
Occurrence Mechanism and Resolution Process of Labor Disputes: Cases of Community Unions (Kyushu Area)

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In recent years, the number of individual labor disputes has increased. Labor unions organized outside companies have addressed the resolution of these disputes. One of major labor unions is “community union.” In this research, I conducted interview surveys of three community unions and union members in Kyushu Area (19 cases) in order to clarify how community unions play a role to settle and prevent individual labor disputes. As a result, I found that the *raison d’être* of community unions for settling/preventing labor disputes is to: (i) lead to a dispute resolution with a high rate of success as well as bringing consolation to workers involved in the disputes, (ii) restore dignity to workers and motivate them to return to workplace and (iii) point out companies’ personnel or labor management problems and communications problems which have led to disputes, and call for the improvement in the collective bargaining session.

I. Awareness of Issues and Method of Research

In recent years, the number of labor disputes concerning individual workers has been increasing. For dispute resolution, a system of mediation by prefectural Labour Bureaus and Labour Relations Commissions and an industrial tribunal system have started, and administrative and judicial efforts have also began to be made. In addition to these administrative and judicial systems, some labor unions have assumed a function of resolving individual labor disputes. They are mainly community unions, general nationwide labor unions, local unions of regional federations and local unions of the National Confederation of Trade Unions (“Zenroren”), all of which are organized outside of companies. In this research, I took up three community unions in the Kyushu area to examine their roles in the resolution and prevention of individual labor disputes.

The survey was carried out in a series of five interviews between December 2007 and February 2009. About two hours were spent on each interview of three community union executives and union members (including former members) who could settle disputes through their unions. An individual labor dispute generally arises when a worker files an objection against what they cannot accept concerning their relations with the company and takes action to resolve the problem, and whether a dispute arises or not depends largely on how the worker sees and assesses the issue under certain circumstances. In order to elucidate the mechanism by which a dispute arises, it is quite important to carefully examine how the worker thinks. In view of the importance of this point, in this paper I will present the workers’ remarks as straightforward as possible. The survey was conducted of officials at Rengo Fukuoka Union (hereinafter referred to F Union), Oita *Fureai* Union (O Union)

and Rengo Kagoshima Union (K Union) and 19 members introduced by these three unions.

II. Research Contents

In the first place, “community union” means a labor union rooted in the local community, and any worker including part-time workers, temporary agency workers and foreign workers can join it as a single individual. The first community union was Edogawa Union, which was organized in 1984 under the slogan of “*Fureai, Yuai and Tasukeai* (Contact, Compassion and Cooperation).” After that, community unions were organized nationwide. As of September 2008, 74 unions in 31 prefectures participated in the Community Union National Network, and the number of union members reached about 15,000 in total. Each community union is basically an independent labor union and their activities vary accordingly, but still, the resolution of labor disputes is listed among their commonly performed activities.

Among the three community unions, I will focus here on F Union and examine its role in the resolution and prevention of individual labor disputes. F Union, which was established in December 1996, had 411 members as of August 31, 2007. The number of members is generally on the increase having a lot of entries to and withdrawals from the union. F Union handles the labor consultation service of Rengo Fukuoka and all requests for consultation to Rengo Fukuoka are automatically forwarded to F Union whether by telephone, direct visit or other medium. The number of requests for labor consultations has been decreasing since it peaked in FY 2003 at 928 and the Union has an average of two labor consultations each day. The breakdown of labor consultation requests made in FY 2007 by form of employment is: 53.7% from regular employees, 12.6% from part-time workers, 8.6% from temporary agency workers, 7.7% from contract employees, 5.1% from *arubaito* workers, and 12.2% for others.

In the 11 years since its establishment in December 1996 to 2006, F Union has accepted 693 cases of individual labor disputes (involving 1,374 union members) and requested collective bargaining in many of them. Among these cases, 70.0% were about employment, 16.7% were about wages, 6.1% were about labor contracts, and 7.2% were about other issues. Most of these cases or 79.9% were settled by voluntary dispute resolution approaches such as collective bargaining while some cases were referred to Labour Relations Commissions (11.6%) or brought to court (8.5%).

Looking at the breakdown, by type of employment, of workers involved in 41 dispute cases in which F Union made a request for collective bargaining to the company concerned in a one-year period from October 2006 to September 2007, a large majority or 34 cases (82.9%) concerned regular employees while part-time and temporary agency workers were involved in one case each (2.4%) and contract workers were involved in five cases (12.2%). By gender, more male workers were involved than female workers: 26 cases for male workers and 19 cases for female workers.

F Union functions not only to help resolve labor disputes but also to prevent disputes. One of the measures to prevent disputes is to have the activities of F Union introduced in local newspapers or publicized on local TV programs. The employers who read or watch them might think that if they cause any personnel or labor problems, they would be forced to enter into bargaining by the union or the issue could be brought to the regional Labour Relations Commission or to court, and they would become careful about personnel and labor management so that no problems would occur. The publicity is indeed believed to have led to the prevention of disputes. F Union may also make demands sometimes that would prevent a recurrence of disputes and have them accepted during collective bargaining.

Next, I will briefly describe and compare 19 cases of labor disputes presented in this paper, summarize them mainly based on their similarities, and classify them. The cases are classified into the following four patterns in terms of how the disputes arose. The first is the “status-improvement” pattern. These are the cases where the workers demand a higher status than the current one (in terms of post, capacity, position or working conditions such as their wage and bonus) from the company and the conflict of claims between the workers and management gives rise to a dispute.

The second is the “status-reinstatement” pattern. In these cases, the workers protest their lowered status and demand the company reinstate them to their former status and the company refuses the demand, causing the dispute to arise.

The third is the “subsistence” pattern. This pattern can be subdivided into cases concerning an economic aspect and those concerning a physical and mental aspect. In the economic aspect, the workers, claiming that they barely subsist with their current status or the lowered working labor conditions, demand an improvement in their status or recovery of the former working conditions from the company in order to subsist economically, and the dispute arises when the company disregards or refuses the workers’ demands. In the physical and mental aspect, the workers who think that they cannot sustain their life physically or mentally under the current situation seeks help from outside the company, and in this process the dispute arises.

The fourth is the “tit-for-tat” pattern. The workers demand the recovery of their dignity and humanity, which have been violated or denied, or make a countercharge against the management who did such things, and a dispute arises as a result.

These four patterns are not mutually exclusive, two or more patterns combine in many cases and the above classification is not therefore absolute but relative.

The patterns of dispute resolution can be classified into three. The first pattern is voluntary resolution. The union requests the company employing the union member who joined the union for the purpose of dispute resolution to enter into collective bargaining and resolves the dispute through negotiation with the company. Most labor disputes are settled through voluntary resolution. The second pattern is resolution with the intervention of the Labour Relations Commission. When the company refuses the union’s approach for voluntary resolution by not accepting the request for collective bargaining, etc., the union files a

request for examination of unfair labor practices or adjustment of labor disputes with the Labour Relation Commission to settle the dispute. The third pattern is settlement through judicial proceedings at a court, industrial tribunal, etc. The union refers disputes that have not been settled by the Labour Relations Commission to judicial proceedings or directly refers them to judicial proceedings without bringing them to the Labour Relations Commission. The number of cases brought to the industrial tribunal for rapid resolutions have been increasing recently.

I classified dispute cases into three patterns in order to examine the social expansion of dispute resolution and learned that these three patterns of dispute resolution were also not mutually exclusive. Considering the fact that workers can seek an order, decision or judgment from the Labour Relations Commission through the courts because of the union's support, all can be regarded as part of an attempt at voluntary resolution led by the union.

In the following sections, I will examine the mechanisms by which disputes arose and the dispute resolution processes of 16 cases of individual labor disputes excluding three cases of collective labor disputes, and then discuss suggestions that may lead to dispute prevention and resolution for each form of employment.

1. Standard Workers

(1) Dispute Occurrence Mechanism and Suggestions for Dispute Prevention

(i) *Beginning of the disputes in five cases*: All disputes, except for the case of T.U. (a cement mixer truck driver, 51 years old, male) which did not lead to dispute, occurred when the workers were encouraged to retire by their companies. In the case of T.Y. (an office clerk of a major paper company, 41 years old, female), it was a typical case that a female worker over 30 years old was pushed to quit her job. I.W. (a hotel sales representative, 39 years old, male) was forced to work so hard that his life was threatened. His case was a dispute over unpaid overtime, but he felt that he was being urged to retire. K.B. (a professor of junior college, 68 years old, male) was suspended from teaching classes and repeatedly encouraged to retire. In the case of N.N. (a sales representative of a camera shop, 52 years old, male), the company suspended payment of his executive allowance and announced reduction of an employee implying termination of his employment. S.R. (a university assistant professor, 44 years old, male) was required to accept a false claim of his retirement agreement.

(ii) *Behind the encouragement to retire were*: a customary practice in the workplace that runs counter to the Equal Employment Opportunity Act in the case of T.Y.; personal attacks by the president of the company in the case of I.W.; an unfair demand from the junior college's side that was made in violation of the initial employment contract and troubles with students in the case of K.B.; the company's reorganization and interruption of his work when he was hospitalized in the case of N.N.; and the university's failure to assign replacement classes that should have been assigned in response to the closure of the department in

the case of S.R.

(iii) In all five cases, in light of the legal principle concerning abuse of the right of dismissal and the legal principle setting forth four requirements for retrenchment¹, the acts of the employers to encourage retirement are highly likely to constitute violations of laws and ordinances. In the case of T.Y., the company violated the Equal Employment Opportunity Act, as the company admits. In the case of I.W., the issue was not limited to the nonpayment of a large amount of overtime pay. He was “murderously overworked” and it is not too much to say that he was close to dying from overwork. Legal compliance by management would result in preventing labor disputes.

(iv) In all five cases, I cannot guess the extent to which it was inevitable for the companies’ side to encourage these workers to retire. However, if they had kept in close communication with the workers in question, disputes may have not occurred. If the employer’s side had checked the initial contract with K.B. and sought out facts about his troubles with students, if they had confirmed N.N.’s medical condition during his hospital stay, and if the university had confirmed that S.R. had no intention of retiring, it seems quite possible that the disputes would not have occurred.

(2) Dispute Resolution Process and Suggestions for Early Resolution and Prevention of Disputes

(i) *The dispute resolution process in the case of T.Y. was:* visit the labor and welfare office of Fukuoka Prefecture → introduction to F Union → entry into F Union and a voluntary resolution of the dispute through collective bargaining by F Union. The dispute was resolved smoothly probably because the union obtained evidence on cutbacks of female workers. It took about three months to resolve the dispute.

In the case of I.W., as he already knew about K Union from past experience, he joined K Union and the dispute was resolved voluntarily through collective bargaining by K Union. He received nearly the full amount of unpaid overtime pay he was due probably as a result of the combined effect of the determined attitude of the secretary general of the K Union, I.W.’s core position and experience at the company, the social environment favorable to workers, and persuasion by the company’s lawyer. It took about four months to resolve the dispute.

The resolution process of the case of KB was: consultation with professors of another university and introduction to F Union → entry into F Union and voluntary resolution through collective bargaining by F Union. It seems that K.B.’s prompt action and the union’s appropriate negotiation strategy contributed to an early resolution. The dispute was

¹ For details, refer to Kazuo Sugeno, “Kaiko [Dismissal]” in *Rodoho* [Labor laws], 2nd Revised Edition of the 7th Edition, 416-437 (Tokyo: Kobundo, 2007).

resolved in about two months.

In the case of NN, the resolution process was: heard about F Union from his younger brother and found F Union by searching on the Internet → entry into the union and collective bargaining by the union → company's refusal of collective bargaining → resolution through collective bargaining attended by the regional Labour Relations Commission. It took about five months for the dispute to be resolved mainly because the company's side raised an objection to the existence of F Union itself.

The case of S.R. went through the following process before resolving the dispute: introduction to O Union by a colleague → entry into the union, the union's request for collective bargaining and the university's inflexible attitude → petition to the district court for an interim injunction to preserve the position pending trial (decision admitting the dismissal) → appeal to the high court of the decision of the district court on the petition for an interim injunction and institution of a lawsuit in the district court → settlement in the high court (tentative payment of wages) → the district court's judgment on the lawsuit nullifying the dismissal, and a refusal of collective bargaining for return to work and appeal to the high court by the university → high court judgment nullifying the dismissal → return to the university. The whole process took about two and a half years. It took such a long time because the alleged reason for retirement or dismissal was changed from retirement by agreement to disciplinary dismissal by the university's side while the university maintained an unyielding attitude not to withdraw the dismissal, and also it took a long time for repeated trials and judgments of the district court and the high court.

For an early resolution, the employer should respond to the union's request for negotiation in a sincere manner and take realistic actions in line with the actual circumstances.

(ii) The dispute over encouragement to retire was resolved by the worker's retirement in three cases other than the cases of K.B. and S.R. Everyone including these two workers expressed gratitude towards the union for its efforts. They thanked the union's rapid response (T.Y. and K.B.) while N.N. thinks that the union's action helped prevent his death from overwork, saying, "If I had endured everything without taking action, I may have died from overwork... No one talked to me because I was out of my mind." I.W. highly appreciated the union as he was able to negotiate with the company on an equal basis thanks to the union as a social body existing outside the company.

(iii) In two cases, resolution of the dispute directly led to dispute prevention. In the case of T.Y., she requested the company to take measures to prevent a recurrence of the dispute and the company accepted. As a result, the practice of pressuring female workers over 30 years old into retirement has actually been ended. I.W. also demanded improvements in working conditions for his colleagues and obtained a reply from the company stating "the company shall make efforts so that the working conditions for employees will be improved." Emotional attachment to colleagues by workers involved in disputes and the negotiation strategy

Table 1. Patterns of Occurrence and Resolution of Labor Disputes of Standard Workers

	Case 4 T.Y.	Case 5 I.W.	Case 6 K.B.	Case 7 N.N.	Case 8 S.R.	Case 9 T.U.
<i>Dispute Occurrence</i>						
Status-improvement						
Status-reinstatement	◎		◎	◎	◎	
Subsistence						
Economic		○				
Physical/Mental		◎		○		
Tit-for-tat action		○				◎ hidden
<i>Dispute Resolution</i>						
Voluntary Resolution	○	○	○			
Regional Labour Relations Committee				○	○	
Lawsuit					○	

Notes: 1. Dispute occurrence ◎: most strongly applicable, ○: strongly applicable, blank box: not applicable.

2. Dispute resolution ○: utilized, blank box: not utilized.

of the union help bring about the prevention of disputes.

(3) Classification of Patterns of Occurrence and Resolution of Disputes

The process of occurrence and resolution of disputes for standard workers are summarized as above. Table 1 shows which of the four patterns are applicable to each case. In the case of T.Y., her employment was jeopardized by the company's encouragement to retire in the form of pressure on female workers over 30 years old to quit, and she visited F Union in order to ask the company to stop the practice, be reinstated to her status and allow her to continue working. As a result of collective bargaining, T.Y. managed to be reinstated to her previous status as the company withdrew the suggestion of early retirement and apologized. However, she decided to retire because, she said, "My feeling that I was betrayed by the company lowered my motivation and I lost my enthusiasm to keep on working."

I.W. felt a sense of physical crisis as he was, in spite of a serious disease, aortic valve insufficiency, transferred to an extremely busy post with deadly long working hours which would eventually led him to accept encouraged retirement. He initiated the dispute because he needed to solve the issue of encouragement to retire and excessive unpaid overtime in order to subsist, and he also had to prepare economically to undergo an operation. With strong determination to fight whether he win or lose rather than just putting up with the situation, he rose up to give tit-for-tat to the president who assaulted his dignity, and then the dispute arose.

K.B., who feared that he might be forced to retire because of his suspension from teaching classes due to troubles he had with students as well as repeated encouragement to retire, joined F Union with a view to win reinstatement of his status and continue working,

and the situation developed in to a dispute.

N.N. joined F Union in order to protect his current status from the crisis of job loss implied by a cut in salary due to his exclusion from receiving payments of executive allowances and an announcement of the company's intention to cut one employee. His desire to recover from the crisis, coupled with the desire to live by avoiding the risk of death from overwork, gave rise to the dispute.

S.R. joined O Union in order to win reinstatement in the position he assumed before he was dismissed by the university, which claimed that he agreed to retire with the closure of the department he belonged to, a claim that he said was not true because he never agreed to retire, and thus the issue developed into a dispute.

T.U. joined K Union out of fear that his retirement allowance would not be paid. Although his case did not develop into a dispute because the retirement allowance was paid, his experience revealed that there are many potential disputes in provincial areas ripe for Retaliation, as is emphatically indicated by his shocking remark, "If we were in the Edo period, I would have liked to pull out my sword and cut off the president's head."

Looking at the pattern of dispute resolution, the cases of T.Y., I.W. and K.B. are classified as voluntary resolutions through the union's collective bargaining. The case of N.N. was resolved before the regional Labour Relations Commission and the case of S.R. was finally resolved through a lawsuit and a hearing before the regional Labour Relations Commission.

2. Non-Standard Workers: Part-Time Workers

In this section I will review the occurrence mechanism and resolution process of disputes involving part-time workers, temporary agency workers, and (disguised) outsourced workers, which have been a major issue in Japanese society since the late 1990s. First, I will focus on part-time workers, who occupy the largest portion of non-regular workers.

(1) Dispute Occurrence Mechanism and Suggestions for Dispute Prevention

(i) *Dispute occurrence mechanism*: S.M. (52 years old, male) who had been working full-time hours as a part-time driver of a pickup bus for a driving school for 11 years, joined F Union in order to eliminate uncertainty about his employment and anxiety about his life caused by a transfer and drop in hourly wage as a result of outsourcing of driving division work to a temporary agency, causing the dispute to arise. The complete ban on overtime work and reduction in his hourly wage threatened the livelihood of S.M. who lives alone.

In the case of S.K. (a food processing company worker, 49 years old, female), the company was going to force her against her will. S.K. visited administrative bodies and the union in an attempt to work off her frustration, and as a result the issue developed into a dispute.

K.G. (a guard of a supermarket, 39 years old, male) thought that the trouble which arose from his "thoughtless behavior" would be resolved by submitting a written apology.

However, he was ordered transferred to either Tokyo or Osaka. This transfer was unacceptable to K.G. who was taking care of his disabled parents. Later, he was ordered to submit a letter of resignation and was excluded from all work shifts. In order to resolve the issue of forced retirement, he visited K Union which had been helping him for five years, and became a member. In this way the issue developed into a dispute.

S.S. (a food sales person, 58 years old, female) who worked for the company for six years, received a dismissal notice from the company for reasons of a single complaint filed against her by a customer and her chatting at another shop. Thinking that these reasons did not deserve dismissal, she asked her husband for advice over the dismissal notice, and then she visited the Labour Standards Inspection Office to seek clarification and was introduced to F Union. She joined F Union, and the dispute arose.

In the last case of M.N. (a sales person of second hand clothing store, 32 years old, female), she was suddenly given an order of transfer by facsimile from headquarters. She was a single parent looking after a six-year-old son. If she were transferred, the cost of transportation would take up nearly half of her wages and it would be hard for her to live. The transfer was therefore not acceptable. She joined F Union to resolve this issue, and thus the dispute arose.

(ii) In these five cases of part-time workers as well, a dispute would have been prevented if close communication had been maintained between the worker and management. A dispute would not have occurred: if the company had known that S.M. was barely making a living; if the company had confirmed S.K.'s will; if the company had taken into consideration that K.G. was looking after disabled parents and understood that he was not a man to accept the unilateral action of the company and also noticed that they had no adequate complaint handling system; if S.S.'s manager had talked to her politely; and if the company had accepted M.N.'s request for discussion.

(2) Dispute Resolution Process and Suggestions for Early Resolution and Prevention of Disputes

The process of how these five part-time workers resolved their disputes described above is summarized below.

(i) In the case of S.M., the dispute resolution process was as follows: finding out the union through the Internet → entry into F union and collective bargaining → the company's full entrustment of development of the resolution plan to the union → choice of retirement and voluntary resolution by the union.

S.K. resolved her dispute case by: working continuously following the advice of the Labour Standards Inspection Office → forceful demand for retirement by the company → retired → visited again to the Labor Standard Inspection Office but in vain learning that it would be impossible to change from voluntary retirement to involuntary retirement → get-

ting to know the union through her daughter → entry in K Union eventually leading her case to voluntary resolution through collective bargaining.

The case of K.G. went through the following process to resolution: his refusal of unacceptable transfer to a remote place causing the company's forceful demand for retirement → consultation with colleagues and their advice that he did not have to retire → consultation with and entry into the already-known K Union → voluntary resolution through collective bargaining (with a guarantee by the secretary general of the union as his "guardian").

In the case of S.S., the dispute resolution proceeded by: visit to the Labour Standards Inspection Office and introduction to F Union → entry into F Union, experiencing two rounds of failed collective bargaining → dispute resolution through three hearings before the industrial tribunal.

The case of M.N. went through the following process: visit to the Labour Standards Inspection Office getting the advice to maintain her attendance record there → application for mediation by the dispute coordinating committee of the prefectural Labour Bureau, which was refused by the company → introduction to F Union by a lawyer → entry into the union, experiencing two rounds of collective bargaining in vain → settlement after two hearings before the industrial tribunal.

The time taken for resolution after the dispute arose was the longest in the case of M.N. It took about eight months mainly because the company did not sincerely engage in collective bargaining. The case revealed that prevention of unfair labor practices and imposition of severer penalties would lead to early resolution of disputes.

Among these part-time workers, S.K., S.S. and M.N. used the service of labor administrative bodies. S.S. was introduced to the union and her case was resolved soon while it took a long time for S.K. and M.N. to find the union. In order to promote early resolution of disputes, it would be effective that administrative bodies introduce the workers involved in disputes to community unions. In the case of M.N., the dispute resolution was prolonged because the company refused mediation by the prefectural Labour Bureau. Successful mediation by the prefectural Labour Bureau is effective for early dispute resolution and measures should be taken to improve the success rate of mediation. K.G. managed to resolve the dispute without using the services of administrative bodies. One of the reasons was that the secretary general of the union became his "guardian." The community unions did indeed contribute to the early and amicable resolution of disputes.

(ii) The *raison d'être* of community unions for resolution of dispute. In the case of S.M., the union was so good at negotiation that the company fully entrusted development of the settlement plan to the union. S.K. expressed her gratitude to the union saying "They listened to me so earnestly and, only by that, I was satisfied. It was impressive that (the secretary general of the union) actually took action on my behalf. I was really pleased. I felt a sense of relief." In the case of K.G., the secretary general of the union became his "guardian." S.S. also expressed her thanks saying "I am grateful to the union for taking my problem seri-

Table 2. Patterns of Occurrence and Resolution of Labor Disputes of Part-time Workers

	Case 10 S.M.	Case 11 S.K.	Case 12 K.G.	Case 13 S.S.	Case 14 M.N.
<i>Dispute Occurrence</i>					
Status-improvement					
Status-reinstatement	○	○	⊙		⊙
Subsistence					
Economic	⊙		○		○
Physical/Mental					
Tit-for-tat action		⊙		⊙	
<i>Dispute Resolution</i>					
Voluntary Resolution	○	○	○		
Regional Labour Relations Committee					
Lawsuit				○	○

Notes: 1. Dispute occurrence ⊙: most strongly applicable, ○: strongly applicable, blank box: not applicable.

2. Dispute resolution ○: utilized, blank box: not utilized.

ously and treating me kindly.” M.N. said, “I am deeply grateful to the staff of the union. I really thank them.” She was glad that the dispute, which had not been solved by an administrative approach, was resolved before the industrial tribunal thanks to the support of the union.

(3) Classification of Patterns of Occurrence and Resolution of Disputes

S.M. joined the union in order to eliminate employment uncertainty and worry about his life to be caused by his transfer, and the issue developed into a dispute. He thought that if he accepted a transfer, he would not be able to make a living by himself. It was a dispute for economic subsistence.

S.K. was “annoyed” and “felt so frustrated” with the attitude of the company which was trying to force her to retire in spite of the fact that she did not say she would retire at once and was particularly angry about the female president who acted as if she knew nothing about the matter and said so to others even though she induced S.K. to retire. S.K. said the president was “a rude person who disdains others” and she could not help feeling vengeful.

K.G. had no choice but to refuse a transfer to a remote place because he was taking care of his disabled parents. When he refused, his employer demanded his retirement and actually excluded him from work shifts. He turned to the union for help to win reinstatement by returning to work.

Although S.S. admitted that she had made trivial mistakes, she was frustrated by the impolite attitude of the manager who forcefully handed her a dismissal notice due to those mistakes and by the inconsiderate nature of the dismissal notice. She said, “Couldn’t he talk

in a different way?" Her accumulated grievance against his disregard for her humanity gave rise to the dispute. Her remarks show her vengeful thoughts, though they are not very strong.

M.N. refused an unacceptable transfer, and as a result she was prevented from working. She joined the union with a view to returning to work at her former shop which she was prevented from going to and the issue developed into a dispute. She wanted to return to the former shop in order to protect her hand-to-mouth existence as a single mother.

By pattern of dispute resolution, the cases of S.M., S.K. and K.G. terminated through voluntary resolutions brought about by the union and the cases of S.S. and M.N. were resolved by settlements before the industrial tribunal. The resolution resulted in reinstatement in his former job only in the case of K.G., and retirement for the four other part-time workers.

3. Non-Standard Workers: Temporary Agency Workers

In this section, I will examine the dispute occurrence mechanism and resolution process of two cases concerning temporary agency workers, who have become a major social concern in recent years.

(1) Dispute Occurrence Mechanism and Suggestions for Dispute Prevention

(i) Occurrence mechanism of dispute. In the case of M.I. (a worker in the system section of a mineral trading company, 28 years old, female), she was notified of her dismissal when she was working at a client company. She said, "The Temporary agency abruptly called me during the lunch break and said, 'Let's make today the day of termination.'" As M.I. signed an employment contract after undergoing a "preliminary interview" by the client company, she could not accept such a sudden dismissal. She visited F Union with her mother's advice and became a member, and then the dispute arose.

T.K. (54 years old, female) was told by the temporary agency prior to being dispatched to the client company that the working conditions were the same for the two divisions (clothing management division and packaging division) of the client company. When she heard that the hourly wage of the staff working for the packaging division was to increase by 50 yen, she tried to confirm with the temporary agency that her wage would be raised by the same amount. Because of this, perhaps, her employment contract was not renewed and she was virtually dismissed. T.K. could not accept the situation and consulted with the Labour Standards Inspection Office, the prefectural Labour Bureau, and F Union. As a result, the dispute arose.

(ii) The problem of labor-management communication derived from the nature of temporary agency work underlies the occurrence of disputes. M.I. and T.K. repeatedly pointed out the unsatisfactory response they received from the temporary agencies. M.I. said, "I would like the temporary agency to have said, 'for such and such reason.'" She also said, "I wish that

the client company had directly told me if there was something wrong, not through the temporary agency.” She pointed out the problem of communication among three parties, that is, the temporary agency worker, the temporary agency and the client company. T.K. pointed out the lack of communication with the temporary agency saying, “I have never been satisfied with their response. They never explained anything to me.” How to establish a system for good communication would seem to be the key to the prevention of disputes involving temporary agency workers.

(2) Dispute Resolution Process and Suggestions for Early Resolution and Prevention of Disputes

(i) Looking at the dispute resolution process in the case of M.I., the dispute terminated through the following process: asking her mother for advice and getting to know the union through the television → entry into the union and voluntary resolution through collective bargaining.

The case of T.K. went through the following process: advice of the Labour Standards Inspection Office → application for mediation by the dispute coordinating committee of the prefectural Labour Bureau but in vain due to the refusal by the company → introduction to F Union by the lawyer she consulted using the free legal counseling service provided by the city → entry into the union and voluntary resolution through collective bargaining.

(ii) In both the cases, M.I. and T.K. terminated their disputes by voluntary resolution. For M.I., it took a relatively long time for collective bargaining because the temporary agency did not admit the actual state of affairs that gave rise to the dispute. Dispute resolution would be facilitated if the temporary agency responds in line with the actual state of affairs in the negotiation with the union.

(3) Classification of Patterns of Occurrence and Resolution of Disputes

When M.I. received a telephone call from the temporary agency during the lunch break at the client company and was told, “Your contract terminates today” and she “could not understand what happened.” After she went home, she talked to her mother and visited F Union which they had seen on TV for a consultation. Then she joined the union and the dispute arose. She seems to have demanded to return to work, though this has not been clearly shown. She also felt distrust toward the temporary agency because of the way they treated her.

In the case of T.K., the dispute began when she confirmed with the temporary agency about a 50-yen wage hike. She thought that the wage hike in another division would also apply to her. In this sense, it is considered a passive demand rather than an active demand for improvement of status. She was offended by the temporary agency “insisting that she said what she didn’t actually say” and started the dispute partly as a means to appease her anger.

The case of M.I. was resolved in the form of a voluntary resolution by the union without using other dispute resolution bodies. In the case of T.K., too, the dispute was terminated through a voluntary resolution negotiated by the union, but she visited the Labour Standards Inspection Office, the prefectural Labour Bureau, and the free legal counseling service of the city before she reached the union.

4. Non-Standard Workers: (Disguised) Outsourced Workers

Disguised outsourcing, along with temporary agency work, constitutes a serious social issue. In disguised outsourcing, the outsourcer manages the personnel and labor affairs of the outsourced workers, such as their arrival and departure from work, command and control of work, etc. In this research, we examined three cases of workers who were employed under disguised outsourcing.

(1) Dispute Occurrence Mechanism and Suggestions for Dispute Prevention

(i) Looking at the dispute occurrence mechanism, K.R. (a call-center staff member, 62 years old, female) called the president of the company on a Saturday with good intent, but on the same call her colleague spoke ill of the manager of her office. On the following Monday when she went to the office, the manager said to her, “You don’t need to work. Go home” and she was dismissed instantly. Dissatisfied with the situation, she demanded payment in lieu of dismissal notice from the company, which was eventually refused. Then she turned to dispute resolution bodies outside the company and the dispute arose.

I.U. (a carpenter, 59 years old, male) was seriously injured and hospitalized when he fell down while working at the construction site of a parking lot. Worried about the huge cost of hospitalization, he requested that the company would regard his accident as an industrial accident but in vain. He consulted with K Union seeking recognition of the accident as an industrial accident and the issue developed into a dispute.

H.N. (a worker engaged in maintenance operation of industrial refrigerators, 58 years old, male) was suddenly told, “Go home today, anyway” and was encouraged to retire. This happened shortly after he had chosen to work as a temporary agency worker from among three options presented by the company, in response to the company’s intention to change his contract from an illegal outsourcing contract to a legal one. Three days later he was ordered to agree to retire in exchange for a payment of one million yen. H.N. refused it and he was forced to retire. He joined F Union in order to resolve this issue, which developed into a dispute.

(ii) If the company’s side had admitted it was engaged in disguised outsourcing, these disputes would have been prevented. In the case of K.R., apart from the reason for dismissal, she demanded payment in lieu of dismissal notice, but the company refused her demand insisting that she was an outsourced worker. K.R. turned to labor administrative bodies, the union and finally an industrial tribunal in an attempt to resolve the issue of payment in lieu

of dismissal notice. In the case of I.U., if the company had recognized him as its employee based on his actual way of working and cooperated with him in claiming workers' accident compensation, the dispute would not have occurred. If the company's side admitted its illegal disguising of outsourced workers in dealing with problems, it would lead to dispute prevention.

(2) Dispute Resolution Process and Suggestions for Early Resolution and Prevention of Disputes

(i) In terms of the dispute resolution process, K.R. terminated her case through the following process: demand for payment in lieu of dismissal notice → company's refusal of her demand → conclusion by the Labour Standards Inspection Office that it was not outsourcing and discontinuation of investigation due to the difference in claims concerning dismissal between the worker and the management → application for mediation by the dispute coordinating committee of the prefectural Labour Bureau and company's refusal of mediation → request for collective bargaining by the union and company's refusal of collective bargaining → settlement before the industrial tribunal.

In the case of I.U., the dispute resolution began with talking about workers' accident compensation with his family. H learned of K Union and joined it resulting in voluntary resolution through collective bargaining. He obtained the right to receive a workers' accident compensation pension with the union's support.

In the case of H.N., the dispute was resolved through consultation with a licensed social insurance consultant who was his classmate at high school and introduction to the union. He joined the union and terminated his case by voluntary resolution through collective bargaining.

(ii) As was stated above in connection with the dispute occurrence mechanism, once a dispute arises, if the company admits the illegality of disguising outsourced workers and addresses the issue in accordance with all laws and ordinances, the dispute would have been resolved earlier.

(3) Classification of Patterns of Occurrence and Resolution of Disputes

In the case of K.R., her actions with good intent generated the opposite results and she was suddenly dismissed. She demanded payment for one month in lieu of dismissal notice probably because she wanted to fight the company due to the manager's abrupt notice of dismissal and the president's approval of it. There was also an economic reason for her to raise the dispute, because she had to economically support her mother who was living alone.

In the case of I.U., he was seriously injured and hospitalized when he fell down while working, but the company refused to regard his accident as an industrial accident. He joined the union in order to receive treatment of his injury and secure medical expenses resulting

Table 3. Non-Standard Workers: Patterns of Occurrence and Resolution of Labor Disputes of Temporary Agency Workers and (Disguised) Outsourced Workers

	Case 15 M.I.	Case 16 T.K.	Case 17 K.R.	Case 18 I.U.	Case 19 H.N.
<i>Dispute Occurrence</i>					
Status-improvement		⊙			
Status-reinstatement	⊙				
Subsistence					
Economic			○	○	
Physical/Mental				⊙	
Tit-for-tat action	○	○	⊙		⊙
<i>Dispute Resolution</i>					
Voluntary Resolution	○	○		○	○
Regional Labour Relations Committee					
Lawsuit			○		

Notes: 1. Dispute occurrence ⊙: most strongly applicable, ○: strongly applicable, blank box: not applicable.

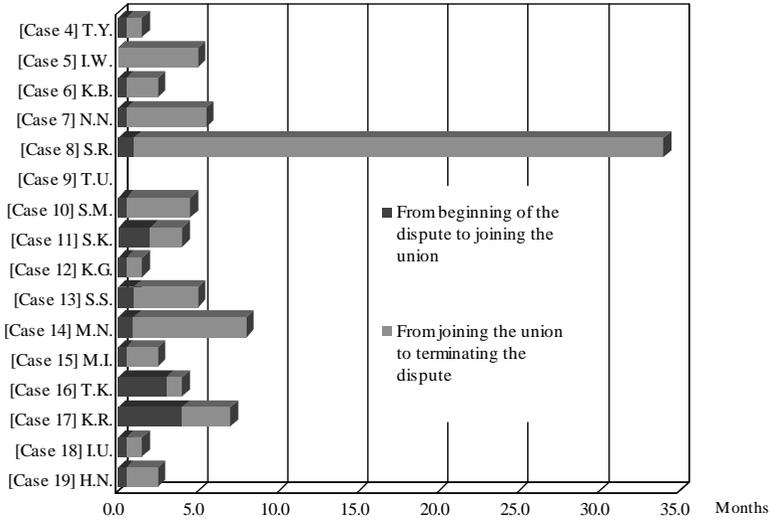
2. Dispute resolution ○: utilized, blank box: not utilized.

Table 4. Summary of Occurrence and Resolution of Individual Labor Disputes

	Standard worker	Non-standard worker			Total (100%)
		Part-time worker	Temporary agency worker	(Disguised) outsourced workers	
<i>Dispute Occurrence</i>					
Status-improvement			1		1 (6.3%)
Status-reinstatement	4	2	1		7 (43.8%)
Subsistence					
Economic		1			}3 (18.8%)
Physical/Mental	1			1	
Tit-for-tat action	1	2		2	5 (31.6%)
<i>Dispute Resolution</i>					
Voluntary Resolution	3	3	2	2	10 (62.5%)
Regional Labour Relations Committee	2				2 (12.5%)
Lawsuit	1	2		1	4 (25%)

in a labor dispute.

In the case of H.N., he took action for “all-out resistance” against the company’s “illegal act” of “forcing him to pack up his belongings and go home at once.” He came to join the union and the dispute arose. He had a strong tit-for-tat attitude towards the company for its inhumane treatment saying, “I thought I would resist them to the end.” Also, the payment of one million yen offered in exchange for his retirement was far short of what he expected, and he could not accept retiring in that way.



Note: K.R. was originally a union member and the period from union enrollment to dispute resolution in Case 17 means the period from union’s involvement with dispute to dispute resolution.

Figure 1. Time Taken to Resolve Individual Labor Disputes of Non-Standard Worker

I summarized the occurrence mechanism and resolution processes of individual labor disputes. The seeds of these labor disputes were sown due to companies’ violation of law and lack of labor-management communications, which is just the same in the cases of the collective labor disputes. The occurrence patterns of individual labor dispute are divided into four depending on workers’ response and they are shown in Table 4. Individual labor disputes by pattern of occurrence are: one “status-improvement” case accounted for 6.3%, seven “status-reinstatement” cases for 43.8%, three “subsistence” cases for 18.8% and five “tit-for-tat” cases for 31.6%. According to details of disputes occurrence, an overwhelming majority or 13 employment problem cases including dismissal and encouragement to retire accounted for 81.3% and one case each for 6.3% for unapproved worker’s accident compensations, employment transfer, wage reduction and concern for unpaid retirement allowance. On the other hand, looking at dispute resolution pattern, the most common cases are 10 voluntary resolutions by collective bargaining between union and the companies accounted for 62.5%, followed by four tribunals including labor court for 25% and two resolutions by regional labor relations commission for 12.5%. However, given that the union backed up the union members as part of voluntary resolution in either tribunal or regional labor relations commission, it can be said that the union has been virtually involved in all the dispute resolutions.²

² Since all the cases presented in this paper were resolved, the rate of resolution is almost 100%. I

Figure 1 shows the time taken for the resolution of individual labor disputes.

One of the issues in the most prolonged dispute between S.R. and the University was whether or not S.R. submitted a resignation letter and the case was dealt with in the regional labor relations commission and the district court and finally resolved in the high court. The university eventually lost the case and accepted his reinstatement.

III. The Raison D'être of Community Unions in Prevention and Resolution of Disputes

Firstly, community unions have a role of comforting workers who are involved in disputes. When workers who are in disputes feel bewildered, irritated and despondent about their claims not being accepted, community unions listen to them sympathetically and provide advice. Thanks to community unions, workers can resolve their disputes calmly and indeed, many workers express their gratitude for the existence of community unions saying, "I am thankful" or "I was relieved." It would be difficult for other organizations to assume a similar function.

Secondly, community unions help workers regain their dignity and provide them with a revitalizing power that enables them to go back to work and keep up their courage. If their claims are accepted by the union and the dispute is resolved to their satisfaction, workers can move on to the next job with enthusiasm, as in the case of temporary agency workers such as M.I. and T.K., in particular.

Thirdly, during collective bargaining community unions point out the problems the company has with personnel management, labor management or communication that led to the dispute. If the company's side listens to what is pointed out in a positive manner, they will improve their personnel management, labor management and communication resulting not only in preventing disputes but also in increasing workers' willingness to work. Whether the company makes use of this opportunity depends on the attitude and decision of each company.

Fourthly, every company and organization contains the seeds of future labor disputes. It would be advisable for companies to take in-house labor disputes as a good opportunity to create a better working environment, instead of regarding disputes as something that must be contained and avoided. It may well be said that community unions provide companies with such an opportunity from outside.

Finally, I would like to make a brief suggestion regarding the necessity of public support for community unions. Community unions resolve labor disputes which are social problems that cannot be resolved within a company. They often deal with kinds of labor disputes that cannot be resolved by administrative bodies. It is not too much to say that

would also like to add that most of the cases in which the union offered collective bargaining were settled by the union's efforts.

community unions function as an administrative body or a judicial body in terms of dispute resolution and play a different role from most company unions. I suggest that some form of public support should be provided to community unions for their public function of dispute resolution.