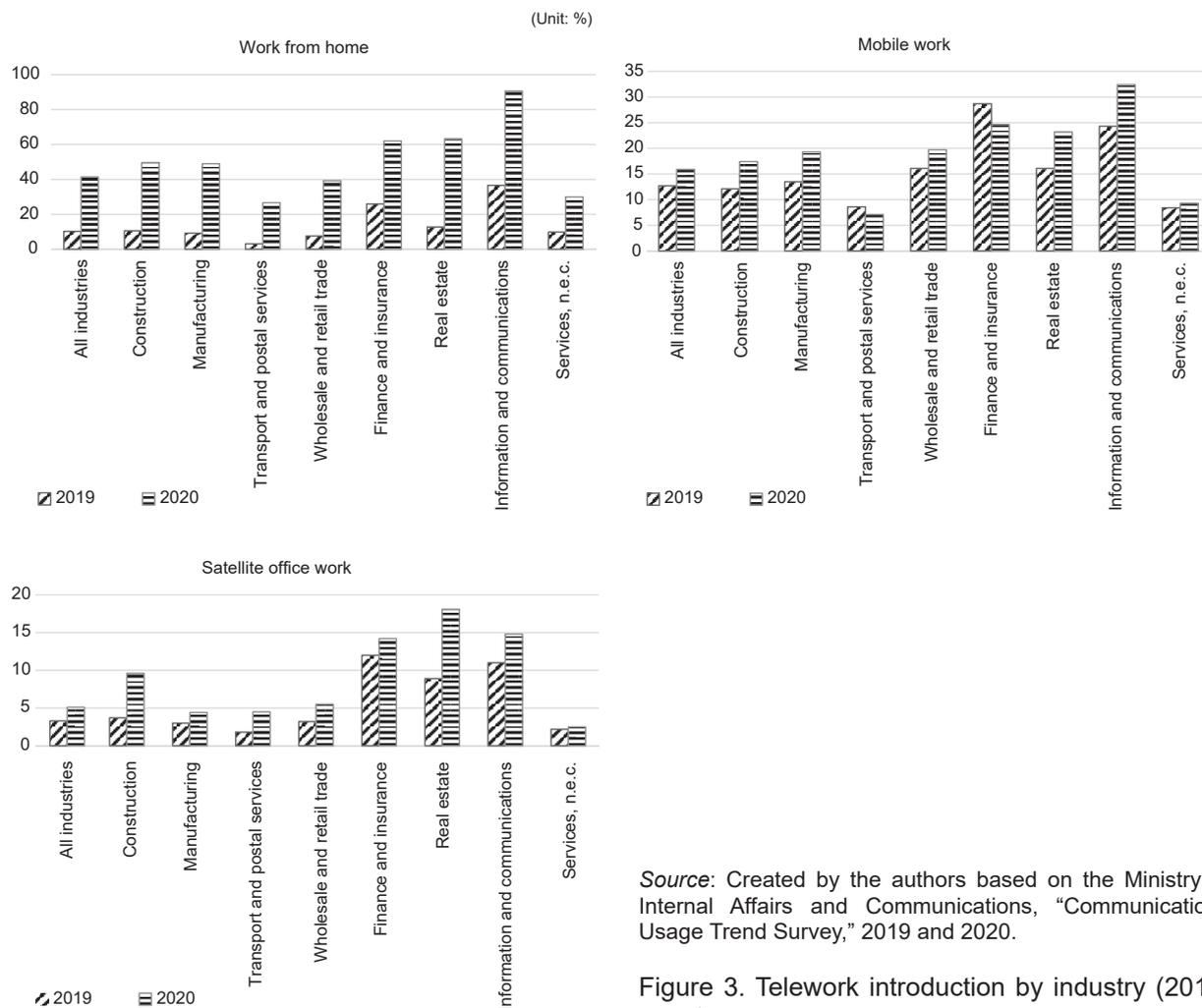
Internet diffusion has allowed people to easily acquire and send information without visiting relevant locations or depending on mail and make information search routine. It has also diversified communication means to include not only the communication of information to an unspecified number of people from media and other specific agents, but also telephone and other remote simultaneous person-to-person communications, e-mail and other remote non-simultaneous communications among multiple parties, and websites and social networking services that enable anyone to send information to a large number of people.

Since the 1990s, personal computers have replaced handwriting and word processors as a means to prepare

documents. In addition to electronic calculators, spreadsheet software has been utilized widely. Presenters can now use personal computers to project not only paper documents but also electronic documents prepared with presentation software, without depending on traditional overhead projectors. Supported by the development and introduction of various software applications, personal computers have turned around clerical work and business communications and taken advantage of their efficient multifunctionality to become an indispensable business tool.

The period since the 1990s has also been characterized by progress in the utilization of mobile communications. Although mobile communications have a long history, mobile phones including personal mobile phone systems have widely diffused since the 1990s when telecommunications deregulation and the reduction of terminals' size and weight made progress. Mobile phone diffusion has allowed people to talk with anyone at any location without searching for pay phones or lining up in front of them. As mobile phones have become multifunctional and smartphones have become available, people can do more business on the move. Over-the-counter services using touch-screen tablet computers have also spread.

However, responses to information technology development have differed by industry. Figure 3 indicates how companies introduced telework in 2019 and 2020, based on the “Communications Usage Trend Survey” both by the Ministry of Internal Affairs and Communications.⁶ It classifies telework into three categories – work from home, mobile work, and satellite office work, showing the status of telework introduction in survey target



Source: Created by the authors based on the Ministry of Internal Affairs and Communications, “Communications Usage Trend Survey,” 2019 and 2020.

Figure 3. Telework introduction by industry (2019, 2020)

industries. Although 2020 is not covered by the target period for this paper, we provide data for the year to consider the impact of COVID-19.

In 2019, the “mobile work” introduction rate in all survey target industries was 12.7%, higher than the “work from home” introduction rate at 10.2%. In 2020, the rate for “work from home” increased substantially to 41.4%, surpassing 15.9% for “mobile work.” While COVID-19 worked to substantially raise the overall telework introduction rate, the rise for “work from home” was particularly remarkable. Teleconferencing software was used to spread workers’ conference participation from home. The introduction rate for “satellite office work” was lower than for the other two categories, standing at 5.1% for all target industries in 2020. In 2020, the “information and communications” industry posted the highest “work from home” introduction rate among industries, at 90.6%, followed by 63.3% for “real estate” and 62.0% for “finance and insurance.” The rate was as low as 29.9% for “services, etc.” and 26.6% for “transport and postal services.” The telework introduction rate was higher for industries that make remote work available and have more office work. This means that the rate is lower for industries that give priority to face-to-face work or direct equipment operations at work sites. The “real estate” posted the highest “satellite office work” introduction rate in 2020, at 18.1%, possibly attributing to the fact that satellite office development has been undertaken frequently by the industry. We will have to watch medium- to long-term impacts of COVID-19 on future work styles, including whether telework will take root at Japanese companies or end up as a temporary practice.

2. Care service industry expansion

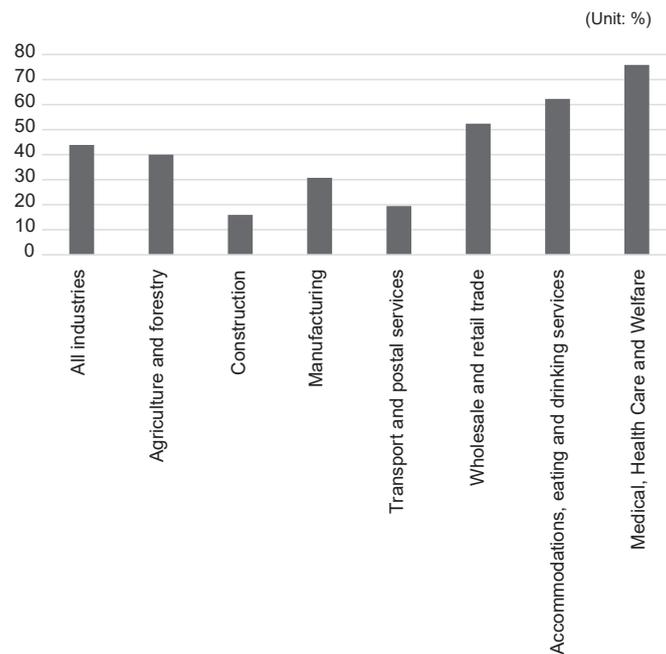
Childcare and nursing care industry expansion is cited as a trend to characterize the period from the 1990s. In response to the rise and diversification of childcare needs against the backdrop of an increase in women’s share of the labor force, the Child Welfare Act was revised in 1997 to transition childcare center entry from an administrative safeguarding system to a selective utilization system. The establishment of the Long-Term Care Insurance Act in 1997 and the creation of a long-term care insurance system in 2000 also transitioned elderly nursing care from an administrative safeguarding system to a contract-based facility utilization system. As



Source: Created by the authors based on the Statistics Bureau of the Ministry of Internal Affairs and Communications, *Population Census*.

Note: Industries are according to the division of the Japan Standard Industrial Classification.

Figure 4. Employment share by Industry (men and women, 1995–2015)



Source: Created by the authors based on the Statistics Bureau of the Ministry of Internal Affairs and Communications, *Population Census*.

Note: Industries are according to the division of the Japan Standard Industrial Classification.

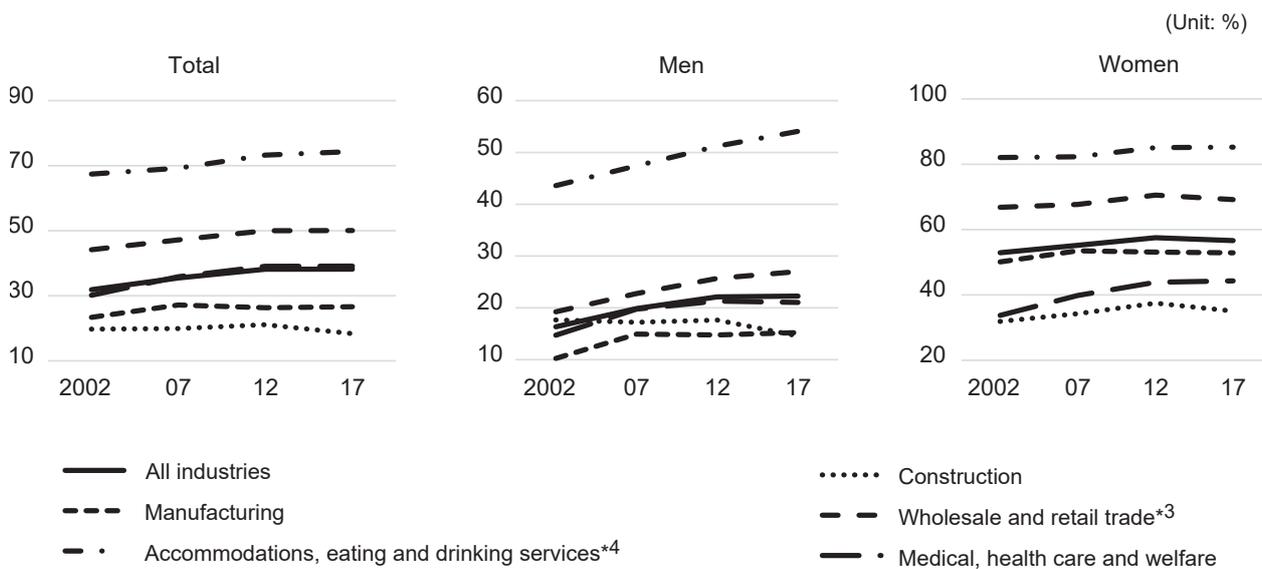
Figure 5. Women's employment share by Industry (2015)

business operators increasingly participated in childcare and nursing care services under deregulation, the so-called socialization of care made progress. The chronological trend of an employment breakdown by industrial division (Japan Standard Industrial Classification after the November 2007 revision)⁷ based on the *Population Census* indicates the expansion of the care service industry from the 1990s (Figure 4). The employment share of the “medical, health care and welfare” industry, including care service industry, increased persistently from 5.6% in 1995 to 11.9% in 2015. The shares for “manufacturing” and “wholesale and retail trade” were high but in decline. The employment share for “manufacturing” dropped from 20.5% in 1995 to 16.2% in 2015. The share for “wholesale and retail trade” declined from 18.6% in 1995 to 15.3% in 2015.

Women account for a high share of employment for the care service industry and other face-to-face services. Figure 5 shows women's employment shares in 2015 by industrial category indicated in Figure 4. The share of women accounted for as much as 75.9% of employment for “medical, health care and welfare,” which was remarkably higher compared with that of other face-to-face-service-related industries such as “accommodations, eating and drinking services” (62.3%) and “wholesale and retail trade” (52.4%).

3. Growing non-regular employment

Non-regular employment increased in the period from the 1990s as well as the 1970s–1980s period. Figure 6 shows the trend of non-regular employees' share of all employees other than board members by industrial category from 2002 to 2017, based on the *Employment Status Survey* used for Figure 2. This covers five industries (“construction,” “manufacturing,” “wholesale and retail trade,” “accommodations, eating and drinking services,” and “medical, health care and welfare”) in which the number of employees (including both men and women) other than board members continuously exceeded 3 million, of industries in which non-regular employment shares were consistent throughout the survey period.



Source: Created by the authors based on the Statistics Bureau of the Ministry of Internal Affairs and Communications, Employment Status Survey for each year.

Notes: 1. Figures for 2002 are total of “part-time workers,” “*arbeit* (temporary workers),” “dispatched workers from temporary labor agencies,” “contract employees or *shokutaku* (entrusted employees),” and “other”; for 2007 are total of “part-time workers,” “*arbeit*,” “dispatched workers from temporary labour agencies,” “contract employees,” “*shokutaku*,” and “other.”

2. Figures between 2002 and 2017 are “employees excluding executives of company or corporation.”

3. Figures for 2002 and 2007 are “wholesale and retail trade.”

4. Figures for 2002 and 2007 are “eating and drinking places, accommodations.”

Figure 6. Non-regular employees*1 share of all employees excluding executives*2 (2002–2017)

In “accommodations, eating and drinking services” and “wholesale and retail trade,” non-regular employment shares for the total employees, for men, or for women were higher than in the other industries. An apparent reason for higher non-regular employment shares in these industries may be that demand for services or goods is vulnerable to daily, weekly, or seasonal peak and off-peak changes. The non-regular employment share for “medical, health care and welfare” was lower than for the two industries. For women, the non-regular employment share for “medical, health care and welfare” was lower than for “manufacturing.”

As far as indicated by this figure, an increase in the non-regular employment share as a whole has decelerated since the 2010s. The share for men and women for all industries stood at 38.2% in 2012 and 2017. The share rose slightly from 22.1% in 2012 to 22.3% in 2017 for men and fell from 57.5% to 56.5% for women. Whether the non-regular employment share will decelerate growth, turn down, or accelerate growth should be watched in the future.

V. Conclusion

This paper analyzed the industry-labor relationship in line with standard industry classification. In recent years, however, trends outside such industry framework are exerting influence on work styles. In the first place, specific industries alone rarely expand in the overall industry development process. Some industries’ cooperative relations with others have driven economic growth. For instance, the spinning industry, which led the industrial revolution, was based on and interrelated with the progress of energy, raw materials, distribution, and other industries to produce economic development.

Recent years have been characterized by the transformation of industries’ nature through such inter-industry

cooperation, information technology development, and further service economization. As production technologies in manufacturing have changed through information technology development, the skills required for employees are changing. The creation of businesses to contribute to resolving problems for individual customers—in other words, “transformation” of manufacturing industry to service industry—has been remarkable. Conversely, even tertiary industry players utilize production and information technologies to make work standardization, automation, and other streamlining efforts, which all originate from manufacturing. In such situation, we need to observe how labor-intensive industries—that are often seen in service industry and depend heavily on non-regular employment—would change and influence work styles. How will industry transformation influence work styles? Approaches to track such dynamic transformation is required for labor research.

This paper is based on an article commissioned by the editorial committee of *The Japanese Journal of Labour Studies* for the special feature “Industrial Changes and Human Resource Management/Labor-Management Relations” (vol. 64, no. 743, June 2022, <https://www.jil.go.jp/institute/zassi/backnumber/2022/06/pdf/004-016.pdf>.) with additions and amendments in line with the gist of *Japan Labor Issues*.

Notes

1. The English word “industry” means mainly 1) diligence or labor, 2) manufacturing, and 3) economic activity in a particular field. The Japanese corresponding word “*sangyo*” does not mean 1) diligence or labor. The English word “industrialization” is usually translated into “*sangyoka*,” or used as “*kogyoka*” referring to 2) manufacturing. Note that, when “*sangyo*” is combined with specific industries such as music or tourism (“*ongaku sangyo*” or “*kanko sangyo*,” respectively), the term means 3), not 2). For the concept of “industry,” see Onozuka (2018, 208–210).
2. The 14 divisions of the Japan Standard Industrial Classification (before the March 2002 revision) were “agriculture,” “forestry,” “fisheries,” “mining,” “construction,” “manufacturing,” “electricity, gas, heat supply and water,” “transport and communications,” “wholesale and retail trade, eating and drinking places,” “finance and insurance,” “real estate,” “services,” “government, n.e.c.,” and “establishments, not adequately described.” For Figure 1 and related paragraph, we used the 1993 revision, which was available for the English translation.
3. Central matters of interest to housewife part-timers (Dubin 1956) include childcare and family affairs rather than jobs (Sato 2012, 145–165). Growth in the repertory of jobs adaptable to women’s lifestyles has contributed to the increase in non-regular women employees (Hakim 2001).
4. A historical process in which work planning becomes managed and controlled by employers in line with the clearer separation between labor planning and implementation is a good instance (Braverman 1974–78) identified not only in manufacturing but also in other industries, such as retail trade.
5. Ogawa (2015) overviews the relationship between information technology and labor management in the 2000s–2010s period.
6. The classification of survey target industries roughly complies with the divisions of the Japan Standard Industrial Classification (revised in October 2013). However, the groupings of industries in Figure 3 have exceptions regarding “real estate, goods rental and leasing.” “Real estate” in the figure does not include “goods rental and leasing.” “Goods rental and leasing” is included in “services, others.” Other divisions included in “services, others” are as follows: “agriculture and forestry,” “fisheries,” “mining and quarrying of stone and gravel,” “electricity, gas, heat supply and water,” “scientific research, professional and technical services,” “accommodations, eating and drinking services,” “living-related and personal services and amusement services,” “education, learning support,” “medical, health care and welfare,” “compound services,” and “services, n.e.c.”
7. The 20 broad categories of the Japan Standard Industrial Classification (after the November 2007 revision) are “agriculture and forestry,” “fisheries,” “mining and quarrying of stone and gravel,” “construction,” “manufacturing,” “electricity, gas, heat supply and water,” “information and communications,” “transport and postal activities,” “wholesale and retail trade,” “finance and insurance,” “real estate and goods rental and leasing,” “scientific research, professional and technical services,” “accommodations, eating and drinking services,” “living-related and personal services and amusement services,” “education, learning support,” “medical, health care and welfare,” “compound services,” “services, n.e.c.,” “government, except elsewhere classified,” and “industries unable to classify.”

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Post-Industrialization and Employment Fluidity: A Focus on Workers' Careers

TAGAMI Kota

The purpose of this study is to depict aspects of today's Japanese employment society from the perspective of the careers of workers on the labor supply side, focusing on two types of careers: "long-term careers," in which workers continue in the first job they take after graduation (their first job), and "fluid careers," as a weakening of the "long-term careers." The analysis of the distribution of workers' career types by industry reveals the following findings. First, two types of employment systems coexist in Japan's employment society: a "long-term employment-type" system in which workers tend to continue in their first job, as typified by the manufacturing industry, and a "fluid employment-type" system in which workers tend to leave their first job, as typified by the service industry. Second, regardless of industrial sector, most job changes occur during the period from youth to mature age. Therefore, it can be concluded that the employment fluidity in the labor market, which has been gradually recognized since the 1990s, is related to post-industrialization, and that the realities of such "fluid careers" are the weakening of first job continuation typical of the service industry, i.e., the destabilization of young workers' early careers.

- I. Introduction
- II. Post-industrialization and the employment system in terms of occupational mobility
- III. Method of analysis
- IV. Analysis results: "Fluid careers" and their realities
- V. Discussion: Coexisting employment systems and the weakening of first job continuation

I. Introduction

Since the 1990s, Japanese society has been in a long-term economic stagnation, and from the 1990s until today, there has been much discussion about the need to reform the "Japanese-style employment practice and system"¹, which is mainly based on the long-term employment practice, in order to overcome this economic stagnation. The "long-term employment-type" system that brought economic affluence to Japanese society in the past is often criticized today as if it were the reason why Japanese society has been unable to escape from long-term economic stagnation. In this context, a new employment system that is expected to break away from the conventional "long-term employment-type" system is the "fluid employment-type" system, which is based on

the premise of “fluid employment.”

The shift to a “fluid employment-type” system is reminiscent of the “New Deal shift” (Cappelli 1999) that the United States experienced in the 1980s. To cope with the recession caused by the second oil shock in 1979, U.S. companies at that time attempted to make a shift from the employment through the internal labor market (long-term employment-type system), which was the Old Deal, to the one through the external labor market (fluid employment-type system) as the New Deal (Ibid.).

The question of whether such a New Deal shift could occur, or had already occurred, in Japan became a topic of great academic interest around the 2000s (Sugeno 2004). Subsequent studies have pointed out, however, that the long-term employment practice has not changed significantly, especially in large manufacturing companies, and that although the number of non-regular employees has increased noticeably since the 1990s, the “long-term employment-type” system has not changed dramatically in the labor market centering on regular employment (Takahashi 2018; Kambayashi 2017). On the other hand, it is also true that the industrial structure of the Japanese economy has certainly changed due to “post-industrialization” since the 1970s (Inagami 2005). Even if the New Deal shift has not occurred in major sectors such as large manufacturing companies, it is not surprising that these new industries have adopted a “fluid employment-type” system.

From the perspective of workers’ careers, how can we understand the “long-term employment-type” and “fluid employment-type” systems? Under the “long-term employment-type” system, a worker will continue to work for one company for a long period of time, and a “long-term career” is typical. On the other hand, under the “fluid employment-type” system, more workers change jobs, and workers change jobs more frequently, and as a result, the length of time during which a worker works for one company becomes shorter, and a “fluid career” in which workers work for multiple companies over the course of their lives becomes more typical.

However, it is insufficient to view the fluidity of workers’ careers simply as an increase in job changes. A “long-term career” based on Japanese employment practices is to continue the first job one takes after graduating from school (first job) until retirement. The important aspect is that continuing in the first job results in long-term employment. In light of this, the aspect of the fluidity of workers’ careers as an increase in separation from one’s first job (weakening of first job continuation), rather than a mere increase in job changes, becomes important. Furthermore, job changes at a young age and job changes at middle age or older have qualitatively different implications. Therefore, when comparing the “long-term employment type” and the “fluid employment type” systems in terms of workers’ careers, it is important to consider the perspective of careers as dynamic occupational mobility over the life course and the timing of leaving the first job, which is the starting point of such mobility.

This study aims at depicting aspects of today’s employment society from the perspective of the careers of workers on the labor supply side, focusing on two types of careers: “long-term careers” and “fluid careers” as a weakening of first job continuation. Since the discussions of previous studies indicates that the long-term employment practice is a characteristic of large companies, the subject of analysis in this study will also be workers in large companies.

The structure of this study is as follows. Section II first organizes post-industrialization, an important feature of modern industrial society from the perspective of industrial sociology, and then presents the question to be examined in this study, after organizing the types of workers’ careers from the perspective of social stratification theory. Section III describes the data and analytical strategy used in this study, and Section IV presents the results. Finally, Section V discusses the implications derived from the results of this study’s analysis.

II. Post-industrialization and the employment system in terms of occupational mobility

1. Post-industrialization and the employment system

Around the 1970s, many developed countries were undergoing a shift in industrial structure. This was post-

industrialization, in which the weight of the industrial structure shifted from manufacturing, which is centered on “making products,” to tertiary industry, which is centered on “producing and providing specialized knowledge, information, and services.”

Two major factors are associated with post-industrialization. The first is technological innovation. For the birth of industrial society, the emergence of large-scale, mechanized manufacturing industry through technological innovation such as the invention of the steam engine played an important role (Tominaga 1965). In the late 1970s, further technological innovations such as automation took place at production sites, and in the 1980s, computers and other office automation equipment were introduced in administrative and back-office departments. The development of information and communication technology during this period, known as the introduction of micro-electronics technology and IT, increased the importance of economic activities that produce “specialized knowledge and information,” which is related to the advent of a post-industrial society (Bell 1973). The tertiary industries, such as the financial industry and the information and communications industry, were among those that developed in the post-industrial society.

Post-industrialization is secondly affected by changes in the composition of the labor force. Another change that occurred from the late 1970s to around the 1980s, when technological innovation further developed, was the entry of women into the labor market. Although it is difficult to assume a clear causal relationship, post-industrialization and women’s entry into the labor market are at least related. In many developed countries during the industrial era, the division of labor was based on gender roles, with men in the breadwinning role and women in the caretaking role, and the employment rate of women was not very high. In post-industrial societies, the development of economic activities that replaced the housework and childcare traditionally performed in the home and family led to the “de-familization of care” that freed women from family care roles and increased the employment rate of women (Esping-Andersen 1999). The household work and childcare traditionally performed by women in the home and family may be substituted by market services or welfare services by the State, and in both cases, the “de-familization of care” can lead to the development of industries such as lifestyle-related services, and medical, health care and welfare. In addition, the fact that the development of these industries makes it possible for care to become less dependent on the family encourages women’s entry into the labor market.

In summary, the industries that will become important in a post-industrial society are the tertiary industries, such as the financial industry and the information and communications industry, which have developed as a result of innovations in information and communication technology, and various service industries that have developed as a result of the “de-familization of care.” A post-industrial society is characterized by the high weight of non-manufacturing industries, and in this context, the development of the service industry is particularly important. Among the non-manufacturing industries, the financial industry, the transport industry, and the information and communications industry are relatively more closely related to the manufacturing industry, which is the mainstay of industrial society, than the service industry. For example, the transport industry is mainly responsible for the distribution of products produced in the manufacturing industry, while the main customers of the financial industry, such as banks, are large manufacturing companies that have supported rapid economic growth. In addition, the information and communications industry helps the exchange of information between companies based on such transactional relationships. For this reason, the tertiary industries in the non-manufacturing and non-service sector, such as the financial, the transport, and the information and communications industries, are sometimes positioned as production auxiliary sectors of the secondary industries (Bell 1973). The opposite extreme of the manufacturing industry, which is the center of industrial society, is the service industry, which includes accommodations; eating and drinking services; lifestyle-related services; medical, health care and welfare.

2. Occupational mobility and the employment system

Social stratification theory focuses on the various occupational backgrounds (careers) that people experience in their lives. However, the concept of “occupation” here is broadly defined, consisting of “job type,” “industry,” “employee status,” and “company size” (Nagamatsu 2018). In modern society, “occupation” is involved in a large part of the formation of people’s socioeconomic status, and the perspective of occupational career is also important in capturing this status attainment process (Hara and Seiyama 1999). In today’s status attainment process, it is important not only what kind of “occupation” a person has, but also how he or she moves from one “occupation” to another throughout his/her life (occupational mobility). Incidentally, this occupational mobility is called intergenerational mobility in sociology, especially in the field of social stratification theory, and is one of the important inequality-generating mechanisms in contemporary society (Takenoshita 2018).

In examining occupational mobility in Japan from the perspective of status attainment processes, it is important to distinguish between two types of mobility: mobility via the internal labor market and mobility via the external labor market (Mugiyama 2018). Occupational mobility through the internal labor market refers to occupational mobility within the same company, of which promotion is the most typical example. Under Japanese employment practices, since new graduates who are hired en masse are given company-led education and training under long-term employment contracts to develop and select them as future executive candidates, upward mobility in the form of promotion has a significant impact on workers’ acquisition of occupational status (Moriguchi 2013; Yashiro 1997). Furthermore, it has been pointed out that the Japanese promotion practice is characterized by a tournament-style selection process. This means that to participate in a promotion race for the highest position, one must have participated in the initial promotion race (Koike 1991). Additionally, the selection process is multilayered. This results in long-term competition through which decisive differences emerge later (Imada and Hirata 1995). In other words, the important process by which people achieve status in the Japanese employment system is through occupational mobility via the internal labor market, in which people continue to work for the same company for a long period of time and increase their occupational status through promotions.

What is characteristic in this occupational mobility via the internal labor market is that under the system of long-term employment and hiring of new graduates en masse, “long-term careers” in which workers continue in their first job until retirement are assumed as a premise (Sugayama 2011). As mentioned above, when long-term education and training are emphasized and when promotions are in the form of tournament selection, long-term service is beneficial to workers’ status attainment. Since companies also value long-term service, hiring new graduates all together at one time becomes a primary strategy for securing new labor. Under such employment practices, the first job is important as the starting point for career formation through occupational mobility via the internal labor market.

Therefore, in “long-term careers,” it is important to pay attention not only to the aspect of long-term service, but also to the continuation of the first job. Incidentally, social stratification theory has paid special attention to the role played by the stage of first job in the process of people’s status attainment (Blau and Duncan 1967) and has paid particular attention to the “transition from school to work,” the route to first job (Rosenbaum et al. 1990). Since opportunities for occupational mobility via the internal labor market are particularly open to white-collar workers of large companies, whether one can attain such occupational status in one’s first job also determines status attainment later in one’s career (Hara and Seiyama, 1999).

Traditionally in Japan, schools have been involved significantly in the acquisition of first jobs by new school graduates, and many young people have transitioned into the workplace steadily and without interruption, without experiencing unemployment after graduation (Kariya 1991; Sugayama 2011). Since the 1990s, however, increasing attention has been brought to the destabilization of young people’s early careers, including an increase in the number of so-called “freeters” (temporary or part-time young workers who are neither housewives nor students), young non-regular workers, and young unemployed due to the recessionary period (Genda 2001;

Kosugi 2010; Ota 2010; Tarohmaru 2009). It has been pointed out that when young people's transition from school to the workplace is not smooth and there is an intermission, or when their first job is in a non-regular employment, they are also placed at a disadvantage in later career formation and in attaining occupational status (Kagawa 2011; Sato 2011; Ishida 2021). In "long-term careers," the continuation of the first job is important from the perspective of the status attainment process. If a weakening of the tendency to continue in the first job is observed, it can be regarded as a weakening of the "long-term careers." In particular, the destabilization of young people's early careers mentioned above partly means that the tendency to continue in the first job in a stable occupational status of regular employment is weakening, and this is one basis for suggesting that the employment system is changing to one based on "fluid employment."

On the other hand, a typical example of occupational mobility via the external labor market is job change. Basically, occupational mobility across companies is called job change. The process of attaining status through occupational mobility via the external labor market has not been sufficiently studied until now, but in recent years, more attention has been paid to the career effects of job change or job separation experiences. According to previous studies, opportunities to achieve status through occupational mobility via the external labor market in Japan are limited, and in many cases, job change and job separation experience work to the worker's disadvantage with respect to career formation and income (Kondo 2010; Mugiya 2018).

However, it is not sufficient to view "fluid careers" solely from the perspective of mere generalization of job changes. It is also necessary to view "fluid careers" by focusing on the aspect of first job separation, which is the opposite of first job continuation. In a "fluid employment-type" system, it is typically believed that job changes increase and the length of service decreases. This idea focuses mainly on the aspect that the generalization of job changes shortens the retention period of workers per company. However, when contrasted with the "long-term career" in terms of the status attainment process described above, the "fluid career" is characterized not only by an increase in all types of job changes, but also by leaving of the first job, which is the starting point of internal labor market career formation. While there is no limit to the number of job changes a person can experience in his/her life, a person basically leaves his/her first job only once in his/her life, and the first job change is the first job separation. It has been pointed out that along with the destabilization of young people's early careers since the 1990s, early job separation and the transition experience from a first job to a second job, that is, first job separation, has increased among young people (Iwawaki 2017; Kagawa and Nishimura 2015; Kurosawa and Genda 2001). The fluidity of workers' careers must first be viewed from the aspect of first job separation.

Previous studies have pointed out that such first job separation and young workers' early job separation are particularly common in the service industry and service jobs (Iwawaki 2017; Kobayashi et al. 2014). As a reason for the high rate of early job separation in the service industry, Kobayashi et al. (2014) points out that the employment systems in the service and manufacturing industries are different. In other words, companies in the manufacturing industry adopt an employment system in which new graduates are trained over the long term, resulting in low early job separation rate among young people, while companies in the service industry do not adopt such a training strategy and place more emphasis on hiring workers who can immediately start work than on retaining new graduates, making it difficult to control early job separation among young people.

3. Question: Relationship between types of careers and post-industrialization in terms of first job continuation

Based on the above discussion, this study will conduct the following two analyses to depict aspects of today's Japanese employment society.

First, workers' careers are classified into types in terms of first job continuation and first job separation, to examine how these types of careers differ by industry. Of course, it is important to ascertain the percentage of workers who continue in their first job among all workers, but the focus of this study is on inter-industry

comparisons of workers' tendency to continue in their first job. The discussions of previous studies have confirmed the characteristics of a "long-term employment-type" system in the manufacturing industry today (Takahashi 2018). However, it has not been fully examined whether similar trends are observed in the tertiary and service industries, which have emerged as a result of the social change of post-industrialization. What is focused on here is the trend of first job continuation as a "long-term career" and the trend of first job separation as a "fluid career," i.e., "not continuing in the first job taken after graduation (first job)." Based on the discussions of previous studies, it is possible to observe the characteristics of a "fluid employment-type" system in the tertiary and service industries, i.e., the type of workers' careers in which they have a "weak tendency to continue their first job (strong tendency to leave their first job)." In addition, to anticipate the results, it was found that two types of employment systems coexist in Japan today: a "long-term employment-type" system centered on the manufacturing industry, and a "fluid employment-type" system centered on the service industry.

Second, it is not surprising that many people in all industries have changed jobs, and an attempt is made to clarify at what age stage the first job separation occurs among those who have changed jobs. As mentioned previously, leaving one's first job plays an important role as the starting point of career formation via the internal labor market, but its meaning is completely different when it occurs at a young and mature age or when it occurs at middle age and older. As mentioned above, career instability has been pointed out since the 1990s, especially among young people, and one of the reasons for first job separation during this period is that there was a mismatch between workers and occupations at the time of their first job during the economic recession (Kurosawa and Genda 2001). Although leaving one's first job at a young age, which includes the search for a suitable job, is certainly a weakening of first job continuation, it is not necessarily in complete conflict with the "long-term career," because workers are likely to remain in their second and subsequent jobs after their first job for a long period of time. On the other hand, the first job separation that occurs in middle-aged or older workers who have accumulated a certain amount of service in their first job not only proportionally shortens the length of their services in their second job, but also means that they have abandoned the opportunity for upward mobility via the internal labor market just before gaining it, and thus the degree of weakening of first job continuation is greater, which is considered to be most in conflict with a "long-term career." From this perspective, comparison is made across industries in terms of what age the first job separation occurs, which is characteristic of workers in "fluid careers." It is important to identify whether the "fluid career" that is typical of the service industry clarified in the first analysis can be viewed as the fluidity of early career at a young age, as pointed out in previous studies, or whether it is the fluidity of career in middle and older age that completely conflicts with the "long-term career."

III. Method of analysis

This section describes the data and sample used. The data used is the "Survey on Occupation and Working Life" conducted in 2019 by the Japan Institute for Labour Policy and Training (hereafter referred to as the "Survey on Working Life"). The "Survey on Working Life" targeted 12,000 men and women, aged 25–64, randomly selected from the Basic Resident Register nationwide, regarding individual employment behavior, including retention in companies and leaving or changing jobs, in terms of both work and daily life (JILPT 2022). Since the "Survey on Working Life" is characterized as a labor version of a comprehensive social survey, so to speak, it covers individuals in a wide range of age groups, but in this study, the analysis is limited to those aged 30–59 who work for large companies (with 300 or more employees).² As this study has previously discussed, the long-term employment practice is essentially a characteristic of large companies, while small- and medium-sized enterprises (SMEs) are by nature more fluid. In addition, career fluidity may be extremely high for younger and older age groups. In examining the question of this study, it is important to analyze whether the coexistence

of “long-term employment-type” and “fluid employment-type” careers can be confirmed even when focusing on the careers of the working-age group (30–59) working for large companies. As described below, while using this age group as a reference, each analysis will target a different sample population depending on the question to examine.

Next, the analytical strategies and variables are explained. The analysis in this study is divided into two main parts. The first is a comparative analysis of the career distribution of workers between industries. Here, the sample subject to analysis is workers aged 30–59 whose first job was a regular job and who are currently being employed and working for large companies (with 300 or more employees). The “Survey on Working Life” asks all survey respondents for information on their first, previous, and current jobs, allowing us to use individual work history information, although it is not completely exhaustive. This information is used to categorize workers’ careers into three types: “continued first job,” “changed jobs once,” and “changed jobs twice or more times.” Since the important factors in the comparison of “long-term careers” and “fluid careers” considered here are first job continuation and first job separation, the case of non-regular workers in their first job whose careers are already considered to be unstable at the time of their first job is not used in this analysis. However, since the type of employment in the current job is not specifically limited here, the case of a career change from “first regular job to current non-regular job” is also included because it is considered that there is no major difference from the case of a career change from “first regular job to current regular job” in terms of leaving the first job.

Next, the age at which the first job separation and entry into current employment occurred is analyzed for the sample of workers aged 30–59 whose first job was a regular job and who are currently being employed and who have changed jobs (first-job leavers). In terms of the workers’ career types, these cases fall into the categories of “changed jobs once” and “changed jobs twice or more times.” Comparison is made by industry as to the ages of first job separation and entry into current employment for those who have changed jobs. Through this analysis, the actual state of fluidity observed today can be ascertained.

“Industry,” commonly used in the above analyses, is the most important variable in this study. While detailed categories should normally be used whenever possible, due to sample size limitations, the industrial sectors used in this study are as shown in Table 1.

Table 1. Variables for industries used in analysis

Industry	Abbreviations in figures
Construction; manufacturing	Construction / manufacturing
Finance and insurance; real estate and goods rental and leasing	Finance and insurance / real estate / rental and leasing
Transport and postal services; information and communications; mass media	Transport and postal services / information and communications
Wholesale and retail trade; accommodations; eating and drinking services; entertainment; and services, N.E.C.	Wholesale and retail trade / accommodations / eating and drinking services / services, N.E.C.
Medical, health care and welfare; education, learning support; professional and technical services	Medical, health care and welfare / education, learning support / professional and technical services

Source: Created by the author.

First is the secondary industry, consisting of construction and manufacturing, where the long-term employment practice is stable. Next, finance and insurance; real estate and goods rental and leasing industries are considered as one category in the sense that they are industries of “managing and trading assets.” Furthermore, transport and postal services; information and communications; mass media industries are placed in the same category because of their similarity as industries that “communicate and transport people, goods, and information.”

The service industry is divided into two major categories. One category consists of interpersonal services that involve dealing with customer service and sales, such as wholesale and retail trade; accommodations; eating and drinking services; entertainment; and services, N.E.C., where workers are often relatively low-skilled. The other is the broadly defined professional services category, which includes medical, health care and welfare; education, learning support; professional and technical services.

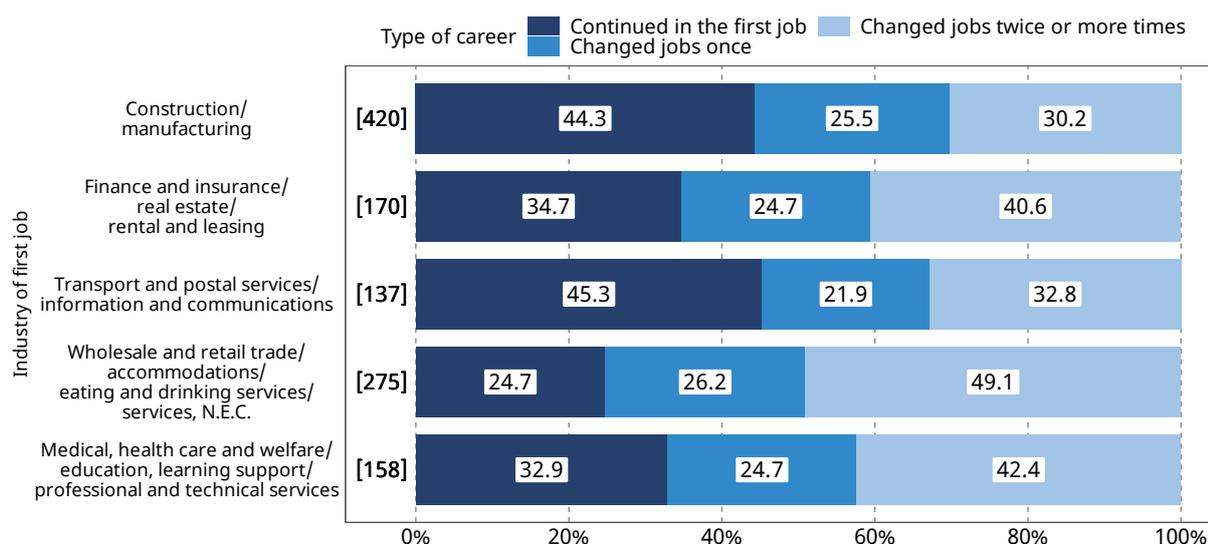
The public sector, which is a public service or a business of “government office/public office;” agriculture, forestry, and fisheries; mining and quarrying of stone and gravel; electricity, gas, heat supply, and water supply; and other industries are excluded from the analysis because they are not the primary interest of this study.

IV. Analysis results: “Fluid careers” and their realities

1. The “long-term employment-type” sector and the “fluid employment-type” sector

First, the results of the analysis of inter-industry comparisons of workers’ career distributions are reviewed. Figure 1 shows the percentage of each type of workers’ careers by industry of first job.

The industries with the highest percentages of “continued first job” are “construction; manufacturing” and “transport and postal services; information and communications” with at least 40% of workers who entered these industries for the first time are still continuing their first job today. The next two sectors with the highest percentages of “continued first job” are “finance and insurance; real estate; rental and leasing” and “medical, health care and welfare; education, learning support; professional and technical services.” While more than 30%



Source: Created by the author based on the “Survey on Working Life.”

Note: Limited to workers aged 30–59 in large companies. The number of samples (N) is shown in parentheses.

Figure 1. Distribution of career types by industry of first job

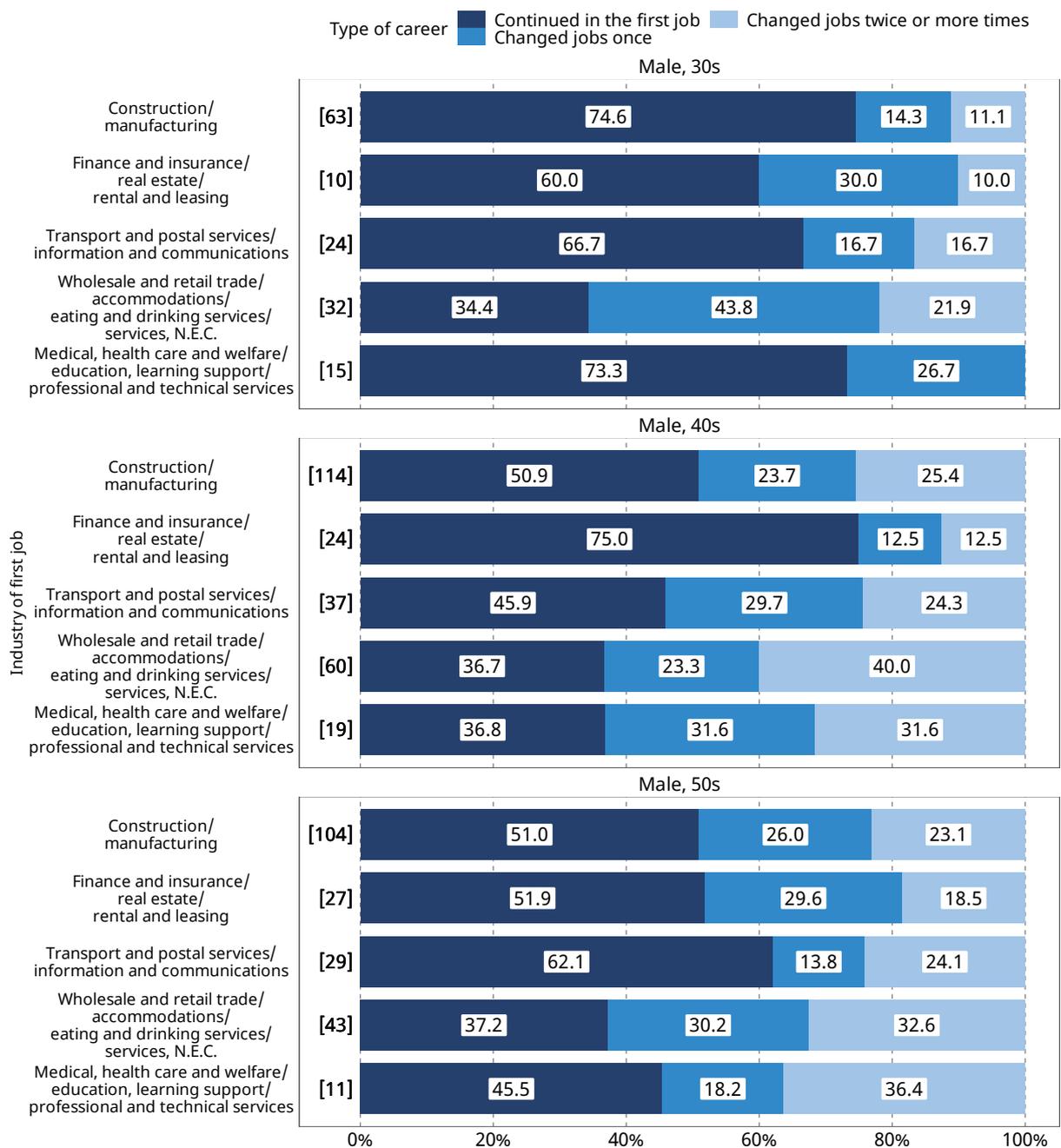
of workers who entered these industrial sectors as their first job are still in their first job, about 40% have changed jobs twice or more times since then. The percentage of “changed jobs twice or more times” is high in the “wholesale and retail trade; accommodations; eating and drinking services; and services, N.E.C.” category, meaning that more than half of the workers who entered this industrial sector as their first job have changed jobs twice or more times since then. The above indicates that “construction; manufacturing” and “transport and postal services; information and communications” sectors fall into the “long-term career” category, with a predominance of workers who have “continued first job,” while the “wholesale and retail trade; accommodations; eating and drinking services; and services, N.E.C.” sector has the lowest percentage of “continued first job” and falls into the “fluid career” category.

Therefore, the difference between the two industrial sectors suggests that the coexistence of “long-term employment-type” and “fluid employment-type” systems can be observed between the manufacturing and service industries in particular. In addition, Figure 1 shows that “transport and postal services; information and communications,” which is a non-manufacturing sector, also has the characteristics of the “long-term employment-type,” suggesting that a “long-term employment-type” system may exist outside of the manufacturing industry as well. The “finance and insurance; real estate; rental and leasing” and “medical, health care and welfare; education, learning support; professional and technical services” industries have a mixture of both “long-term employment” and “fluid employment” characteristics in Figure 1, making it difficult to clearly distinguish them at this stage.

Next, the distribution of workers’ career types is analyzed by gender and age group (Figure 2 and Figure 3). First, it is shown that the trends differ significantly by gender. Simply put, in many industries, men are more likely to have “continued first job,” while women are more likely to have “changed jobs twice or more times.” This trend is particularly pronounced among workers in their 40s and 50s, indicating that women are more likely to interrupt their employment or change jobs due to their life stage. Of particular interest is whether there are differences in the distribution of career types by industry of first job among men, for whom long-term employment is expected as the norm.

First, looking at the first job continuation rate for “Male, 30s” (Figure 2), the rate is highest for “construction; manufacturing” and “medical, health care and welfare; education, learning support; professional and technical services” and lowest for “wholesale and retail trade; accommodations; eating and drinking services; and services, N.E.C.” Next, according to the results for “Male, 40s,” there are two types of industrial sectors: the “long-term employment type,” consisting of the “construction; manufacturing” and “transport and postal services; information and communications” sectors, which have relatively high rates of first job continuation, and the “fluid employment type,” consisting of the “wholesale and retail trade; accommodations; eating and drinking services; and services, N.E.C.” and “medical, health care and welfare; education, learning support; professional and technical services” sectors, which have relatively low rates of first job continuation. The “finance and insurance; real estate; rental and leasing” sectors can be classified into the same group as the “long-term employment type” in terms of the high rate of first job continuation, which is an extreme value. The same tendency as above can be observed in the results for “Male, 50s.” However, the first job continuation rate in “medical, health care and welfare; education, learning support; professional and technical services” is just in between the rates in the other two age groups, but this group has the highest rate of “changed jobs twice or more times,” indicating that the characteristics of the “fluid employment type” are somewhat stronger among this group.

Finally, the results for females are briefly discussed (Figure 3). The percentage of females who have “changed jobs twice or more times” is high in general, and in particular, this tendency increases with age in all industrial sectors. Although it is somewhat difficult to distinguish differences among industrial sectors in the results for females, who generally have a low rate of first job continuation, with a relatively high rate of first job continuation



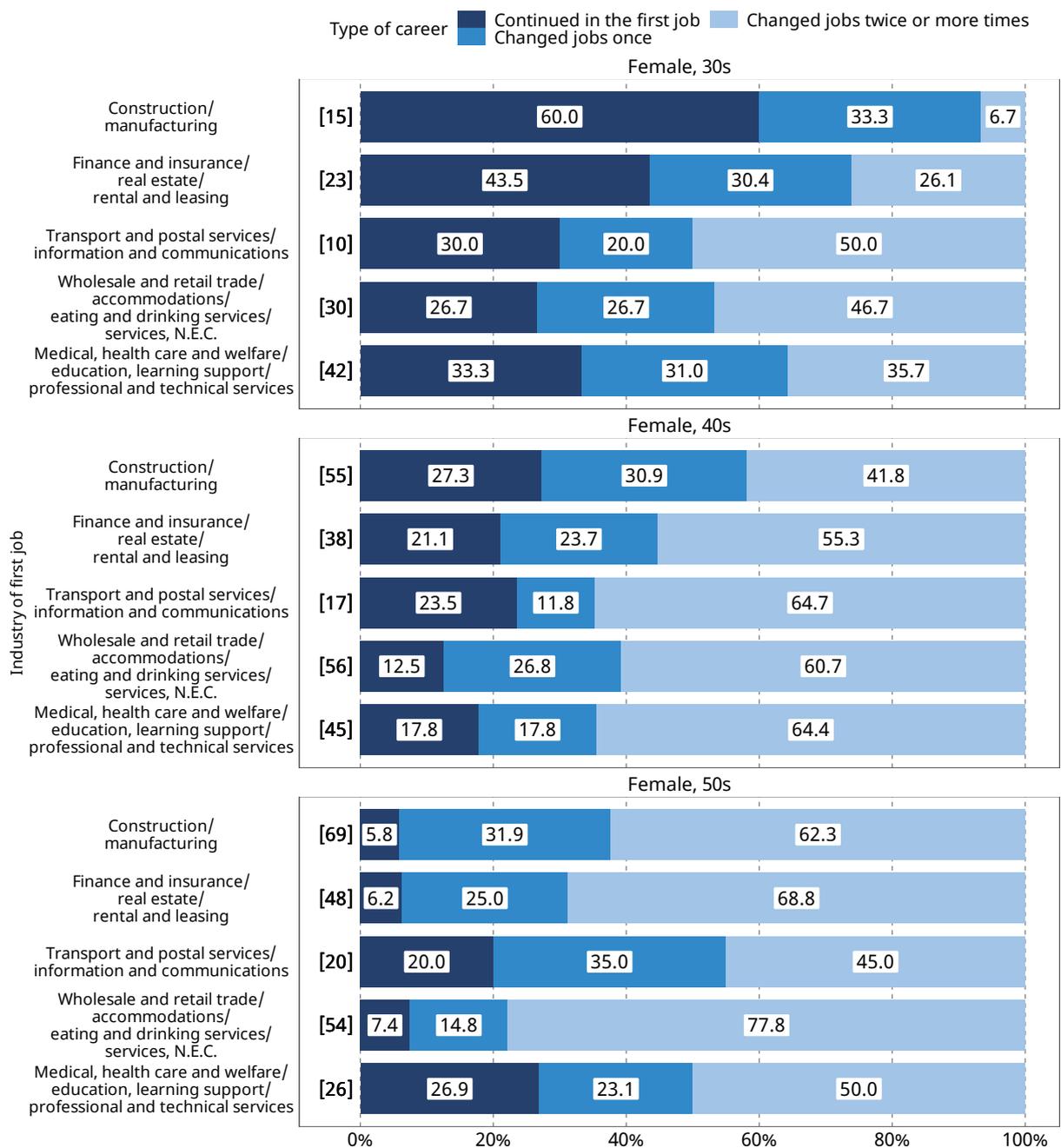
Source: Created by the author based on the “Survey on Working Life.”

Note: Limited to workers aged 30–59 in large companies. The number of samples (N) is shown in parentheses.

Figure 2. Distribution of career types by industry of first job and age group (male)

in the “construction; manufacturing” sector and a low rate in the “wholesale and retail trade; accommodations; eating and drinking services; and services, N.E.C.” sector, the trend itself is the same as for males.

The results of the above analysis, focusing mainly on males, can be summarized as follows. First, the career distribution of workers in all age groups differs across industrial sectors. The typical contrast between “long-term employment type” and “fluid employment type” is most pronounced in the comparison between the

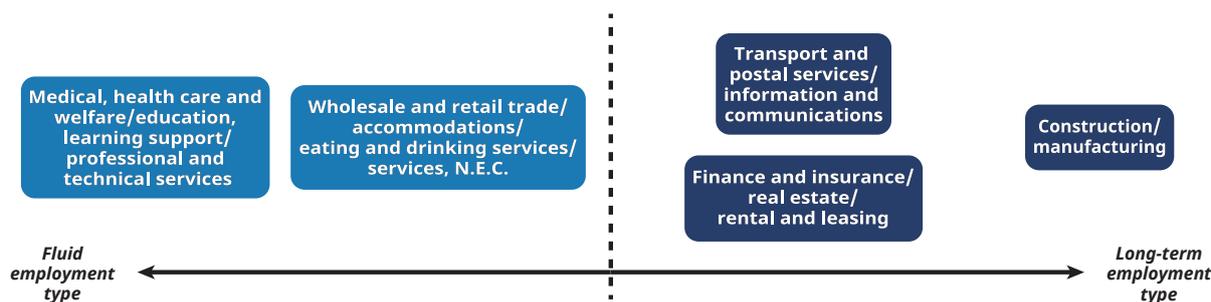


Source: Created by the author based on the “Survey on Working Life.”

Note: Limited to workers aged 30–59 in large companies. The number of samples (N) is shown in parentheses.

Figure 3. Distribution of career types by industry of first job and age group (female)

“construction; manufacturing” sector, where the first job continuation rate is high, and the “wholesale and retail trade; accommodations; eating and drinking services; and services, N.E.C” sector, where the first job continuation rate is low and the number of job changes is high. The contrasting characteristics of the two industrial sectors were confirmed in both analyses for males and females. In other words, as discussed in Section II of this study, the “long-term employment-type” system is consistent with the manufacturing sector, while the “fluid



Source: Created by the author.

Figure 4. Types of industrial sectors

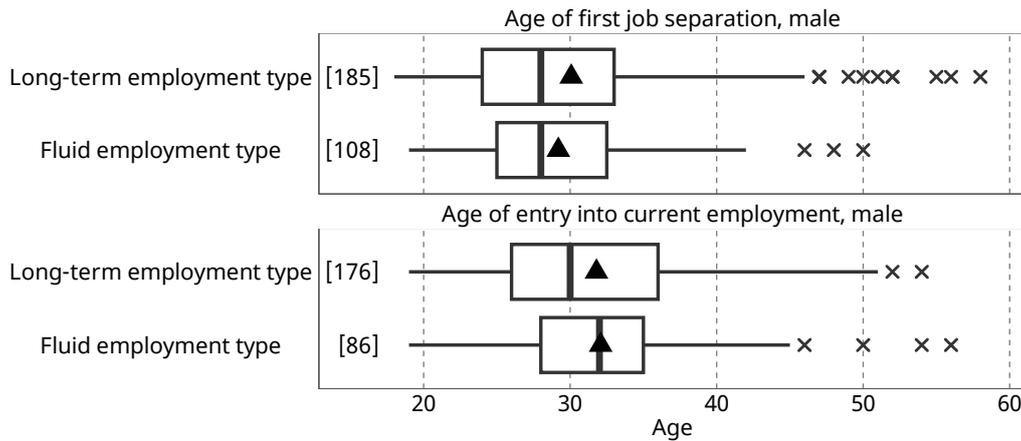
employment type” system is consistent with the service industry. In the results of the analysis limited to males, the first job continuation rate in the tertiary industries of the non-manufacturing sector, “finance and insurance; real estate; rental and leasing” and “transport and postal services; information and communications,” is as high as in the “construction; manufacturing” sector, suggesting that these tertiary industries are characterized as “long-term employment type.” In addition, the first job continuation rate is not necessarily as low in “medical, health care and welfare; education, learning support; professional and technical services,” another service industry, as in the case of “wholesale and retail trade; accommodations; eating and drinking services; and services, N.E.C.,” and in this sense it cannot be said that the industry is clearly “fluid employment type,” but the percentage of “changed jobs twice or more times” is particularly high among male workers in their 50s, indicating that the characteristics of “fluid employment type” are rather strong.

Figure 4 shows a summary of the above types of industrial sectors. If these industrial sectors are roughly divided into two, “construction; manufacturing,” “finance and insurance; real estate; rental and leasing” and “transport and postal services; information and communications” are included in the “long-term employment-type” category, and the remaining service industries are included in the “fluid employment-type” category. Therefore, looking at the career distribution of workers, it can be said that these two employment systems are coexisting.

2. Realities of employment fluidity

Next, the results of the analysis of the actual status of “fluid careers” are reviewed. First, the actual situation of employment fluidity is examined from the aspect of age of first job separation and age of entry into current employment, focusing only on those who have changed jobs. As discussed in Section II of this study, by looking at the age of first job separation, it is possible to confirm whether the first job separation constitutes destabilization of young people’s early career. However, the age of first job separation can only capture the first job change in a career, and is insufficient for evaluating the fluidity of job changes as a whole. Therefore, the age of entry into current employment is also checked as a reference.

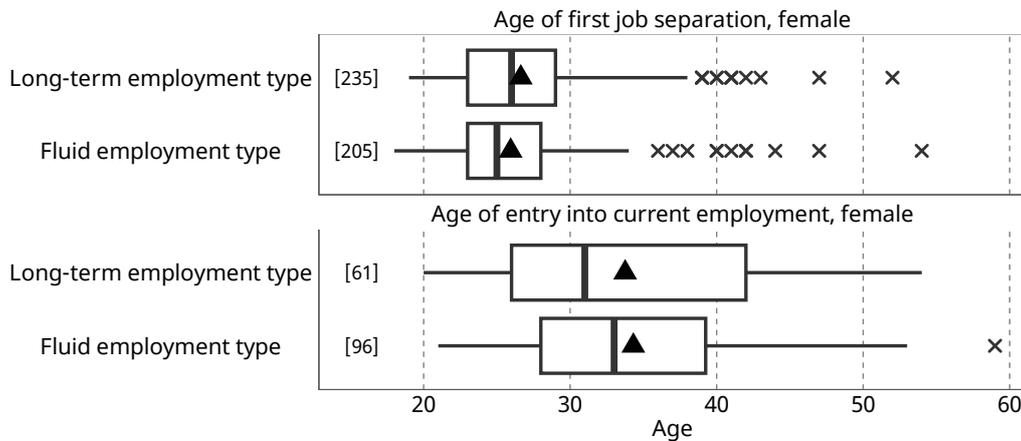
Figure 5 shows the age at which men who have changed jobs left their first job and entered their current job by a box-and-whisker plot.³ The triangles in the figure indicate the average value. First, the distribution of age of first job separation for males is reviewed. There is almost no difference in the distribution of age of first job separation between the “long-term employment type” and the “fluid employment type.” Looking at the average and median values, first job separation occurs between the late 20s and 30s in both industrial sectors. The interquartile range shows that first job separation for males occurs roughly between the ages of 24 and 33,



Source: Created by the author based on the “Survey on Working Life.”

Note: Limited to workers aged 30–59 in large companies. The number of samples (N) is shown in parentheses. The triangles in the figure indicate the average value, the left side of the box indicates the first quartile, the right side indicates the third quartile, and the thick line in the center indicates the second quartile (median). The whiskers on the left and right sides indicate the first quartile from the smallest value and the third quartile from the largest value, respectively, and x marks indicate outliers.

Figure 5. Age of first job separation and age of entry into current employment among workers who have changed jobs (male)



Source: Created by the author based on the “Survey on Working Life.”

Note: Limited to workers aged 30–59 in large companies. The number of samples (N) is shown in parentheses. The triangles in the figure indicate the average value, the left side of the box indicates the first quartile, the right side indicates the third quartile, and the thick line in the center indicates the second quartile (median). The whiskers on the left and right sides indicate the first quartile from the smallest value and the third quartile from the largest value, respectively, and x marks indicate outliers.

Figure 6. Age of first job separation and age of entry into current employment among workers who have changed jobs (female)

Figure 6. Age of first job separation and age of entry into current employment among workers who have changed jobs (female)

regardless of industrial sector.

Furthermore, the age at which males entered their current employment is not significantly different from the above trend. Since the age of entry into current employment captures the last job change experienced at this point in one’s career, the age of entry into current employment is naturally higher for those who have changed jobs

more frequently. However, the average and median values for the age of entry into current employment are still in the early 30s for the two industrial sectors, indicating that job changes among middle-aged and older workers in terms of age of entry into current employment are quite rare.

From these facts, it can be said that the job changes currently observed are basically those occurring from youth to mature age, representing early career fluidity at a young age. Furthermore, the characteristics of this trend are also highlighted when compared to the results for females (Figure 6). In the case of females as well, although first job separation itself is a characteristic of young adulthood, the dispersion of the age of entry into current employment is larger than that of males, with the third quartile being around 40 years of age. In other words, it is basically females who experience job changes in middle and older age, and females' careers are positioned as "fluid employment type," which is the opposite extreme of the "long-term employment type." The "fluid career" observed among males as destabilization of their early careers is in conflict with the "long-term career" in terms of continuing in their first job, but it does not negate retention at the place where they changed jobs. Focusing on the results for males, it can be said that the employment fluidity observed today is only caused by the weakening of the tendency to continue in the first job, which is different from the image of the fluidity of the overall labor market as in Anglo-Saxon countries.

V. Discussion: Coexisting employment systems and the weakening of first job continuation

In this study, analysis was made as to whether the coexistence of "long-term employment-type" and "fluid employment-type" systems can be confirmed by focusing on the careers of individual workers. The findings are as follows.

- (1) Construction; manufacturing; finance and insurance; real estate and goods rental and leasing; transport and postal services; information and communications; mass media industries are classified as "long-term employment-type" sectors with a high proportion of workers who continue their first job in their career. Wholesale and retail trade; accommodations; eating and drinking services; entertainment; and services, N.E.C.; medical, health care and welfare; education, learning support; professional and technical services are classified as "fluid employment-type" sectors with a low percentage of those who continue their first job in their career.
- (2) Regardless of industrial sector, most job changes occur from young to mature ages, and the realities of employment fluidity are the weakening of the tendency to continue in the first job, i.e., the destabilization of young people's early careers.

The stability of long-term employment practice in the manufacturing industry, which has been frequently pointed out in previous studies, was confirmed in the careers of workers. Furthermore, the characteristics of the "long-term employment type" were observed not only in the manufacturing industry, but also in the tertiary industries other than manufacturing, such as financial, and transport industries. Non-manufacturing and non-service tertiary industries, such as finance; transport; information and communications emerged as auxiliary sectors to the production sector as the exchange of goods, money, and information became more complex along with the development of industrial society (Bell 1973). In other words, companies in the financial, transport, and information and communications industries have traditionally had close business relationships with companies in the manufacturing sector (Inagami 2005), and it is therefore not surprising that similarities can be seen in their employment systems.

On the other hand, in contrast to these industries, the service industry showed characteristics of "fluid careers." However, the realities of this employment fluidity are not that job changes occur in middle-aged and

older workers, but rather that relatively more workers change jobs, i.e., leave their first job, at a younger age. At first glance, this weakening of the tendency to continue in one's first job appears to be contrary to the "long-term careers" characterized by continuation in one's first job. However, long-term retention may occur in the second job and beyond. As discussed in Section II of this study, from the perspective of occupational mobility, the characteristic of "long-term careers" is to continue in the first job and aim for advancement of occupational status within the same company. In the case of "fluid careers," which are truly in opposition to "long-term careers," the fluidity observed there would have to be, for example, the generalization and increase in job changes in middle and older age. However, the realities of today's employment fluidity are only the increasing tendency of young people to leave their first job.

Relating these findings to post-industrialization, the employment fluidity in the labor market that has been gradually recognized since the 1990s can be partly attributed to the fact that the share of the service industry, which has a weak tendency to continue in first job, has been expanding amid changes in the industrial structure. Based on the results of this study's analysis, it was by no means a shift in the overall labor market employment system from a "long-term employment type" to a "fluid employment type." Rather, the two employment systems coexist.

Finally, the implications of the weakening of the tendency to continue in first job and the destabilization of young people's early careers are explained. The latest youth labor studies indicate that the tendency of young people to "stay away from work" (i.e., not want to work if possible) is on the rise today, and that among young workers who continue in their first job as regular employees, an increasing number are unsure of the job for which they are suited and feel hesitant about their career choice (Hori et al. 2022). The weakening of the tendency to continue in first jobs and the destabilization of young people's early careers identified in this study are thought to be related to this "tendency to stay away from a job" among young workers and their growing hesitation in choosing an occupation. In other words, workers themselves are concerned about whether they can position the job they obtained after graduation as the starting point of their subsequent occupational career, and this is thought to be driving their job search activities at a young age and contributing to the weakening of their tendency to continue in their first job.

In order to capture the transformation (fluidity) of the employment system, taking into account the dynamics of status attainment in the career of individual workers, it is important to consider the question of whether job changes are or will become more common in middle-aged and older workers, rather than whether workers are leaving their first job at a young age (weakening of first job continuation).

This paper is based on Chapter 4 (written by Kota Tagami) of *Koyō ryūdōka to Nihon keizai: howaito karā no saiyō to tenshoku* [The employment fluidity and Japanese economy: Hiring and job changes of white-collar workers], JILPT 4th Project Research Series No.6 (March 2023, in Japanese).

Notes

1. See Takahashi (2018) for a discussion of the characteristics of the Japanese employment system and changes in recent years.
2. In order to align the size of companies for comparison, in this study, companies in the service industry with 300 or more employees are treated as large companies, as in the case of manufacturing companies. Under this criterion, companies in the service industry with 100–299 employees, which are included in large companies under the general definition of SMEs, are classified as SMEs. In other words, among the large companies in the service industry in general, larger companies are considered to be large companies for the analysis in this study. However, since comparing companies with different sizes of organizations may lead to misunderstanding of the results, an attempt is made to align company sizes across industries.
3. A box-and-whisker plot is a graph presenting the overall dispersion of the data using the four quartiles and the lowest and highest values. The quartiles are the positions at which the entire distribution is divided into four equal parts when the data points are arranged from lowest to highest. The first quartile represents 1/4 from the lowest figure, the second quartile (median) is 2/4 from the lowest, and the third quartile is 3/4 from the lowest. The data portrayed as a "box" is that which falls within the range from the first to the third

quartile. In other words, half of the cases from all data take values that fall within the range of this box. The difference obtained by subtracting the first quartile from the third quartile is called the interquartile range (IQR). The dividing line in each box represents the median value (the second quartile). The lines (whiskers) on either side of each box represent the range from the first quartile to the lowest value and from the third quartile to the maximum value, respectively. The x marks in the Figure 5 and Figure 6 indicate outliers. Values that are smaller/larger by $1.5 \times$ IQR than the first quartile/third quartile are regarded as outliers. The statistical software R was used to prepare the box-and-whisker plot.

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Article

Fact-finding Research on Financial Compensation for Unfair Dismissal Cases in Court

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The Japan Institute for Labour Policy and Training (JILPT) published a research report *Comparative analysis of cases of employment termination resolved by labor tribunals or court settlements* (JILPT 2023, hereinafter the “Report”) in April 2023. The Report summarized the results of two surveys conducted in 2014 and 2022 by JILPT as requested by the Ministry of Health, Labour and Welfare (MHLW), of which outline was previously reported to the MHLW’s Labor Policy Council’s Working Conditions Committee in October and December 2022. This article reviews previous studies in this field and visualizes the data of the 2022 Survey mainly in comparison with the 2014 Survey. The 2014 Survey covered 452 labor tribunal cases that ended in either labor tribunal mediation or a labor tribunal decision in four district courts in 2013, and 193 labor-related civil litigation cases that ended in a settlement in the same four district courts in the same year. The 2022 Survey covered 785 labor tribunal cases that ended in either labor tribunal mediation or a labor tribunal decision in one district court in 2020 and 2021, and 282 cases of labor-related civil litigation cases that ended in a settlement in the same district court in the same years.

1. Overview of previous studies

Each time judicial policy on financial compensation of unfair dismissal cases has become the focus of public discussion, JILPT has conducted studies on the state of resolution of those cases in order to examine the evidence used in the cases. In that sense, it can be said that those studies are typical

of policy-oriented research, which is the centerpiece of JILPT’s survey and research activities.

The starting point of the research in this field was JILPT’s first term project “Research on Reconstruction of the Mechanism for Establishing Terms and Conditions of Employment” (FY2003-2006). When the Labor Standards Act was amended in 2003, an explicit provision concerning “abuse of the right to dismiss” theory was introduced into the law, while the introduction of a financial compensation system concerning dismissal cases was considered but abandoned for the moment. As a result, in response to a request from the MHLW, JILPT investigated the state of dismissed employees’ return to their original job following decisions that nullified dismissal by sending a questionnaire survey to attorneys on both the labor and management sides (JILPT 2005). While the response rate for the questionnaire survey was extremely low, approximately 4-6%, the survey results showed that employees who won nullification of dismissal were evenly split, at 40%, between those who returned to and continued to engage in the original job and those who did not.

In April 2005, JILPT established the Study Group on Court Experiences and Employment Adjustments (chaired by Kambayashi Ryo, Professor of Hitotsubashi University at the time) and published a final summary of the studies conducted in the following two years, *Regulations on dismissals and court* (JILPT 2007) in May 2007. One of the articles included, titled “Dismissal Cases held in Tokyo District Court” (Kambayashi 2007) could be viewed as the clear starting point of the Report in that it

conducted a complete survey concerning the amounts of financial compensation based on court records of litigation proceedings. However, the financial compensation amount discussed in the article was not specified but a standardized compensation amount was indicated, which represented the compensation amount per month of the period from dismissal to settlement as a proportion of the amount claimed. As a result, while a direct comparison with that and the JILPT's survey is difficult to make, the median of the standardized compensation amount was 0.48 months' worth and the average was 0.80 months' worth.

JILPT's second term project "Analysis of Contents of Individual Labor-Related Dispute Resolution Cases" (FY2007-2011) examined the state of dismissal cases in terms of dismissed workers' gender, employment status, employers' firm size, the amount claimed, and the resolution amount by conducting a detailed analysis of documents related to a total of 1,144 cases of conciliation processed by the prefectural labor bureaus. As a result, it was found that 30% of those cases of conciliation were financially resolved and that the resolution amounts were distributed mostly in the 100,000 to 300,000 yen range, with the median at 190,000 yen and the average at 306,000 yen (JILPT 2010).

On the other hand, the Institute of Social Science, The University of Tokyo conducted a questionnaire survey with users on the labor tribunal system in 2010. While the scope of survey items was wide-ranging, the median and average of the resolution amount were 1,000,000 yen and 1,449,000 yen, respectively, based on the replies from workers and were 1,000,000 yen and 1,397,000 yen, respectively, based on the replies from employers (Institute of Social Science, The University of Tokyo, 2011).

Later, after the change of government at the end of 2012, the Industrial Competitiveness Council, which was established at the Prime Minister's Office in 2013, held brisk discussions on the financial settlement system concerning dismissal cases. The Japan Revitalization Strategy revised in 2014 (Cabinet decision on June 14) required an investigation of the resolution amounts in cases

handled through means of resolving individual labor disputes, such as labor bureau conciliation, labor tribunal and court settlement proceedings. In response, the MHLW requested JILPT to conduct the fact-finding investigation. Immediately, JILPT closely examined relevant records held at the prefectural labor bureaus and district courts and compiled a research report *Comparative analysis of employment dispute cases resolved by labor bureau conciliation, labor tribunals and court settlement* (JILPT 2015). It was structured in the same way as the latest Report (JILPT 2023) except for some differences in the scope of survey items.

The results of the 2014 Survey (called the Heisei Survey in the Report) were reported to the first meeting of the MHLW's Study Group on Transparent and Fair Labor Dispute Settlement System, etc. and were used as a basis for discussion. After this study group compiled a report in 2017 and the Study Group on Legal Issues concerning the Financial Compensation System for Unfair Dismissal Cases (established in the Labour Standards Bureau in 2018) compiled a report in 2022, discussions started at the Labor Policy Council's Working Conditions Committee. In the first round of discussion, committee members pointed out that the 2014 Survey was outdated and proposed that a new survey should be conducted. In response to this, as mentioned at the beginning, the MHLW requested JILPT to conduct an emergency survey, namely, the 2022 Survey (called the Reiwa Survey in the Report).

2. State of financial resolution of dismissal cases in the 2022 Survey

Below, the result of the 2022 Survey is outlined item by item in comparison with the 2014 Survey. The types and number of cases covered by the survey are as mentioned at the beginning. Note that the survey does not cover all the cases that occurred during the survey period. Cases for which public perusal is restricted and cases that were recorded together with those cases were excluded from the survey.

The research method is the same as the one used

in the 2014 Survey. At each courthouse, Hamaguchi, the author of this article, and the other researcher perused the records of labor tribunal and labor-related civil litigation proceedings in an office room and entered necessary data to create database on the site. The data entry period was around one month from late May to late June. Subsequently, data processing was done and JILPT reported the outline of the results to the Working Conditions Committee in October and December that year. In March 2023, the results were summarized in the Report (JILPT 2023).

(1) Worker' attributes

(A) Gender

When classified by the gender of claimants, males accounted for 174 cases (61.7%) and females accounted for 108 cases (38.3%) of the cases that ended in a court settlement (hereinafter “court settlement cases”). Meanwhile, of the cases that ended in a labor tribunal (hereinafter “labor tribunal cases”), males accounted for 494 cases (62.9%) and females accounted for 291 cases (37.1%). In other words, roughly speaking, the male-female ratio was six to four in both case categories. There has been a sharp increase in the proportion of female claimants in 2022 compared that in 2014 (Figure 1).

(B) Age

Age was added as a survey item in the 2022 Survey. The age of approximately 20% of the claimants was identified. Regarding both the court settlement and labor tribunal cases, the proportions of middle-aged or older claimants were particularly large, with those who are in their 50s accounting for the largest proportion in both case categories (Figure 2).

(C) Job type

The job type was also added as a survey item in the 2022 Survey. In both the court settlement and labor tribunal cases, clerical workers accounted for the largest proportion, roughly 30%, of the claimants—to be exact, clerical workers were involved in 84 cases (29.8%) of the court settlement

cases and in 236 cases (30.1%) of the labor tribunal cases. For the second largest proportion, professionals/engineers accounted for 60 cases (21.3%) regarding the court settlement cases, and sales workers for 160 cases (20.4%) regarding the labor tribunal cases. In both case categories, the top five job types were of the white-collar variety, while the lack of presence of blue-collar job types was conspicuous (Figure 3).

(D) Length of Service

The largest difference in results between the 2014 and 2022 Surveys lies in workers' length of service. Over a period of seven to eight years, the length of service halved for both the court settlement and labor tribunal cases. Regarding the court settlement cases, the median of the length of service, which was 4.3 years in 2014, fell to 2.1 years, less than half, in 2022. Similarly, the median for the labor tribunal cases almost halved from 2.5 years in 2014 to 1.3 years in 2022. Along with the cases that ended in labor bureau conciliation (1.7 years in 2014), it can be said that workers using the litigation procedures became closer to workers using labor court bureau conciliation in terms of this attribute (Figure 4).

(E) Managerial Position

With respect to managerial positions, no significant difference was observed between the 2014 and 2022 Surveys. In both surveys, of the court settlement cases, nearly 80% involved workers who were not in a managerial position, while slightly less than 10% involved department or plant managers and roughly 7% involved section or store managers. Among the labor tribunal cases, the proportion of cases involving workers who were not in a managerial position decreased from slightly less than 90% in 2014 to slightly over 80% in 2022, while the proportion of cases involving workers who were department or plant managers, or section or store managers increased slightly accordingly (Figure 5).

(F) Employment status

In the 2022 Survey, the categorization of employment status was modified from the 2014 Survey. In the 2014 Survey, employment status was

classified into regular workers, directly employed non-regular workers, temporary agency workers, and workers with outsourcing agreements, while the classified categories in the 2022 Survey were workers with indefinite-term labor contracts, workers with fixed-term labor contracts, temporary agency workers, and workers with outsourcing agreements. In 2022, the proportion of cases involving workers with indefinite-term labor contracts was the largest, approximately 80%, among both the court settlement and labor tribunal cases. The proportion of cases involving workers with a fixed-term labor contract was slightly less than 20%, and that involving temporary agency workers was slightly less than 2%. Of particular interest is an increase in cases involving workers with outsourcing agreements (in which the employers asserted the point that the workers in question were subcontractors working under outsourcing contracts, while the workers claimed the right to employment protection). The number of cases involving workers with outsourcing contracts rose markedly in 2022 compared with that in 2014, from one case (0.5%) to nine cases (3.2%) among the court settlement cases, and from one case (0.2%) to 20 cases (2.5%) the labor tribunal cases (Figure 6).

(G) Wage system

In the 2022 Survey, the wage system was added as a survey item. Nearly 80% involved monthly salary workers—216 court settlement cases (76.6%) and 614 labor tribunal cases (78.4%). The proportion of cases involving workers with annual salary was

slightly over 10%—33 court settlement cases (11.7%) and 85 labor tribunal cases (10.9%). Meanwhile, the proportion of cases involving workers receiving hourly wages was smaller than 10%—24 court settlement cases (8.5%) and 61 labor tribunal cases (7.8%).

There has been no survey that identified the proportions of workers by the wage system as classified above with respect to the entire labor force. If it is assumed that part-time and casual workers are equivalent to workers receiving hourly wages, it can be said that this category of workers is significantly underrepresented in the 2022 Survey given that part-time workers account for a quarter of the labor force according to the *Labour Force Survey* (Figure 7).

(H) Monthly wage earnings

The distribution of all types of wages, including hourly, daily, and annual wages, as converted into monthly wage earnings, has shown a slight increase in 2022 compared that in 2014. Among the court settlement cases, the most common wage band was 200,000–300,000 yen range in 2014 but shifted upward to 300,000–400,000 yen range in 2022. Among the labor tribunal cases, the most common wage band was 200,000–300,000 yen range in both surveys, while the distribution of monthly wage earnings around that level shifted toward the higher end of the range (Figure 8). The Report further analyzes the determinants of monthly wage earnings based on a cross-tabulation of workers' and employer firms' attributes (omitted in this article).

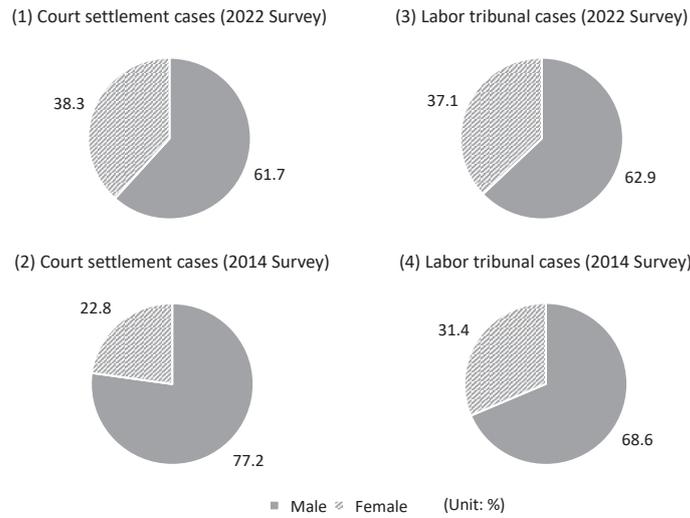


Figure 1. Breakdown by gender

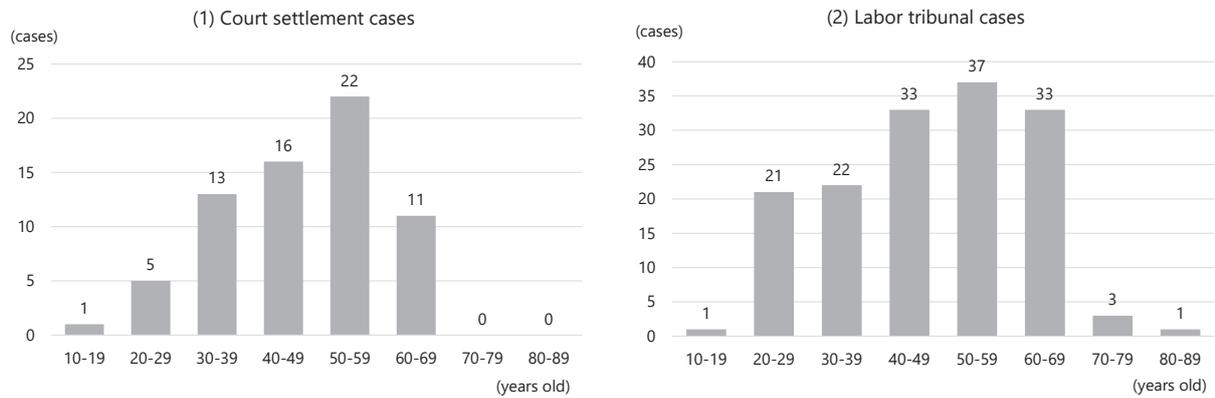


Figure 2. Breakdown by age (2022 Survey)

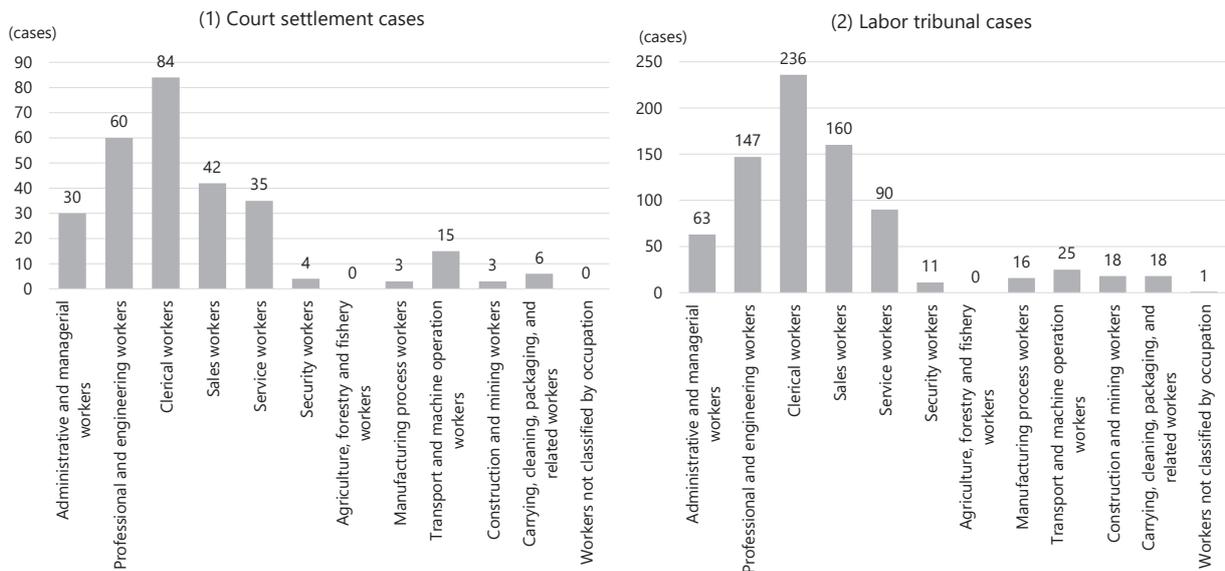


Figure 3. Breakdown by job type (2022 Survey)

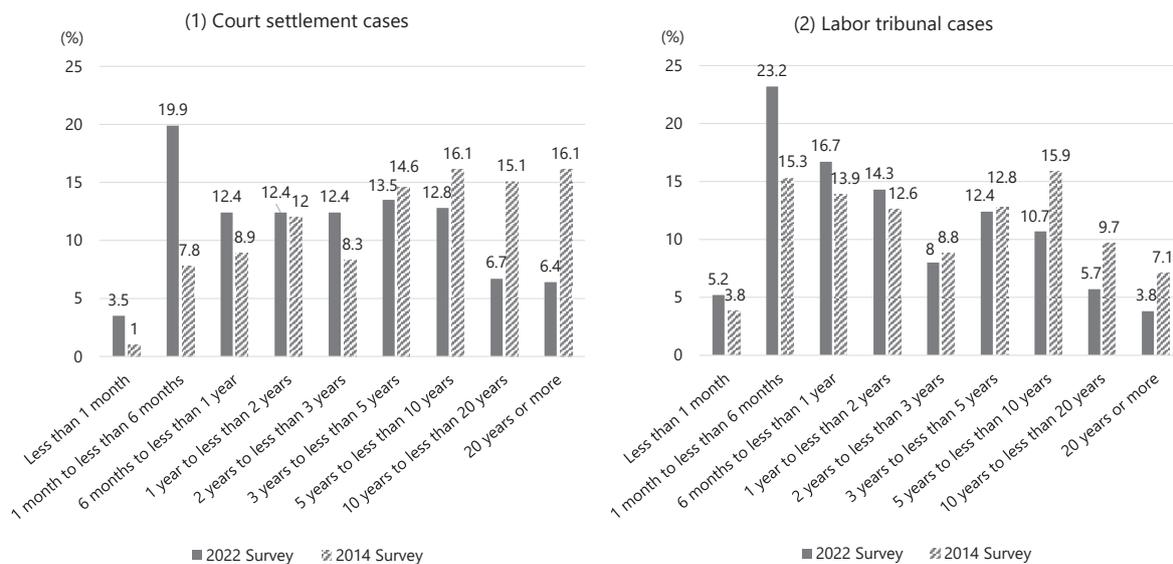


Figure 4. Breakdown by length of service

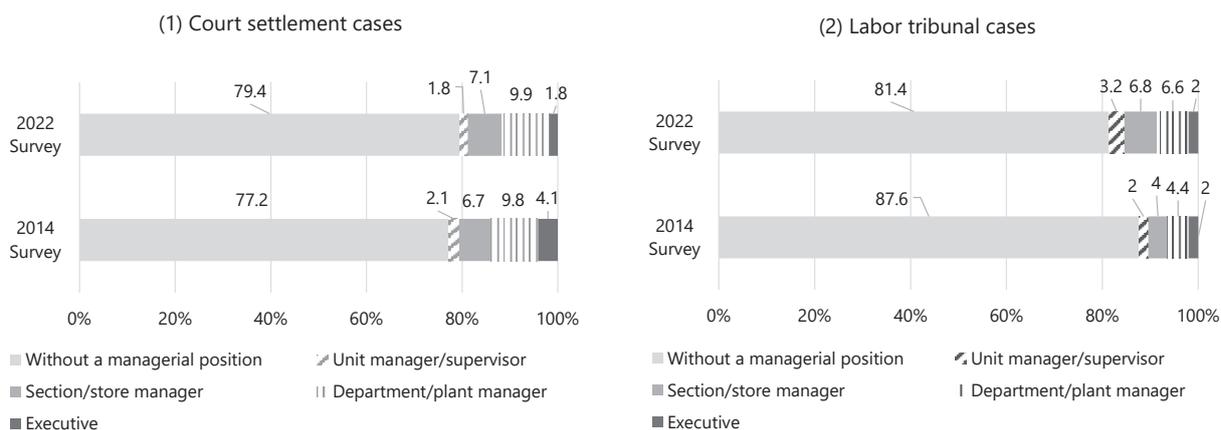


Figure 5. Breakdown by managerial position

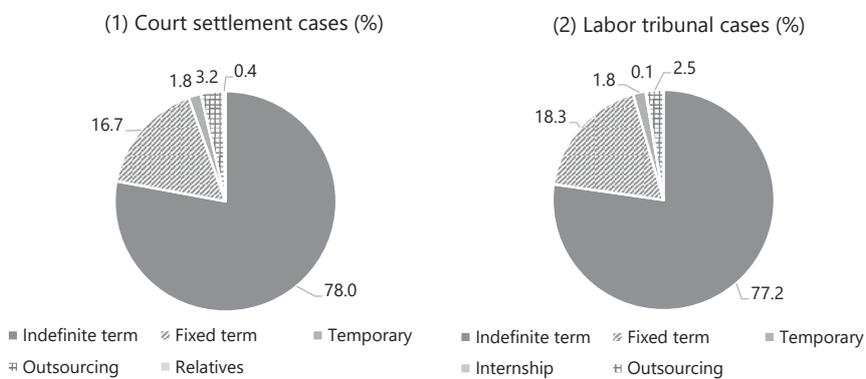
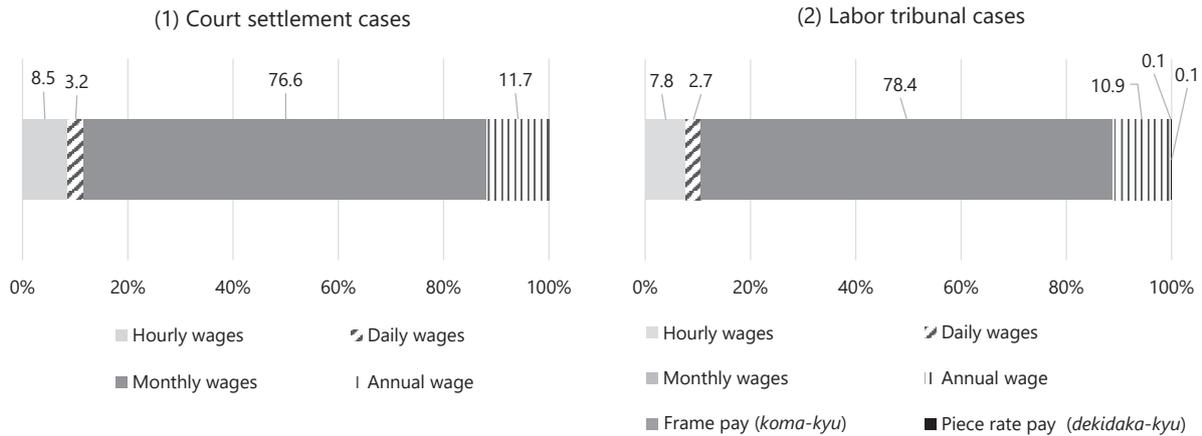


Figure 6. Breakdown by employment status (2022 Survey)



Note: “Koma-kyu” (translated here as frame pay) is a form of pay in which the amount is determined on the basis of unit of work, for example, pay per class (*koma*) for a lecturer.

Figure 7. Breakdown by wage structure (2022 Survey)

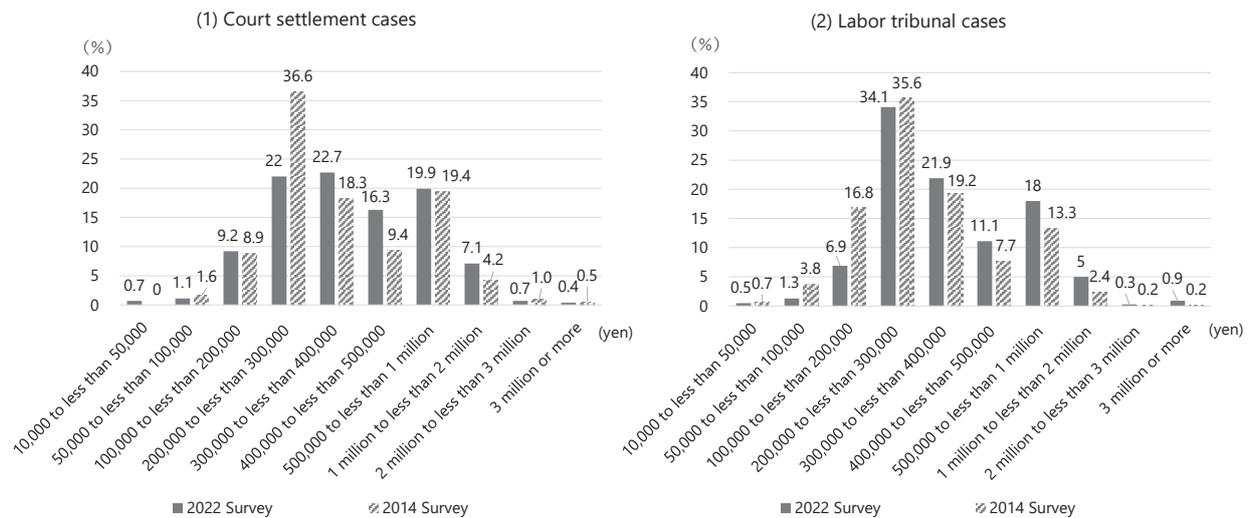


Figure 8. Breakdown by monthly wage earnings

(2) Employer firms' attributes

(A) Industry sector

The industry sector was collected as a survey item only in the 2022 Survey as was the job type in workers' attributes. The largest proportion involved workers employed in the wholesale and retail trade sector—to be exact, 47 court settlement cases (16.7%), as did 118 labor tribunal cases (15.0%). Among the court settlement cases, the second largest proportion, 36 cases (12.8%), involved workers employed in medical, health care and welfare, and

the third largest proportion, 31 cases (11.0%) in manufacturing. Among the labor tribunal cases, the second largest proportion, 104 cases (13.2%) involved workers employed in information and communications, and the third largest proportion, 78 cases (9.9%) in the manufacturing (Figure 9).

(B) Firm size (number of employees)

In the 2014 Survey, the firm size (number of employees) was identified in only 20 to 30% of all cases covered by the survey because the court records

did not contain that information in many cases. Therefore, the 2022 Survey adopted a different approach: the number of employees was identified based on information available from the websites of the employer firms. As a result, the number of employees was collected in 246 (87.2%) of 282 court settlement cases and 785 (90.8%) of 713 labor tribunal cases.

Consequently, it was found that workers employed by small and medium-sized enterprises (SMEs) and micro enterprises had a dominant presence—a much larger presence than might be expected—as users of both court settlement and labor tribunal proceedings. Cases involving firms with less than 300 employees, which are generally classified as SMEs, accounted for 71.1% of the court settlement cases and 74.8% of the labor tribunal cases. Thus, both figures, roughly three-quarters of the total, are close to such workers' share among the labor bureau conciliation cases, 77.4% in 2014. Cases involving firms with less than 30 employees, which are usually classified as small enterprises, made up 26.8% of the court settlement cases and 35.3% of the labor tribunal cases, while such cases' proportion was 42.0% among the labor bureau conciliation cases in 2014. Cases involving firms with less than 10 employees, which are usually classified as micro enterprises and exempted from the obligation to develop work rules, accounted for

9.3% of the court settlement cases and 16.3% of the labor tribunal cases. Comparing with the share of 20.9% in the labor bureau conciliation cases in 2014, workers employed by micro enterprises have a stronger tendency to use labor bureau conciliation, but not more than double the proportion of workers who use court settlement or labor tribunal proceedings. Rather, what is noteworthy is the fact that nearly 10% of the workers who filed a lawsuit and reached a settlement were workers employed by micro enterprises with less than 10 employees.

In Japan, it is usually argued that the financial compensation system for dismissal cases is unfavorable for workers employed by large firms who can endure an extended period of litigation and is favorable for large firms' management, while workers employed by SMEs who cannot endure an extended period of litigation stand to benefit from the system and SMEs' management stand to suffer a disadvantage. Indeed, there appears to be such a tendency. However, from the data concerning the firm size presented in this article, that tendency may be not so strong as is generally assumed. Now, the firm size, which is mentioned neither in the records of the court nor labor tribunal proceedings, was identified for the first time, it has become possible to hold discussions based on solid facts, rather than based on assumptions, paving the way to further evidence-based research on this subject (Figure 10).

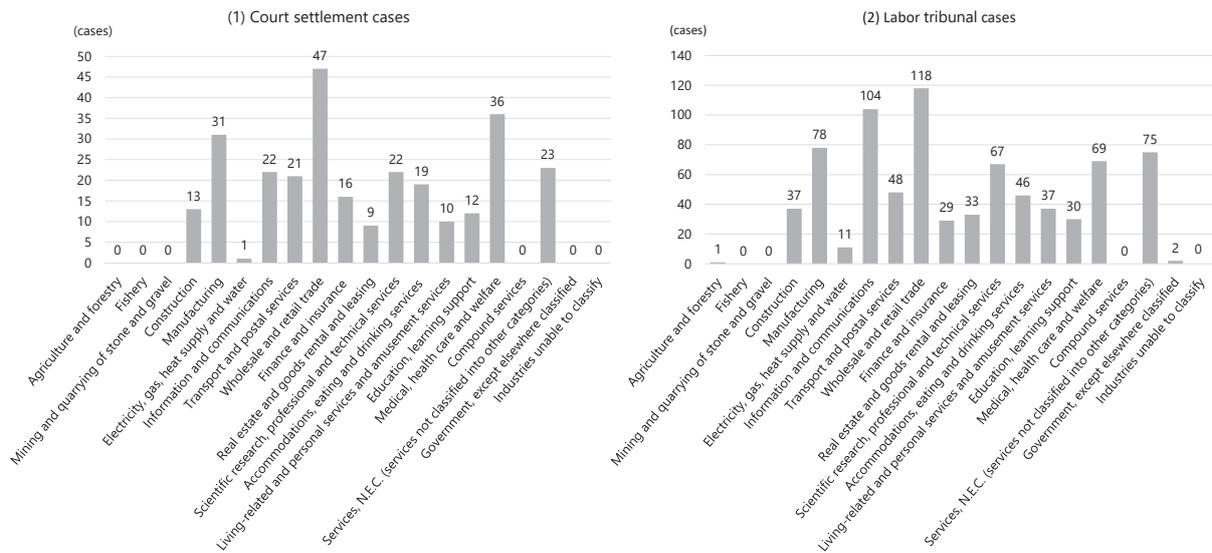


Figure 9. Breakdown by industry sector

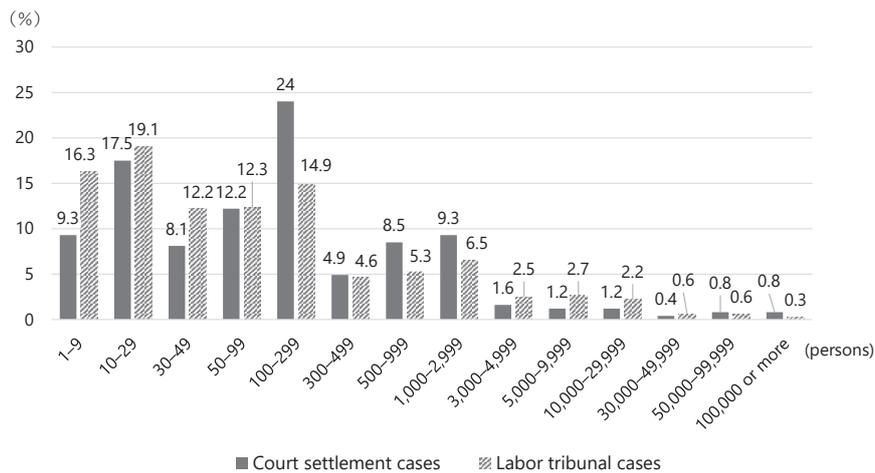


Figure 10. Breakdown by firm size (number of employees)

(3) Time cost

(A) Duration of proceedings

Regarding the duration of litigation and labor tribunal proceedings, from the filing of litigation and filing of a petition to resolution, the litigation proceedings tended to take a considerably longer time to be completed than the labor tribunal proceedings in both surveys. In 2022, both the litigation and labor tribunal proceedings tended to take a somewhat longer time to be completed compared with the duration observed in 2014 (Figure 11).

(B) Time required for resolution

In line with the lengthening of the duration of litigation and labor tribunal proceedings, the duration of the time required for resolution also tended to be longer in 2022 compared with that in 2014 (Figure 12).

(4) Form of employment termination

By form of employment termination, 114 cases (40.4%) were related to normal dismissal, 61 cases (21.6%) related to disciplinary dismissal, and 31

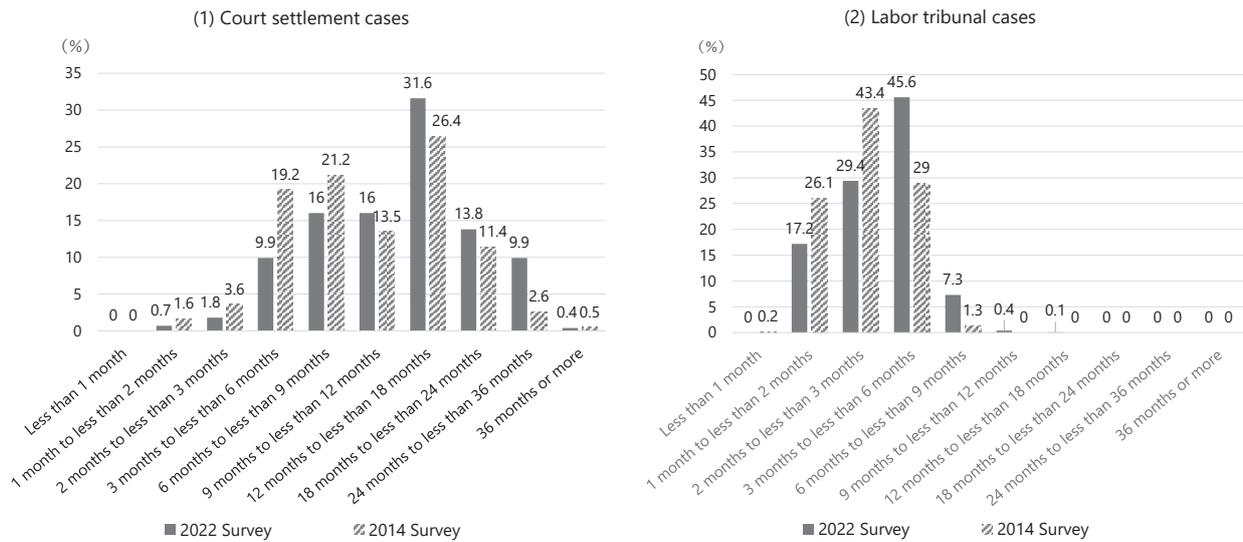


Figure 11. Breakdown by duration of proceedings

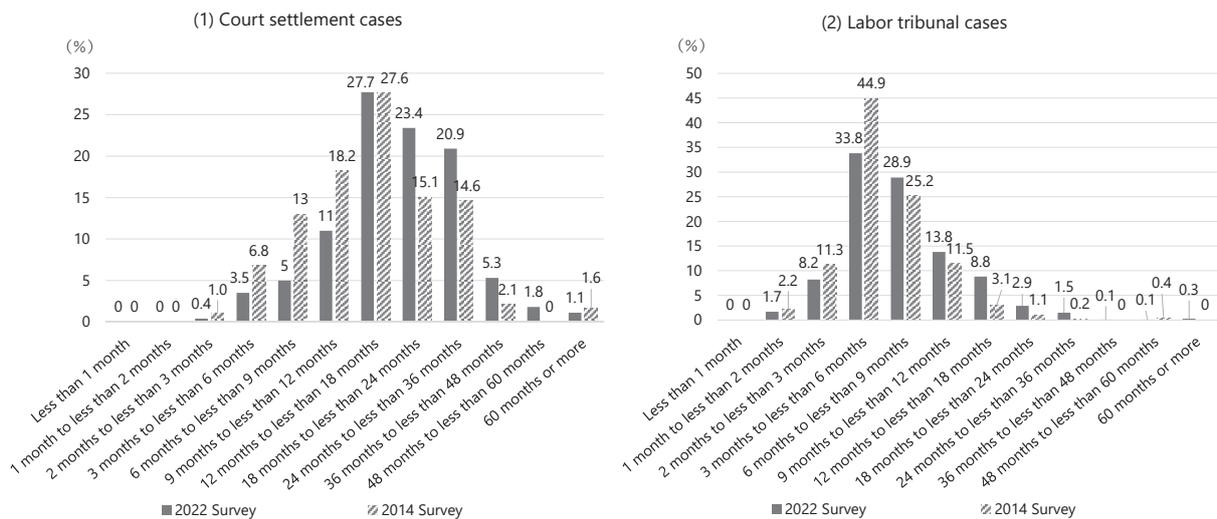


Figure 12. Breakdown by time required for resolution

cases (11.0%) related to dismissal for economic reasons among the court settlement cases: together, these three forms of termination accounted for 206 cases (73.0%). Among the labor tribunal cases, 365 cases (46.5%) were related to normal dismissal, 114 cases (14.5%) related to disciplinary dismissal, and 90 cases (11.5%) related to economic dismissal, with those three forms of dismissal together accounting for 569 cases (72.5%). Although there is little difference between the court settlement and labor tribunal cases in the total number of cases for the

three forms of employment termination, the proportion of cases related to disciplinary dismissal was somewhat higher among the court settlement cases than among the labor tribunal cases.

One notable result of the 2022 Survey is that the number of cases related to automatic termination due to the expiry of the term of leave of absence—15 cases (5.3%) among the court settlement cases and 27 cases (3.4%) among the labor tribunal cases—was in no way small. In these cases, the workers had taken an extended period of leave of absence due to

depression or other mental disorders—a situation reflecting the deterioration of mental health conditions in the labor community in recent years—and the employer firms asserted that those workers’ employment had been terminated in the form of automatic termination due the expiry of the term of their leave of absence. Those cases arose because the

workers refused to recognize the expiry of the term of leave of absence as the fulfillment of the requirement for automatic termination. Given the substantial proportion of cases related to automatic termination that reached court, it is conceivable that the number of similar cases that are occurring in real society is fairly high (Figure 13).

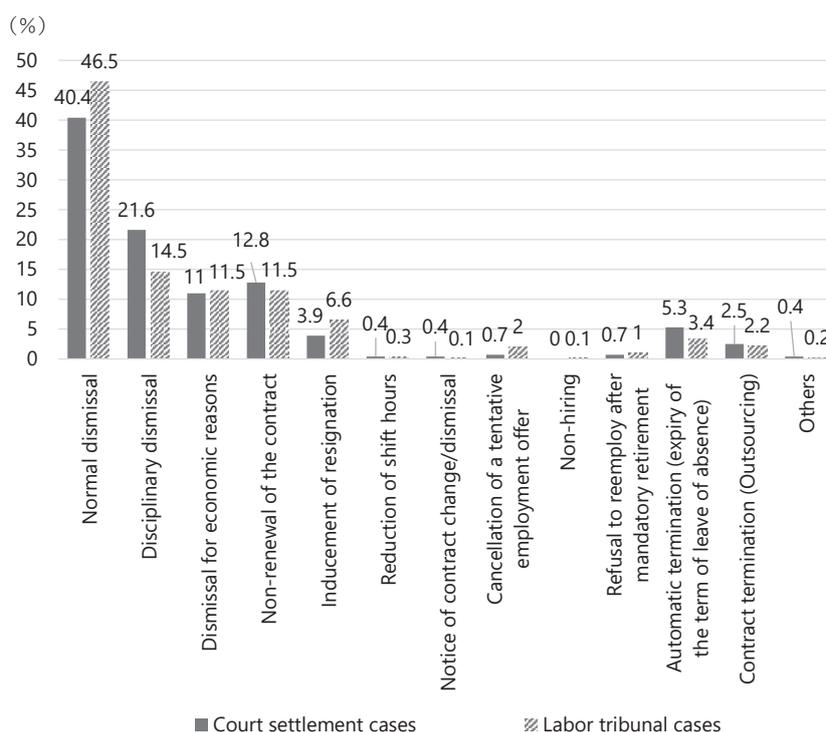


Figure 13. Breakdown by form of termination of employment

(5) Statement of claim and amount claimed

(A) Statement of claim

One of the criteria for selecting cases for the survey was that the case claimed included the confirmation of the employee status (confirmation to the effect that the dismissal is nullified, and that the claimant continues to be entitled to the status of employee under agreement with the employer firm) among the statement of claim. With that as a premise, Table 1 shows the result of triple cross-tabulation of the confirmation of employee status with the three main claims (besides the confirmation of the employee status): back pay, overtime pay, and

consolation money.

Among the 282 court settlement cases, there was a claim for back pay in the overwhelming majority of cases (274 cases, 97.2%), while there was not a claim for back pay in eight cases (2.8%). Meanwhile, there was a claim for overtime pay in slightly more than a quarter (72 cases, 25.5%), and there was a claim for consolation money in slightly less than 40% (112 cases, 39.7%).

Among the 785 labor tribunal cases as well, there was a claim for back pay in the overwhelming majority of cases (762 cases, 97.1%), while there was not a claim for back pay in 23 cases (2.9%). One

major difference compared with the court settlement cases is that the number of cases in which there was a claim for overtime pay was fairly small, at 114 (14.5%). One possible reason for this would be that the nature of the labor tribunal proceedings that emphasizes simplicity and promptness. The claimant may have become somewhat hesitant about claiming overtime pay because they need to present overtime hours and the calculated amount to claim in detail. On the contrary, there was a claim for consolation money in 254 cases (32.4%). The figure is slightly lower than the proportion of such cases among the court settlement cases but still a substantial number (Table 1).

(B) Amount claimed

In the 2022 Survey, the total amount claimed in each case was calculated by adding up the amounts of the above individual claims. On the other hand, in the 2014 Survey, the amount claimed was directly cited from the amount of the complaint or that of the matter for which the labor tribunal was sought in the petition, and as a result, those amounts were not necessarily the same as amounts actually claimed by claimants. In this respect, comparing this item between the two surveys is not feasible. The median of the total amount claimed in court settlement cases was 8.4 million yen, while that in labor tribunal cases was 2.9 million yen (Figure 14).

Table 1. Statement of claim (2022 Survey)

(1) Court settlement cases

			Claim for overtime pay						
			W/		W/o		Total		
Back pay	W/	Consolation money	W/	26	(9.2%)	79	(28.0%)	105	(37.2%)
			W/o	44	(15.6%)	125	(44.3%)	169	(59.9%)
			Total	70	(24.8%)	204	(72.3%)	274	(97.2%)
	W/o		W/	2	(0.7%)	5	(1.8%)	7	(2.5%)
			W/o	—		1	(0.4%)	1	(0.4%)
			Total	2	(0.7%)	6	(2.1%)	8	(2.8%)
	Total		W/	28	(9.9%)	84	(29.8%)	112	(39.7%)
			W/o	44	(15.6%)	126	(44.7%)	170	(60.3%)
			Total	72	(25.5%)	210	(74.5%)	282	(100.0%)

(2) Labor tribunal cases

			Claim for overtime pay						
			W/		W/o		Total		
Back pay	W/	Consolation money	W/	46	(5.9%)	198	(25.2%)	244	(31.1%)
			W/o	66	(8.4%)	452	(57.6%)	518	(66.0%)
			Total	112	(14.3%)	650	(82.8%)	762	(97.1%)
	W/o		W/	1	(0.1%)	9	(1.1%)	10	(1.3%)
			W/o	1	(0.1%)	12	(1.5%)	13	(1.7%)
			Total	2	(0.3%)	21	(2.7%)	23	(2.9%)
	Total		W/	47	(6.0%)	207	(26.4%)	254	(32.4%)
			W/o	67	(8.5%)	464	(59.1%)	531	(67.6%)
			Total	114	(14.5%)	671	(85.5%)	785	(100.0%)

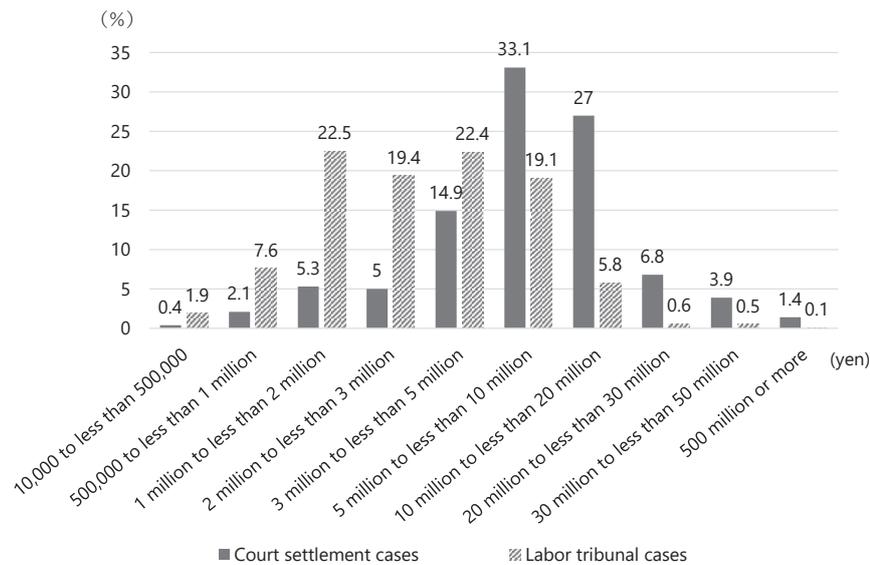


Figure 14. Breakdown by amount claimed

(6) Resolution content and resolution amount

(A) Resolution content

Here, we look at resolution content in terms of reinstatement and financial compensation. Among both the court settlement and labor tribunal cases, the overwhelming majority (higher than 96%)—272 court settlement cases (96.5%) and 758 labor tribunal cases (96.6%)—were resolved without reinstatement. The result sheds light on the current picture of employment termination cases: although dismissed workers seek reinstatement, their cases are mostly resolved with their employers agreeing to pay financial compensation but refusing to reinstate them.

The number of cases in which the dismissed workers were reinstated in some form to continue working was extremely small—three cases (1.1%) among the court settlement cases and six cases (0.8%) among the labor tribunal cases. While their number is very small, those cases had some interesting features. In all those three court settlement cases in which the dismissed workers were reinstated, the workers also won financial compensation. On the contrary, in just one (0.1%) out of those six labor tribunal cases, the dismissed workers were reinstated and won financial compensation at the same time. In

the other five cases (0.6%), the workers were reinstated, but financial compensation was not awarded (Table 2).

(B) Resolution amount (net amount)

The survey item that attracted the greatest attention in previous studies was, obviously, the resolution amount (the net amount of financial compensation). In both the court settlement and labor tribunal cases, the resolution amount was considerably higher in 2022 than in 2014.

Regarding the court settlement cases, in 2014, the 1 million to 2 million yen range in the resolution amount accounted for the largest proportion, 36 cases (20.7%), with the median at 2,301,357 yen in 2014, while in 2022, the 1 million to 2 million yen range and the 3 million to 5 million yen range were the most common ranges, accounting for 54 cases each (19.6%), with the median at 3,000,000 yen, 30% higher than the median in 2014. The greatest factor behind the increase is a rise in wages divided by monthly wages. As will be later explained, there was little difference between the 2014 and 2022 Surveys in terms of the resolution amount expressed in monthly wage earnings, which is calculated by dividing the resolution amount by the monthly wage

amount. Regarding the labor tribunal cases, the most common range was 100 million to 200 million yen in both surveys. However, while the distribution of the resolution amount in 2014 was more concentrated in ranges below 100 million to 200 million yen range, the distribution in 2022 was more concentrated in higher ranges. The median rose from 1,100,000 yen in 2014 by 30% to 1,500,000 yen in 2022 (Figure 15). The Report explores the determinants of the resolution amount based on a cross-tabulation of workers' and firms' attributes (omitted in this article).

(C) Resolution amount divided by monthly wage earnings

In terms of the resolution amount divided by monthly wage earnings, there was little difference between the 2014 and 2022 Surveys. Regarding the court settlement cases, 6 to 9 months' worth of monthly wages was the most common range in both surveys. The median was 6.8 months' worth in 2014 and 7.3 months' worth in 2022. Although the median rose 10%, the margin of increase was small compared with the increase in the actual amount of resolution. Regarding the labor tribunal cases as well, 6 to 9 months' worth of monthly wages was the most common range in both surveys. The median, which was 4.4 months' worth in 2014, remained roughly flat, at 4.7 months' worth, in 2022 (Figure 16).

(D) Resolution amount divided by monthly wage earnings and length of service

The resolution amount divided by the monthly wage earnings and length of service is considered to be an indicator useful for international comparison, given that some foreign laws, such as the German Protection Against Unfair Dismissal Act (KSchG) (Section 1a, Subsection 2), use the length of service and monthly wage earnings multiplied by a certain value, as the standard financial resolution amount in dismissal cases.

Regarding the court settlement cases, the resolution amount divided by the monthly wage earnings and length of service was less than 0.1 months' worth in most cases, to be more exact, 70 cases (40.7%) in 2014. In 2022, the most common range was 0.1 to 0.2 months' worth and 0.2 to 0.5 months' worth, each of which accounted for 62 cases (22.5%), and higher ranges also accounted for relatively larger percentages. The median, which was very low, 0.13 months' worth, in 2014, rose steeply to 0.39 months' worth in 2022. Regarding the labor tribunal cases, less than 0.1 months' worth, which accounted for 166 cases (38.2%), was by far the most common range in 2014. In 2022, 0.1 to 0.2 months' worth, which accounted for 191 cases (25.2%), was the most common range followed by 0.2-0.5 months' worth, for 171 cases (22.6%). The median, which was very low, 0.14 months' worth, in 2014, rose significantly to 0.29 months' worth in 2022 (Figure 17).

Table 2. Breakdown by resolution content (2022 Survey)

(1) Court settlement cases

		Reinstatement					
		W/		W/o		Total	
Financial settlement	W/	3	(1.1%)	272	(96.5%)	275	(97.5%)
	W/o	0	(0.0%)	7	(2.5%)	7	(2.5%)
	Total	3	(1.1%)	279	(98.9%)	282	(100.0%)

(2) Labor tribunal cases

		Reinstatement					
		W/		W/o		Total	
Financial settlement	W/	1	(0.1%)	758	(96.8%)	759	(96.7%)
	W/o	5	(0.6%)	21	(2.7%)	26	(3.3%)
	Total	6	(0.8%)	779	(99.2%)	785	(100.0%)

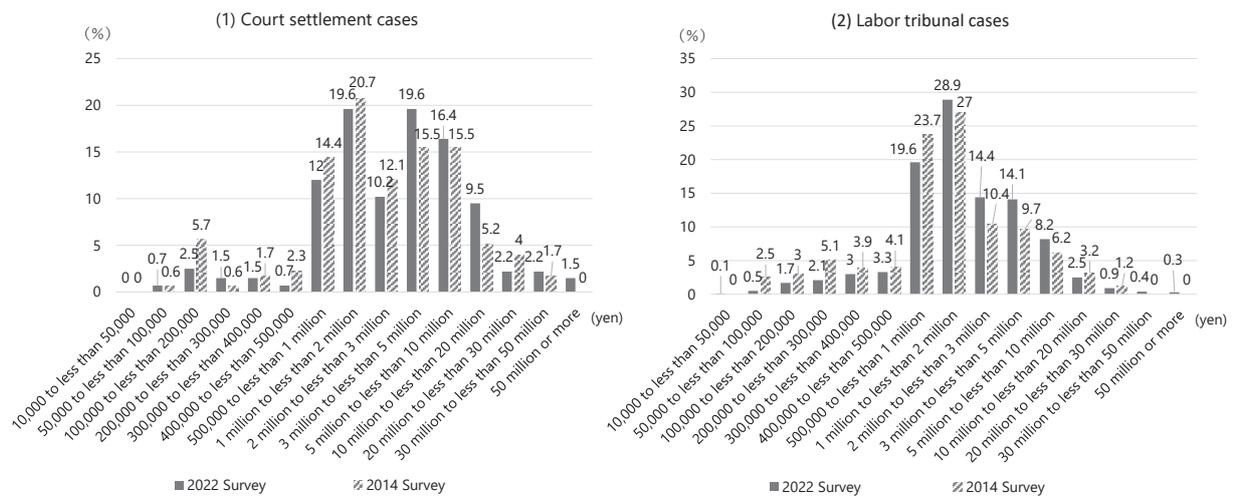


Figure 15. Breakdown by resolution amount

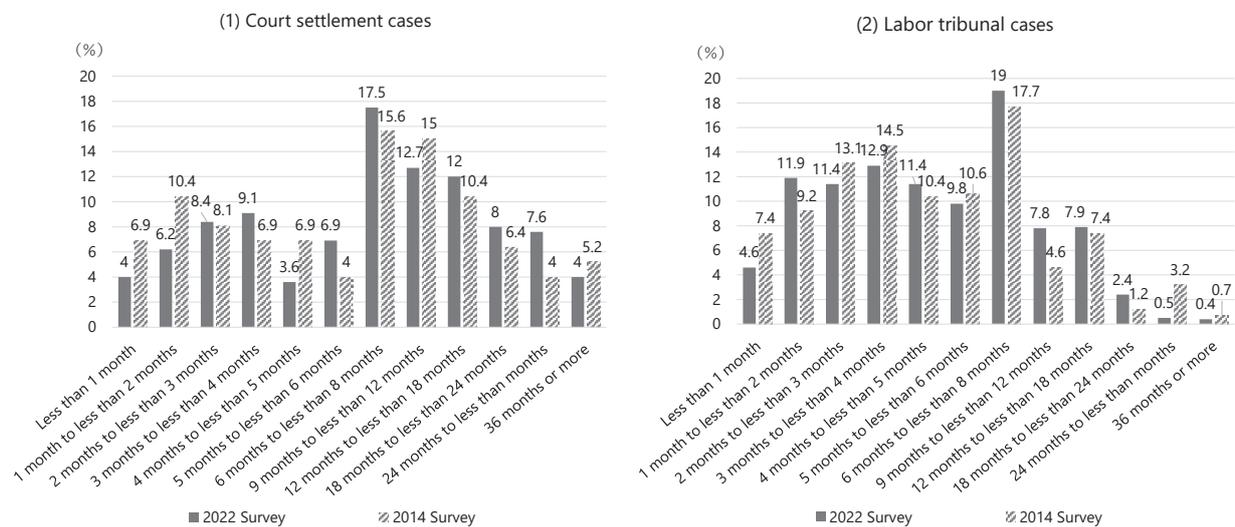


Figure 16. Breakdown by resolution amount divided by monthly wage earnings

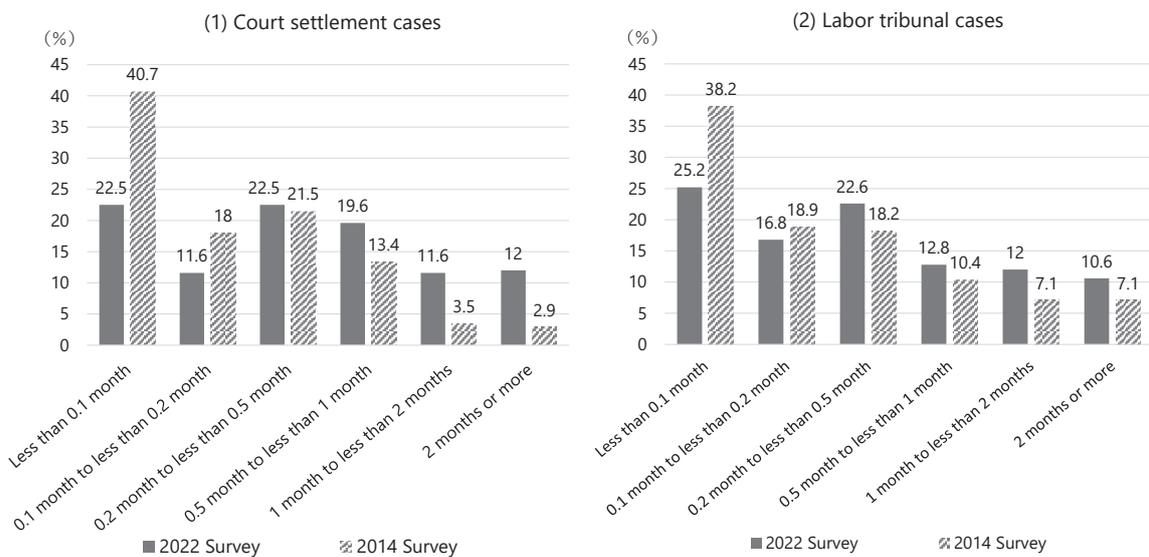


Figure 17. Breakdown by resolution amount divided by monthly wage earnings and length of service

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Commentary

Legality of Restriction on the Use of Restrooms in the Worksite by Gender Identity Disorder Employee

The *State and National Personnel Authority (METI Employee) Case*
Supreme Court (Jul. 11, 2023) 1297 *Rodo Hanrei* 68

IKEZOE Hirokuni

I. Facts

Appellant X (Plaintiff X at the district court and Appellee X at the high court) is a national government employee working for the Ministry of Economy, Trade and Industry (METI), and a transgender female who has not undergone gender reassignment surgery and whose gender remains a male on the family register. X asked the National Personnel Authority (NPA) for free use of the restrooms for women that matched X's gender identity, but the NPA made an administrative judgment to refuse X's request (administrative action regarding the use of restrooms and compensation for damages; hereinafter referred to as the "disputed part of the NPA's administrative judgment"). X also suffered emotional distress due to the restriction on the use of women's restrooms at the worksite (though permission was given to use women's restrooms two or more floors away from X's work area) and the comments by X's supervisor, etc. that denied X's gender identity or were otherwise inconsiderate to X. For these reasons, X filed administrative case litigation and state redress litigation against the national government (Defendant at the district court and Appellant at the high court; hereinafter referred to as "Y"), seeking the reversal of the disputed part of the NPA's administrative judgment and claiming damages including solatium.

In the first instance judgment (Tokyo District Court (Dec. 12, 2018) 1223 *Rohan* 52), the Tokyo District Court ruled that in light of the current legal system and the facts found of this case, in exercising

the authority to manage government facilities, X's employer METI neglected the duty of care by restricting X's access to women's restrooms, and that X's supervisor's comments denying X's gender identity were illegal under the State Redress Act, and affirmed Y's liability for damages. Furthermore, the court reversed the disputed part of the NPA's administrative judgment that refused X's request, on the grounds that it constitutes deviation from or abuse of the NPA's authority of discretion and therefore is illegal.

In the second instance judgment (Tokyo High Court (May. 27, 2021) 1254 *Rohan* 5), the Tokyo High Court dismissed X's claim for the reversal of the disputed part of the NPA's administrative judgment, holding, in summary, that it should be said that the METI implemented and maintained the relevant manner of treating X (allowing X to use women's restrooms except for those located on the floor of X's work area and the floors immediately above and below that) for the purpose of fulfilling its responsibility to establish an appropriate work environment for all employees including X, and therefore, the disputed part of the NPA's administrative judgment cannot be regarded as constituting deviation from or abuse of the NPA's authority of discretion and cannot be judged to be illegal.

In response to the final appeal filed by X, the Supreme Court made a determination on the part of the second instance judgment which was against X, that is, the part that pertains to the disputed part of the NPA's administrative judgment regarding the

restriction on the use of women's restrooms.

II. Judgment

The Supreme Court quashed the part of the second instance judgment which pertains to X's claim for reversal of the disputed part of the NPA's administrative judgment (the part of the second instance judgment which was against X), while dismissing Y's appeal (against the part of the first instance judgment which was against Y). The summary of the Supreme Court judgment is as follows.

“(1) In dealing with a request for administrative action on working conditions filed by X based on the provisions of Article 86 of the National Public Service Act, the NPA is required to make a professional decision on working conditions of a wide range of employees in accordance with the actual status of personnel administration and employees' engagement in work, from the viewpoint of ensuring impartiality regarding the general public and the persons concerned and developing and improving the employees' efficiency (Articles 71 and 87 of the same Act), and it is considered that a decision on this issue is left to the NPA's discretion.¹ Consequently, it is appropriate to consider that the abovementioned administrative judgment would be illegal if it is found to constitute deviation from or abuse of the NPA's authority of discretion.

(2) If this view is applied to this case, METI's treatment of X can be understood as the consequence of METI's attempt to make adjustment for the use of restrooms in the government office building from the viewpoint of securing appropriateness in the environment where its employees including X engage in work.

Being subject to METI's treatment, X, who has been diagnosed by a physician as having gender identity disorder, has no choice but to use men's restrooms which do not match the X's gender identity, or use women's restrooms on the floors that are away from where X works, and thus, it can be said that X is suffering considerable disadvantages on a daily basis.

On the other hand, although X has not undergone gender reassignment surgery for health reasons, X receives application of female hormone and has been diagnosed by a physician as being unlikely to commit sexual violence derived from sexual drives. In fact, after the explanatory meeting, no trouble has occurred as a result of X working in women's clothes and using women's restrooms that are two or more floors away from where X works. In addition, at the explanatory meeting, from the perspective of the employee in charge of the meeting, several female employees only appeared to feel uncomfortable about X's use of the women's restrooms on the floor where X works, and it does not seem that there was anyone who expressed clear disagreement. Nor does it seem, during the period of about four years and ten months after the explanatory meeting was held until the NPA's administrative judgment was made, that a survey was conducted again to identify whether there was any other employee to whom special care should be given in connection with X's use of women's restrooms in the government office building and that METI's treatment of X was reconsidered.

From the above, at the time of the NPA's administrative judgment, at the latest, it was difficult to assume that trouble would occur due to X's free use of women's restrooms in the government office building, and the presence of any other employee to whom special care should be given had not been identified. Thus, it should be said that there were no specific circumstances due to which X should accept the disadvantages mentioned above resulting from METI's treatment of X. Considering the above, it must be said that in making the determination that led to the disputed part of the NPA's administrative judgment, the NPA overweighed the care to be given to other employees, without taking into account the specific circumstances in this case, and unduly downplayed the disadvantages suffered by X, and it did not make a decision from the viewpoint of ensuring impartiality regarding the persons concerned and developing and improving the efficiency of employees including X, and thus, the NPA's determination is extremely unreasonable.

(3) Consequently, it should be said that the

disputed part of the NPA's administrative judgment constitutes deviation from or abuse of the NPA's authority of discretion and therefore it is illegal."

III. Commentary

This is the first case in which the Supreme Court determined the illegality of the restriction imposed by the employer on the use of worksite facilities (women's restrooms) by an employee with gender identity disorder (a male-to-female transgender who has not undergone gender reassignment surgery and whose gender remains unchanged in the family register²). In this case filed to seek the reversal of administrative action, the Supreme Court made a determination only on the basis of the specific facts of the case. Precedents on cases involving workers with gender identity disorder are discussed in the commentary on the high court judgment on this case.³

Although the Supreme Court's determination in this case was made only on the basis of the specific facts of the case, it has extremely significant implications because the Supreme Court considered the "specific circumstances," which is the essential element of the determination (hereinafter referred to as the "theory of specific circumstances"), more concretely than the high court by comparing the disadvantages suffered and the care required, and in this respect, that determination can be the starting point for considering the similar cases in the future.

The "specific circumstances" of the case described in this judgment consist of the following facts. While X is suffering considerable disadvantages on a daily basis, (i) X receives application of female hormone and has been diagnosed by a physician as being unlikely to commit sexual violence derived from sexual drives, and no trouble has occurred as a result of X working in women's clothes and using women's restrooms that are two floors away from where X works. (ii) At the meeting held to explain X's gender identity disorder to other employees, there was no one who expressed clear disagreement with X's use of women's restrooms on the floor where X works. (iii) During the period of about four

years and ten months after the explanatory meeting was held until the NPA's administrative judgment was made, no survey was conducted to identify whether there was any other employee to whom special care should be given in connection with X's use of women's restrooms in the government office building and METI's treatment of X was not reconsidered. In summary, for three reasons, that is, (i) X is unlikely to harm other employees, (ii) no clear disagreement was expressed by other employees regarding X's use of women's restrooms, and (iii) METI did not ascertain the subsequent situation or reconsider its treatment of X in terms of the use of women's restrooms, the Supreme Court concluded that there were no specific circumstances due to which X should accept the disadvantages on a daily basis.

Based on the above, the significant implications of this judgment are examined. The Supreme Court reached a specific determination through the interpretation of the National Public Service Act. Not only in cases like this one involving national government employees, it also seems possible to apply the theory of specific circumstances in cases involving local government employees, as the Local Public Service Act includes provisions that are similar to the relevant provisions of the National Public Service Act (Article 8 Paragraph 1, Article 14, and Article 41 of the Local Public Service Act).⁴ Furthermore, it also seems possible to apply the theory of specific circumstances in interpreting and applying employment contracts (provisions of work rules) at private companies by way of the principle of good faith (although the legal remedy may be limited to compensation for damages). Therefore, this is an important court judgment that persons in charge of personnel and labor affairs at private companies must take note of.

The Tokyo High Court mentioned the legal interest that persons with gender identity disorder have, stating that "Leading a social life in accordance with one's gender identity is a legally protected interest." The Supreme Court made no particular mention of this point and made a determination based on the interpretation of the provisions concerning the

treatment of employees under the National Public Service Act. In addition, the Supreme Court did not particularly deny the process of making adjustment among the persons concerned which was indicated by the high court, but rather, considered the special care to be given to other female employees in association with the disadvantages suffered by X.

If we consider that the Supreme Court also construes that leading a social life in accordance with one's gender identity is a legally protected interest, as is the case with the high court, we can understand that the Supreme Court has indicated the "theory of specific circumstances" as the criterion for determination that is suited to protect such legal interest, on the grounds, according to the facts of the case, that no objection was raised by other female employees and no specific trouble occurred. In addition, the Supreme Court seems to suggest that in examining each case specifically according to the theory of specific circumstances, it is necessary to compare and adjust interests of the persons concerned, while fully understanding that leading a work life in accordance with one's gender identity is a legally protected interest.

This judgment is accompanied by the concurring opinions given by all five Justices (one of the five Justices agreed to another Justice's concurring opinion), which is extremely rare, indicating their cautious attitude so as not to cause social unrest from the scope of this judgment and its impact on society. Each of the judges seems very worried about this judgment leading to misunderstanding of people and had addressed their concerns on various aspects of social life.⁵ The Justices also expressed demands regarding institutional policies and personnel practices, which seems to indicate that this issue will need to be discussed in the society as a whole in the future. At the end of the concurring opinions, Presiding Justice Imasaki points out that this judgment is not a legal interpretation indicating how restrooms should be used as public facilities that are expected to be used by many and unspecified persons. The determination presented in this judgment is a determination on the use of restrooms at a particular worksite, which was made only on the basis of the

facts of the case.

In other countries, the case like this may be directly treated as an antidiscrimination law case. However, in Japan, it took many years even to establish law against gender discrimination that had been observed historically. In addition, although other laws against discrimination in terms of disabilities, workers' attributes or physical conditions (including personal background such as pregnancy and childbirth) are gradually being established, legal measures have been taken to have persons in the minority included in or adapt to the labor market or companies through moderate government intervention in employment management at companies, instead of directly determining whether or not the relevant case constitutes discrimination.⁶ In light of such tendency in Japan's policies, it is presumed that with regard to transgender workers, as in this case, or LGBTQ workers, legal policies will be carried forward slowly over time and will penetrate into corporate practice in due course. With a view to realizing a society where people can accept each other's diversity, we should remain focused on the future development of legal policies and trends in corporate practice.

[Postscript] *In response to another recent Supreme Court decision*

On October 25, 2023, after the author had completed this commentary, the Supreme Court rendered a decision on the case that may affect the future determination on the legality of the treatment of people with gender identity disorder at each worksite. When a person with gender identity disorder changes gender on family register, the Act on Special Cases in Handling Gender Status for Persons with Gender Identity Disorder (Act No. 111 of 2003) requires a condition that the person has lost their reproductive function.⁷ The Grand Bench of the Supreme Court (Presiding Justice, Chief Justice Saburo Tokura) unanimously declared such a condition void in light of the people's "right to life, liberty, and pursuit of happiness" under Article 13 of the Constitution (see the decision at https://www.courts.go.jp/app/files/hanrei_jp/527/092527_hanrei).

pdf [in Japanese]).

In the future, if the loss of the reproductive function is not needed as a requirement for changing gender on the family register, there may be more people with gender identity disorder whose gender has been changed on the family register but who physically maintain their reproductive function and seek to use restrooms at their worksite depending on the gender with which they identify. In such cases, the understanding of other people who use the same restrooms will be more important than in the case discussed in this article. Then, employers will be expected to promote a better understanding among the people at the worksites, comprehend their opinions and feelings on an ongoing basis, and develop an environment to improve the treatment of people with gender identity disorder based on such other people's opinions. Whether these steps are taken will be an important point when determining the legality of the treatment of people with gender identity disorder at each worksite.

1. National Public Service Act

Article 71 Paragraph 1: Effort must be made to fully develop and improve the efficiency of officials.

Article 86: Officials may make requests to the National Personnel Authority that appropriate administrative action be accorded by the National Personnel Authority, the Prime Minister, or the head of the competent authority, relating to salary, compensation, or any other working conditions.

Article 87: When a request provided for in the preceding Article is filed, the National Personnel Authority must conduct investigations, hearings or other fact-finding reviews as it finds necessary, and reach a determination on the case with due regard to impartiality to the general public and the persons concerned and in terms of developing and improving the efficiency of officials.

2. The Act on Special Cases in Handling Gender Status for Persons with Gender Identity Disorder requires a person with gender identity disorder to have lost their reproductive function as a condition for changing their gender on the family register (Article 3, Paragraph 1, item 4). See below for the actual text of the article.

Article 3 (1) A family court may make a ruling of a change in the recognition of the gender status of a person who is a Person with Gender Identity Disorder and who falls under all of the following items, at the request of such person: (i) is not less than 20 years of age; (ii) is not currently married; (iii) currently has no child who is a minor; (iv) has no reproductive glands or whose reproductive glands have permanently lost function; and (v) has a body which appears to have parts that resembles the genital organs of those of

the Opposite Gender.

(2) A person who makes a request as referred to in the preceding paragraph must submit a medical certificate issued by a physician which contains particulars specified by Ordinance of the Ministry of Health, Labour and Welfare, such as the results of the diagnoses referred to in the preceding Article and the progress and results of treatment with regard to the Person with Gender Identity Disorder referred to in said paragraph.

3. For the lower courts' judgments, including the second instance judgment in this case, see *Japan Labor Issues* 6, no 38(July 2022): 13. https://www.jil.go.jp/english/jli/documents/2022/038_03.pdf.

4. Local Public Service Act

Article 8 Paragraph 1 (extract): The personnel committee administers the following affairs:

(v) making recommendation to the assembly and head of the local public entity with regard to measures to be taken in relation to remuneration, working hours, or other terms and conditions of employment.

(ix) conducting examination, making determination, and taking necessary measures with regard to a request for measures concerning officials' remuneration, working hours or other conditions of work.

Article 14 Paragraph 1: A local public entity must take appropriate measures when necessary to ensure that remuneration, working hours, or other conditions of work prescribed under this Act are adapted to the situation in society in general.

Paragraph 2: The personnel committee may make recommendations to the assembly and head of the local public entity when necessary with regard to the measures to be taken pursuant to the provisions of the preceding paragraph.

Article 41: Welfare and protection of interests for officials must be appropriate and impartial.

5. Looking at the concurring opinions related to the court's holding, Justice Eriko Watanabe stated that the interests of other female employees should not be disrespected, but, at the same time, the transgender employee's gender identity is an important legal interest under protection, and therefore, it is necessary to compare and adjust interests objectively and specifically, and in this case, whether the interests of other female employees were actually violated or would have been violated should be examined specifically and objectively. Justice Watanabe also stated that in comparing and adjusting interests, it is difficult to decide a uniform manner of treating employees in terms of the use of restrooms and it is necessary to make a determination on a case-by-case basis. Presiding Justice Yukihiko Imasaki stated that in light of various situations surrounding the transgender employee and coworkers, this case is not suited to a uniform solution and there is no option but to explore an optimal solution by closely hearing opinions and reactions of the transgender employee and other employees.

6. Article 34 of the Act to Facilitate the Employment of Persons with Disabilities provides that "In recruiting and hiring workers, an employer must give persons with disabilities opportunities equal to (equal opportunities to [translation by the government]) those they give to persons without disabilities." Article 35 of the same Act provides that "An employer must not use the fact that a worker has a disability as a reason to engage in treatment that

unjustly differentiates that worker from persons without disabilities in terms of wage decisions, implementation of education and training, use of employee welfare and recreational facilities, and other elements of worker treatment.”

However, these provisions, despite their expressions, are not interpreted as immediately giving rise to illegality under private law in the event of their violation (although illegality may be found through general provisions under the Civil Code such as public order and the principle of good faith). Rather, the Act stipulates advice, guidance and recommendations to be given to an employer by the Minister of Health, Labour and Welfare in connection with the entry into effect of these provisions (Art. 36-6), stipulates advice, guidance and recommendations to be given by the director of the prefectural labor bureau in the event of a dispute between the parties (Art. 74-6), and also stipulates the dispute resolution procedure to be initiated by the dispute adjustment committee (*funso chousei iinkai*), an administrative body, upon an order of the director of a prefectural labor bureau (Art. 74-7).

On the other hand, the Act on Equal Opportunity and Treatment between Men and Women in Employment includes a provision that prohibits disadvantageous treatment due to pregnancy and childbirth (Art. 9). The nature of this provision, as in the case of other provisions of the same Act, is interpreted as giving rise to illegality under private law in the event of its violation. Almost similarly to the relevant provisions of the Act to Facilitate the Employment of Persons with Disabilities, the Act on Equal Opportunity and Treatment between Men and Women in Employment stipulates request of reports, advice, guidance and recommendations to be given to an employer by the Minister of Health, Labour and Welfare (Art. 29), and stipulates publication of an employer that has failed to comply with the minister’s recommendations (Art. 30). Regarding dispute resolution, it also stipulates advice, guidance and recommendations to be given by the director of the prefectural labor bureau and the dispute resolution system initiated as an administrative process by the dispute adjustment committee.

7. *supra* note 2.

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Will the Japanese Long-Term Employment System Continue to be Maintained?

FUJIMOTO Makoto

I. Length of employee tenure in Japan

By international standards, employee tenure tends to be longer in Japan. Table 1 shows the ratios of workers by years of employee tenure between 2020 and 2022 in Japan, South Korea, the United States, and European countries. The ratio of workers consecutively employed for ten years or more in Japan is 46.8%, the second highest following the ratio in Italy (48.6%). The ratio exceeds 40% is only in four countries other than Japan.

According to the Ministry of Health, Labour and Welfare (MHLW)'s *Basic Survey on Wage Structure* (2022), the average employee tenure of Japanese workers as a whole is 12.3 years. Of course, this depends on the attributes of workers and the corporate

organizations to which they belong. Comparing male and female workers, average tenure tends to be longer for males, and to be longer if their company is larger in scale (Table 2). The characteristic of Japanese workers in global terms, i.e., longer tenure, appears particularly pronounced among male workers employed by large corporations.

Compared with 2016, the average years of employee tenure in Japan as a whole increased by 0.4 years. The average tenure also increased for all groups by corporate scale, and gender. Japanese workers' tendency to work longer for the same employer has further intensified overall in these few years, irrespective of gender or corporate scale when compared internationally.

Table 1. Ratios of workers by years of employee tenure

	less than 1 year	1-2	3-4	5-9	10-14	15-19	20 or more years	
2021								%
JPN 1)	7.3	14.8	11.7	19.4	14.1	10.1	22.6	JPN
USA 2)	24.3	10.9	17.9	19.9	9.7	6.4	10.8	USA
	less than 1 month	1-5	6-11months	1-2years	3-4	5-9	10 or more years	
USA 3)	—	13.0	9.2	12.7	17.8	19.3	28.0	USA
CAN	—	11.0	8.2	20.7	13.1	17.0	30.0	CAN
UK	1.3	8.3	6.2	21.0	14.8	17.8	30.6	UK
DEU	1.6	6.4	7.2		45.6		39.2	DEU
FRA	2.2	7.6	7.0		40.7		42.6	FRA
ITA	1.6	6.6	5.0		38.3		48.6	ITA
NLD	2.3	10.0	9.0		47.2		31.4	NLD
BEL	1.6	6.3	5.9		42.9		43.3	BEL
DNK	2.2	10.0	9.8		52.2		25.8	DNK
SWE	2.1	8.9	7.9		51.3		29.8	SWE
FIN	3.0	11.0	8.6		45.7		31.7	FIN
NOR	0.5	6.3	7.7		54.4		31.1	NOR
ESP	2.6	9.2	7.0		39.1		42.1	ESP
KOR	6.5	14.1	10.5	21.3	11.5	14.9	21.3	KOR

Sources: Data from Ministry of Health, Labour and Welfare, *Basic Survey on Wage Structure*, 2021 (March 2022); U. S. Bureau of Labor Statistics, "Employee Tenure in 2022" (September 2022); and OECD Database (<https://stats.oecd.org/>), "Employment by job tenure intervals" (as of October 2022).

Notes: 1) Targeting regular workers employed by private companies as of the end of June 2021, excluding part-time workers; calculated by JILPT; 2) As of January 2022. The data for one year or more but less than three years is calculated by JILPT; and 3) Data for 2020 provided by OECD.

Table 2. Average years of employee tenure (by gender and corporate scale)

2016			
	All workers	Male workers	Female workers
All companies	11.9	13.3	9.3
1,000 employees or more	13.6	15.4	10.0
100–999 employees	11.4	12.7	9.0
10–99 employees	10.4	11.2	8.8
2022			
	All workers	Male workers	Female workers
All companies	12.3	13.7	9.8
1,000 employees or more	13.9	15.8	10.5
100–999 employees	12.0	13.4	9.6
10–99 employees	11.1	12.0	9.4

Source: Ministry of Health, Labour and Welfare, *Basic Survey on Wage Structure* (2016 and 2022).

II. Why is employee tenure in Japan so long?

Why then do Japanese workers tend to work longer for the same employer? It could be because of the long-term employment system established by Japanese companies. This system in Japanese companies has the primary aims of (1) guaranteeing the long-term livelihoods of employees (regular employees), and (2) developing employees' skills over the long term (Inagami 1999). Guarantees of long-term livelihoods are achieved by two elements; namely practicing stable long-term employment with normative frameworks (i.e., new graduate recruits and young mid-career recruits have to be continuously employed until mandatory retirement age) and seniority-based pay structures that provide standard living expenses commensurate with employees' life cycle stages (a system in which wages rise with increasing age and increasing years of continuous employment).

On the other hand, of the two elements that guarantee livelihoods, the seniority-based wage system also reflects employees' long-term skills development, achieved as a result of OJT (on-the-job training) during day-to-day work and the motivating function of a competitive relationship among employees. Many Japanese companies recruit new employees mainly from young people who have just graduated from school (new school graduates). This tendency is prominent among large corporations.

Until they are hired, these graduates have no experience of regular employment in a company, and so it is not known what sort of job skills they might have. When hiring new recruits, therefore, companies are primarily interested in their trainability after hiring, on the assumption that job skills will improve as they accumulate experience of working inside the company. Based on this assumption, many companies form their pay structures with wages gradually increasing as continuous employment is accumulated.

The long-term employment system of Japanese companies and the long tenure of Japanese employees seem to have been achieved based on the intentions of both employers and employees. Specifically, companies need to recoup the investment made in hiring new school graduates and giving them various education and training opportunities designed to boost job skills after hiring them. To achieve this, employees who have acquired a certain level of job skills should ideally work for as long as possible, and the period during which their productivity is greater than the wages they receive should also be as long as possible. Therefore, companies try to raise workers' motivation to stay in the workplace by increasing wages in line with continuous employment. For the employees, meanwhile, if the company adopts a wage structure that places emphasis on long-term continuous employment, the longer they work consecutively for the same company, the higher the wage they can expect to receive. In addition, employees' motivation to remain in long-term

continuous employment is further boosted by the fact that in order to retain employees, many companies adopt a structure in which employee incentives other than regular wages, such as retirement benefit, become more advantageous as their length of employment increases. The aim of this is to encourage employee loyalty.

III. Will the long-term employment system change?

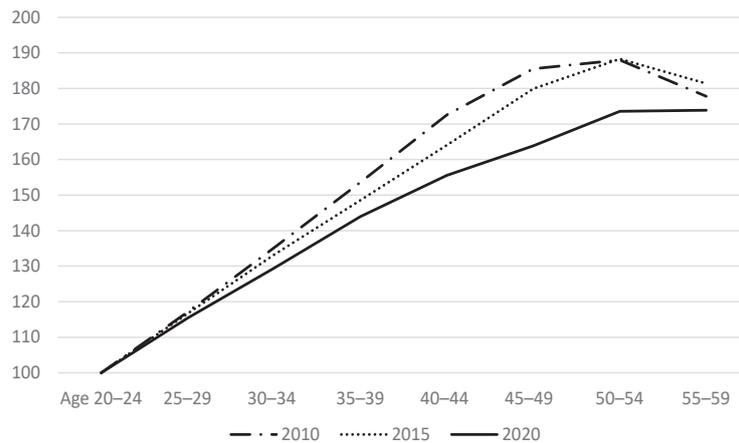
Will the long-term employment system adopted by many Japanese companies continue to be maintained in the future as it has been so far? Enterprise surveys, such as the Japan Institute for Labour Policy and Training (JILPT)'s "Survey on Challenges in Career Formation and Employment Management in the 100-year-life Era" conducted in 2020 (JILPT 2020) and thereafter, reveal that around 80–90% of large- and medium-sized Japanese corporations want to maintain long-term stable employment for as many regular employees as possible in the future. This situation has remained unchanged since before 2010 or even before that (See Fujimoto 2017).

However, the seniority-based wage system practiced by many Japanese companies in tandem with the long-term employment of their employees—an important element in achieving long-term livelihood guarantees for those employees—has the inherent risk that companies pay wages exceeding the productivity of workers whose job skill development has reached its limit. This kind of risk did not surface during the 1950s to 1970s, when Japanese companies were enjoying rapid growth. But from the second half of the 1970s, when the Japanese economy stopped growing as robustly as before, companies increasingly saw the high cost of middle-aged and older workers' wages as problematic. Particularly among large corporations, this triggered the spread of *shukkō*, or temporary transfer to another company while maintaining the employment relationship with the original company, and *tenseki*, or moving out to another company without maintaining the employment relationship with the

original company, known as personnel management practices whereby companies transferred or relocated their own middle-aged and older workers to business partners or subsidiaries. During the long recession in the 1990s, moreover, a succession of companies experienced serious business downturns. Many of these started practicing "solicitation for voluntary early retirement" (*sōki taishoku boshū*), whereby employees over a certain age (usually those in their late 40s to 50s) were offered to retire voluntarily in exchange for add-ons to their retirement pay, or other rewards.

As personnel measures designed to force middle-aged and older workers away from companies (whether by *shukkō*, *tenseki* or solicitation for voluntary early retirement) become established, it is possible that the tendency toward long tenures seen in Japanese workers will gradually weaken. In fact, the average tenures of university or postgraduate degree-holding male employees in their early 50s are tending to become shorter in large corporations (with 1,000 employees or more), albeit gradually (from 25.3 years in 2006 to 24.6 years in 2016).

In addition, given the increasingly fierce global competition coupled with the aging and declining population, companies find it harder to make projections of growth. This is making it harder for them to maintain an organizational structure whereby many employees can be guaranteed a career rising to a certain managerial level (such as section manager). According to the *Basic Survey on Wage Structure*, of employees with university degrees, the proportion of those serving as section managers in their early 40s fell from 32.3% in 1990 to 16.5% in 2021. Although the aforementioned systems of seniority-based wages are still being maintained by Japanese companies, moves to change these systems have become conspicuous since the beginning of the 2000s. During the ten years since 2010, the tendency of wages to increase with age became weaker year by year (Figure 1). "General Survey on Working Conditions" (MHLW 2022) reveals that 40.4% of companies had revised their wage systems during the period between 2019 and 2021. The content of revisions was "to expand the wage portion corresponding to job



Source: Ministry of Health, Labour and Welfare, Basic Survey on Wage Structure (2016).

Note: The average salary for official work hours among ordinary workers aged 20–24 at private companies with ten employees or more = 100.

Figure 1. Situation of wages by age group

content, such as work duties or job type,” “to expand the wage portion corresponding to ability to perform work duties,” or “to expand the wage portion corresponding to performance and results,” among others. In other words, the aim is often to reflect the job performance or job content more closely in the wage, irrespective of age or years of continuous employment.

Thus, as levels of livelihood and career guarantees under long-term employment gradually diminish, employees who want to stay in their current place of work and commit to it are not the overwhelming majority as they had been before. According to the “Survey on the Current Situation and Challenges of Human Resources Development and Skills Development” conducted by JILPT in 2020 (JILPT 2021), in response to the question asking regular employees working for companies with 300 employees or more about their career perspective, 18.4% answered that they would become department or section managers or hold higher positions in the same company and 27.3% answered that they would become an expert for their job in the same company; the respondents who gave these answers were less than 50% of the total.

Some companies are exploring and promoting an employment practice that is different from long-term employment in terms of utilization of human

resources and career formation. The concept of “human capital management,” advocated actively by the Ministry of Economy, Trade and Industry since the beginning of the 2020s, recommends a shift from the relationship in which companies and employees are dependent on each other by means of the long-term employment system and the seniority-based wage structure to a relationship in which companies and individuals choose each other. In addition, around 2000, the Japan Business Federation (Keidanren) and other employers’ associations initiated the idea of “self-regulated career management,” which considers it ideal for individuals to work on career development and continuous learning by themselves, without relying on their company, in the rapidly changing environment. In recent years, there are moves mainly among large companies toward restructuring their systems for skills development and career formation based on this idea.

IV. Shortage in labor supply due to population decline and aging, and promotion of longer-term continuous employment

Despite the intentions and actions of employers and employees that imply the decadence of the long-

term employment system as discussed above, workers tend to work for the same employer for a longer term in recent years. This may be largely due to the declining birthrate and population aging that are ongoing in Japanese society, the accompanying decline in working-age population, and the forecast of a shortage in labor supply.

Against the background of the declining birthrate and population aging, the total population of Japan started to decline after peaking at 128.08 million in 2018, but the working-age population aged between 15 and 64 peaked in 1995, more than 20 years earlier than the total population. The working-age population in 2021 was 74.5 million, about 12.5 million fewer than the figure when it peaked at 87.26 million. The working-age population is projected to continue to decline, with nearly 15 million fewer in 2040 than in 2021. Amid this situation, companies started to give consideration to the retention of their employees in order to prevent the shortage in labor supply from becoming more serious. As a result, workers tend to work for the same employer for a longer term than before.

Furthermore, there was concern about whether the pension system can survive amid the declining birthrate and population aging, and to address this situation, the policy to request companies to continue employing workers until they reach old age was carried out in the past decade or so. This may also be the cause of longer-term continuous employment. The starting age for public pension payments has been gradually raised from 60 since 2001, and the government has been urging companies to continue employing workers past 60 which is the typical mandatory retirement age. An amendment to the Act on Stabilization of Employment of Elderly Persons made it compulsory for companies to secure employment opportunities for workers who wish to continue working after 60 up to the starting age for public pension payments, with effect from April 2006. In April 2013, the starting age for public pension payments was further raised to the age of 65, which is the government's target level. As of 2024, companies are obliged to employ all workers who wish to remain in employment up to age 65.

There are three methods for implementing measures to secure continuous employment until the age of 65: (1) abolishing the mandatory retirement age; (2) raising the mandatory retirement age; and (3) introducing systems for continuing to employ workers after they reach the age of 60 (i.e., employment extension and re-employment). According to “Age of the 100-Year Life: Current State of Employment Measures for the Elderly” (MHLW 2023), 99.9% of companies with 21 employees or more implemented measures to secure continuous employment until the age of 65; of these companies, 3.9% abolished the mandatory retirement age, 22.5% raised the mandatory retirement age, and 70.6% introduced the continued employment system. In recent years, more companies raised the mandatory retirement age from 60 to 65. Thus, as almost all companies implement measures to secure continued employment until the age of 65, the majority of workers now continue to work for the same employer beyond the mandatory retirement age of 60. Between June 2021 and May 2022, 87.1% of some 380,000 people who reached the mandatory retirement age of 60 continued to work for their previous employer.

V. Challenges and future of the long-term employment system

However, there are many challenges to overcome even if the tendency toward long tenures continues due to the shortage in labor supply and the long-term employment system is maintained in the future. The first challenge relates to continued employment from the age of 60, which can be regarded as the major cause of the continued tendency toward long tenures. Given the current situation, most workers who continue to be employed by their previous employer after reaching the age of 60 receive only about 70 to 80% of the wage they received at the age of 60, while job content and working hours remain almost unchanged, and they are generally employed on fixed-term contracts according to “Survey on Employment of Older Persons,” an enterprise survey conducted in 2019 (JILPT 2020). In addition, the practice whereby managerial personnel leave their

managerial positions upon reaching a certain age before 60 (e.g., age of 55 or 58), which is referred to as “age limit system for managerial personnel (or *yakushoku-teinen seido*),” is becoming popular mainly among large companies. In view of the circumstances regarding the treatment of elderly workers, although policies promoting the employment of older persons carried out over the last 15 years or so have led to the development of systems that enable employees in a company to remain employed longer, it is less likely that workers will continue to build and leverage their careers in a single company with high motivation.

Furthermore, how to assign and treat workers appropriately as necessary for companies in the course of utilizing human resources, and how to motivate workers for skills development and career formation, which is closely related to their assignment and treatment, are still challenges for many companies.

Will the Japanese long-term employment system be maintained with these challenges remaining and the tendency toward long tenures continuing, or will a new long-term employment system be created by responding to these challenges? Or, will an

employment system that is different from the long-term employment system spread gradually? Attention should be paid to future developments.

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Main Labor Economic Indicators

1. Economy

The Japanese economy is recovering at a moderate pace, although it recently appears to be pausing in part. Concerning short-term prospects, the economy is expected to continue recovering at a moderate pace with the improving employment and income situation, supported by the effects of the policies. However, slowing down of overseas economies is downside risk of the Japanese economy, including the effects of global monetary tightening and the concern about the prospect of the Chinese economy. Also, full attention should be given to price increases, the situation in the Middle East and fluctuations in the financial and capital markets. In addition, full attention should be given to the economic impact of the 2024 Noto Peninsula Earthquake. (*Monthly Economic Report*,¹ January 2024).

2. Employment and unemployment

The number of employees in December increased by 590 thousand over the previous year. The unemployment rate, seasonally adjusted, was 2.4%.² Active job openings-to-applicants ratio in December, seasonally adjusted, was 1.27.³ (Figure 1)

3. Wages and working hours

In December, total cash earnings increased by 0.8% year-on-year and real wages (total cash earnings) decreased by 2.1%. Total hours worked decreased by 0.9% year-on-year, while scheduled hours worked decreased by 0.5%.⁴ (Figure 2)

4. Consumer price index

In December, the consumer price index for all items increased by 2.6% year-on-year, the consumer price index for all items less fresh food increased by 2.3%, and the consumer price index for all items less fresh food and energy increased by 3.7%.⁵

5. Workers' household economy

In December, consumption expenditures by workers' households decreased by 1.4% year-on-year nominally and decreased by 4.3% in real terms.⁶

For details for the above, see JILPT *Main Labor Economic Indicators* at <https://www.jil.go.jp/english/estatis/eshuyo/index.html>

Notes: 1. Cabinet Office, *Monthly Economic Report* analyzes trends in the Japanese and world economies and indicates the assessment by the Japanese government. <https://www5.cao.go.jp/keizai3/getsurei-e/index-e.html>

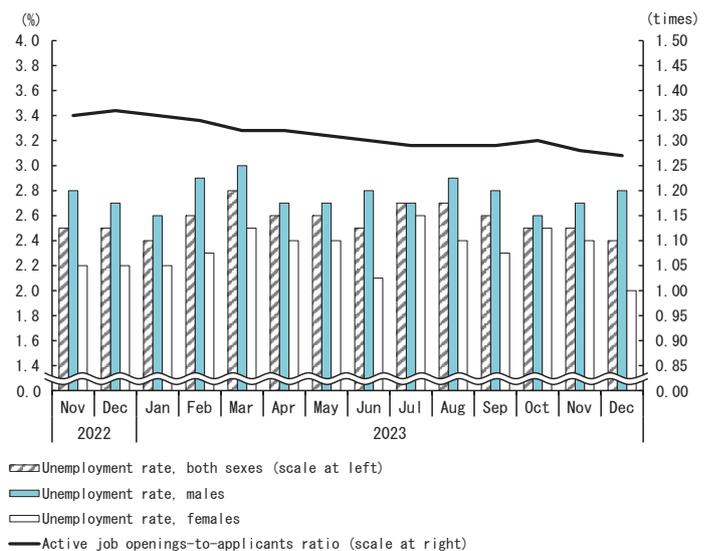
2. <https://www.stat.go.jp/english/data/roudou/results/month/index.html>

3. https://www.mhlw.go.jp/english/database/db-l/general_workers.html

4. For establishments with 5 or more employees. <https://www.mhlw.go.jp/english/database/db-l/monthly-labour.html>

5. <https://www.stat.go.jp/english/data/cpi/index.html>

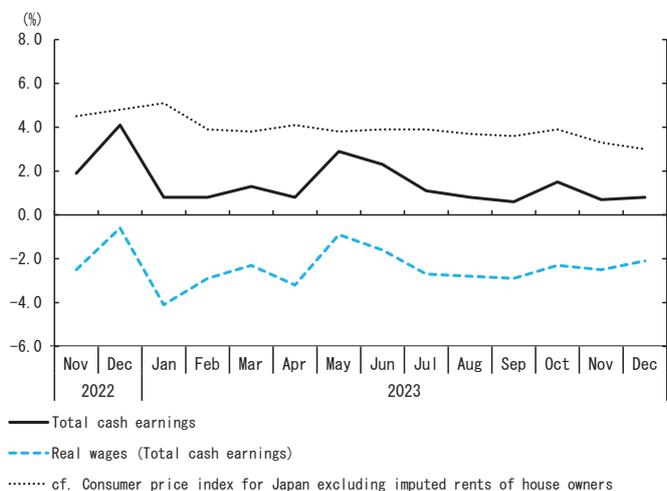
6. MIC, *Family Income and Expenditure Survey*. <https://www.stat.go.jp/english/data/kakei/index.html>



Source: Ministry of Internal Affairs and Communications (MIC), *Labour Force Survey*; Ministry of Health, Labour and Welfare (MHLW), *Employment Referrals for General Workers*.

Note: Active job openings-to-applicants ratio indicates the number of job openings per job applicant at public employment security. It shows the tightness of labor supply and demand.

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



Source: MHLW, *Monthly Labour Survey*; MIC, *Consumer Price Index*.

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

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Japan Labor Issues (ISSN 2433-3689) is an online journal published five times per volume by the Japan Institute for Labour Policy and Training (JILPT). This journal introduces the recent developments in Japan in the field of labor through news articles as well as the latest research results and analysis to a global audience. The full text is available at <https://www.jil.go.jp/english/jli/index.html>. **E-Letter Japan Labor Issues** is delivered the latest issue via email to the readers who have registered. When quoting, please cite sources and inform the Editorial Office at j-emm@jil.go.jp for purposes of the future planning and editing. Reproduction in whole or in part without the written permission of the author(s) and the Editor is prohibited. For inquiries and feedback, contact the Editorial Office at j-emm@jil.go.jp.

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