1946, the system of Labour Relations Commissions (LRCs) was introduced in Japan. LRC members are divided equally among those representing the public interest, workers and employers, respectively, with a Secretariat to assist in administration. Each of Japan’s 47 prefectures has its own LRC, with a Central Labour Relations Commission in Tokyo, making a total of 48 LRCs. These exercise their various powers as independent administrative agencies.

The main duties of LRCs are threefold. They consist of (i) issuing administrative orders to provide relief for labor unions and workers from unfair labor practices committed by employers so as to protect the right to organize, (ii) handling or “adjusting” collective labor disputes arising between labor unions and employers or employers’ groups by means of conciliation, mediation and arbitration procedures, and (iii) conciliating individual labor disputes arising between individual workers and employers, regardless of whether a labor union is involved or not. The functions of (i) and (ii) are handled by all LRCs, while (iii) is provided by LRCs in 44 prefectures.

The LRC system has made a huge contribution to the formation of industrial relations and labor practices in Japan since World War II. Today, however, both the industrial structure and the labor market have changed, the organization rate of labor unions is in gradual decline, and collective industrial disputes have also decreased in number. In view of this, continuous efforts are being made to improve the LRC system and review its deployment, in order to identify how the system should be maintained and developed in future.

I. Introduction

Japan’s Labour Relations Commission (LRC) system was launched on March 1st, 1946, pursuant to the former Labor Union Act (Law No. 51) of 1945.¹ That was nearly 70 years ago. The role of the LRC system was revised three years after it was launched, when the former Labor Union Act was amended as the new Labor Union Act (Law No. 174 of 1949; hereinafter “LUA”). This system reaches us today.

¹ To be more precise, one month before this, on February 1st, 1946, the Central Labour Relations Commission for Seafarers was created, with jurisdiction over labor relations for seafarers. This Commission has now been merged with the Central LRC. In legal commentaries on the LRC system, the corresponding sections of the systematic overview by the previous Central LRC Chairman are the most reliable (Sugeno 2002, 2012). Another helpful reference is the work by the previous Chairman of the Hokkaido LRC, who is also a leading Japanese researcher on unfair labor practice law (Doko 2014).
The main mission of Labour Relations Commissions (LRCs) is defined as being “to defend the workers’ exercise of association and promote the fair adjustment of labor relations” (LUA, Article 19-2 paragraph 2). To fulfil this purpose, the 47 LRCs established by each of Japan’s prefectural governments and the Central Labour Relations Commission (hereinafter Central LRC) established by the national government are now cooperating to tackle the following three types of dispute processing.
(i) Examining cases of relief against unfair labor practices
(ii) Resolving labor dispute adjustment cases (conciliation, mediation or arbitration)
(iii) Conciliating individual labor-related disputes

From the very outset, LRCs have had the functions of examining cases of relief against unfair labor practices and adjusting labor disputes. They then acquired the additional task of conciliating individual labor-related disputes through the Act on Promoting the Resolution of Individual Labor-Related Disputes (Law No.112 of 2001), among others (however, this task is only undertaken by 44 Prefectural LRCs).

This paper will give an overview of the current structure and functions of these LRCs, as well as touching on some future issues.

II. Present Situation of LRCs

Since World War II, Japan’s LRCs have served to protect workers’ right to organize as provided under Article 28 of the Constitution, and to handle collective labor-related disputes. The LRC system, with its 70-year history, has made a huge contribution to the establishment of collective industrial relations premised upon the existence and activity of labor unions. In particular, LRCs played an important role in promoting the formation of Japanese-style industrial relations between the immediate postwar period and the era of

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2 Influenced by the Wagner Act in the United States of America (1935), LUA, Article 7 (i) to (iv) set down provisions on the prohibition of unfair labor practices by employers in industrial relations and a system for administrative relief against them (prohibition of disadvantageous treatment, refusal to bargain collectively, control or interference, etc.). The 47 Prefectural LRCs take charge of the first instance, and appeals against the judgment of the first instance (administrative order) are reviewed by the Central LRC in Tokyo. These 48 LRCs are positioned as independent administrative agencies, and are regarded as quasi-judicial bodies. Furthermore, as the premise for procedures in the system of relief against unfair labor practices, etc., labor unions undergo eligibility screening as to whether they meet the requirements that they should be voluntary (LUA, Article 2) and democratic (LUA, Article 5 paragraph 2).

3 Based on the Labor Relations Adjustment Act (Law No. 25 of 1946).

4 Article 20 paragraph 3 of the Act on Promoting the Resolution of Individual Labor-Related Disputes provides for this. It specifies that the Prefectural LRCs can engage in processing individual labor disputes, and that the Central LRC will not itself do this, but will serve to advise and guide the other LRCs.

5 Article 28 of the Constitution provides that “The right of workers to organize and to bargain and act collectively is guaranteed.” This is interpreted as guaranteeing workers’ right to organize, their collective bargaining rights, and their right to engage in industrial disputes.
high-level economic growth. However, as high-level growth came to an end, the unionization rate gradually started to fall, industrial action also decreased, and the nature of labor disputes changed. LRCs have also been affected by this process (see Figures 1, 2, 3 and 4).

LRCs are characterized as administrative agencies operated independently, with members representing the public interest (“public interest members”), members representing workers (“worker members”) and members representing employers (“employer members”) appointed in equal numbers by prefectural governments or the national government, and with a Chairman elected from among the public-interest members.6

The tripartite composition of LRCs (i.e. members representing the public interest, workers and employers) permeates many different situations. As well as attending the annual General Assembly of the National Labour Relations Commissions Liaison Council, the regular General Assemblies of each LRC, held about twice a month, and various other meetings, public-interest members together with worker and employer members as observers are involved in examining cases of relief against unfair labor practices.7 In labor dispute adjustment cases, similarly, mediation is provided by public-interest members together with worker and employer members. In addition, this tripartite composition is usually used when conciliating individual labor disputes.

The tripartite system is useful for providing better solutions to problems, in that the worker and employer members, who have good knowledge of labor situations but sometimes find it hard to avoid conflicts of interests and opinions, and the neutral academic and professional experts mutually compliment each other in areas where they may be lacking in expertise.

Even so, the overwhelming majority of public interest, worker and employer members, who have a tenure of two years and may be re-appointed,8 work on a part-time basis.9

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6 LRCs are empowered to enact regulations, and they decide on numerous matters through group deliberation. Prefectural LRCs are assisted by a Secretariat consisting of local government employees, and the Central LRC by a Secretariat consisting of national public servants.

7 Investigations and first instances are directed by public-interest members and panel deliberation is held only by public-interest members, while the worker and employer members merely have the role of stating opinions as observers. In reality, however, not only do public-interest members generally consult with worker and employer observer members while proceeding with investigation and first instances, but the observer members often play a central role in settlement work.

8 The term of office and re-appointment are governed by LUA, Article 19-2. In actual practice, the basic rule in the Central LRC is a limit of 4 terms totaling 8 years, and an age of less than 70. In the case of Prefectural LRCs, similarly, members are appointed in accordance with certain basic rules, albeit with some differences. Besides this, public-interest members are appointed with the agreement of worker and employer members.

9 The Central LRC has 15 members of each type, while Prefectural LRCs have anything between 3 and 13 members of each type, as specified by Cabinet Order (LUA, Article 19-3, Article 19-12; in addition, Prefectural LRCs may be increased by 2 members if prescribed by prefectural ordinance). Nationwide, there are 259 members of each type, making a total capacity of 777. If the 24 special adjustment members of the Central LRC are added to this, the entire organization consists of 801 members in all. Of these, only two members of the Central LRC (the Chairman and one Subcommittee
The part-time system allows members to hold other posts concurrently, and is therefore suited to attracting a broad spectrum of suitable personnel and stimulating the metabolism of the membership through regular replacement. It also helps to keep operating costs down. But there are constraints inherent in this tenured part-time system. It makes it
The Present Situation and Issues of the Labour Relations Commission System

harder to coordinate schedules for meetings, examination, adjustment and other functions, while members have to be replaced just when they have become familiar with their practical duties. In terms of achieving flexible operation and amassing expertise, this has been a problem ever since the system was launched.

Therefore, the mainly full-time employees of the Secretariat play an important role in assisting the part-time members and bear a heavy responsibility in facilitating the smooth organization of meetings, examination, adjustment, etc. Nevertheless, judging from personnel practices for public sector employees in Japan until now, posts specializing in legal to make a fixed monthly sum, and only 16 have a monthly salary system.
matters are unusual; most employees build “generalist” careers, in which they move about from job to job. So the question is how much specialist knowhow and technical skill they can gather and to what extent they can fulfil their duties when they are only in a post for a few years due to staff reassignment. LRCs that handle a large number of cases can provide a degree of response by appointing legal specialists in tenured or fixed-term posts and having employees with lengthy experience, but for LRCs that handle fewer cases, the reality is that they have to invest significant creativity in order to cope with the work (Figure 5).11

III. State of Processing Various Work

1. Overall Trends in Cases

Taking the five years from 2009 to 2013 as an example, LRCs receive fewer cases than other bodies that deal with labor disputes (Figure 6).12 The annual averages over these five years are 6,496 applications for conciliation by Prefectural Labour Bureaus of the Ministry of Health, Labour and Welfare and 3,565 petitions to the Labor Tribunal system attached to District Courts, compared to a total of only 1,327 cases handled by all 48 LRCs (including labor dispute adjustment cases by the Central LRC).13 Although there is some

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11 In the Central LRC, for example, three of the fifteen public-interest members have experience as judges, while another three legal assistants have been seconded from the legal profession (two serving assistant judges and one serving as public prosecutor). As well as this, various forms of training for members and employees are also undertaken regularly.

12 The analysis from now on will focus on the five years from 2009 to 2013, the most recent period in which definitive statistical data are available.

13 Adjustment cases handled by the Central LRC are those related to the public sector, those of a national character, and those that involve more than one prefecture and are judged appropriate to be handled by the Central LRC. Although there is no overlap in these, administrative review cases
The Present Situation and Issues of the Labour Relations Commission System

Figure 6. Comparison of Newly Filed Cases with Labour Bureaus, Labor Tribunals and Prefectural LRCs in 2009–2013

Overlap, the annual average of all cases received by extra-judicial labor dispute resolution bodies every year is 11,388, while the proportion of these handled by LRCs is 11.7%. Compared to 31.3% for the Labor Tribunal system and 57.0% for Labour Bureau conciliation, this is certainly a modest presence.\(^{14}\)

However, LRCs not only have the characteristic of carefully responding to cases with their tripartite system, but also, while the Labor Tribunal system and Labour Bureau conciliation are exclusively aimed at handling individual labor disputes, LRCs are bodies with responsibility for processing disputes in collective industrial relations. As such, they are also characterized by an ability to deal with a combination of collective cases involving labor unions and individual cases of labor relations. Moreover, in their conciliation of individual labor disputes based on applications by individual workers unrelated to labor unions, a positive strength of LRCs is that they can also handle and process problems of employment rules relevant to all employees. In one sense, then, LRCs are used as a “last resort” for local labor disputes.

2. Trends in Cases of Relief against Unfair Labor Practices

Every year, there are around 374 petitions for relief against unfair labor practices; in recent years, this figure has been trending steadily at just under the 400 mark.\(^{15}\) The

\(^{14}\) As a result, in the many meetings of a review committee studying ways of revitalizing LRCs, the issue of raising awareness of LRCs was tabled for discussion from the outset.

\(^{15}\) The past peak was 1,480 cases in 1972.
average time needed to process cases was 98 days for the first instance and 248 days for administrative review between 1955 and 1959, but with the increasing complexity of cases, among other factors, this average exceeded 1,000 days at one time.16

In roughly two-thirds of cases, processing culminates in a settlement (or withdrawal based on a de facto settlement) at the first instance by Prefectural LRCs. In the remaining one-third of cases, the end result is an administrative order. About half of the orders resulting from the first instance are filed for administrative review by the Central LRC. Half of those re-examined by the Central LRC end in settlement or withdrawal, the other half being subject to judicial review by the court (Figure 7).

Any party to a labor dispute wishing to appeal against an LRC order may seek to have it revoked by filing for judicial review in a District Court. Just over 10% of orders by Prefectural LRCs are contested by judicial review, but nearly half of orders following administrative review by the Central LRC are subject to this process. The revocation rate of Central LRC orders has tended to be high in the past, but in recent years it has been around 10%. As a result, the judicial review rate is also in a decreasing trend. Finally, the rate at which quasi-judicial or judicial procedures by Prefectural LRCs, the Central LRC, District Courts,

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16 The past peak was 2,996 for first instances in 2001 and 2,137 days for administrative review in 2006. Under the 2004 amendment of the Labor Union Act, steps were taken to reduce the examination period, so that now the first instance lasts between 300 and just over 500 days, and administrative review between 500 and around 1,100 days. Each LRC has set a target period for examination, with 24 LRCs aiming for a period of up to one year and 24 LRCs up to 18 months.
High Courts and the Supreme Court are fully activated is thought to be less than 5% of all cases filed.17

3. Trends in Labor Dispute Adjustment Cases

Labor disputes do not occur with any great frequency in Japan today. This is thought to be because labor unions specific to individual companies (company unions) maintain close communication with the companies, and this has helped to build stable industrial relations. This is in no small part attributable to the LRC system.

In fact, from prewar days when labor unions had a negligible presence, the postwar unionization rate rose sharply in the second half of the 1940s, at one point exceeding 50%. The rate stood at around 35% during the period of high-level economic growth, and even the level of occurrence of industrial action was about average for a developed country. During this period, the Central LRC (and a public sector LRC that is now merged with it) served the role of adjusting major national disputes and labor disputes in the public sector, while Prefectural LRCs performed this function in localized labor disputes.

Between the immediate postwar years and the end of the high-level growth era up to the mid-1970s, adjustment was said to be “the jewel in the LRC crown.” LRCs undoubtedly contributed to the formation and stability of Japanese-style industrial relations through their adjustment of various disputes. However, a gradual decline in the unionization rate and a sharp fall in the number of labor disputes has led to a decrease in cases of labor dispute adjustment. Nevertheless, statistically speaking, dispute adjustment cases have continued to outnumber cases of relief against unfair labor practices in recent years, as well cases of individual labor disputes not handled by three Prefectural LRCs (see Note 19) and the Central LRC (Figure 8).

4. Individual Labor Disputes

In Japan, it has long been argued that there is a strong need to protect workers’ rights and interests through collectives known as labor unions, since it is difficult for individual workers to assert their own rights and interests. As such, LRCs used to be the only option as a quasi-judicial procedure for labor problems without recourse to the courts, and the collective bargaining rights of labor unions have been recognized, albeit relatively slowly.18

17 Various ways of addressing this are being discussed in academic circles and by the LRCs themselves—for example, permitting judicial review to seek revocation of a Central LRC administrative review order directly from the Tokyo High Court, bypassing hearings by the Tokyo District Court, or barring new evidence from being produced in judicial review—but none of these has materialized. A number of stumbling blocks have been pointed out under present circumstances. These include the fact that the Commissions mainly appoint part-time members, the fact that not all members are necessarily experts in labor law, the fact that the Secretariat staff who assist them do not necessarily have a high level of expertise either, and the fact that the revocation rate in past judicial review has not necessarily been low.

18 In Japan, there is considerable freedom in setting up labor unions. If two or more workers gather
recent years, however, with the increase in non-regular part-time workers, workers on fixed-term contracts, and others, the union organization rate has declined, while on the other hand individual workers have come to assert their rights more frequently. The system of conciliation by Labour Bureaus and the Labor Tribunal system have been developed, leading to a proliferation of bodies involved in processing labor disputes.

LRCs started to handle individual labor disputes in view of these changes in social circumstances, but as there was no legal obligation to establish such a system, three Prefectural LRCs have opted not to do so. Particularly enthusiastic about responding to individual labor disputes are LRCs in prefectures where there are not so many traditional collective cases (cases of relief against unfair labor practices and labor dispute adjustment cases), and where the working population is relatively small. According to statistics from 2009 to 2013, individual labor dispute cases are more numerous than collective cases in 20 LRCs, or more than 40% of the total (Figure 9). If the current social trend of decreasing collective disputes and increasing individual disputes were to continue in future, LRCs would be required to invest more serious effort in resolving individual labor disputes.

19 These are the three LRCs of Tokyo, Hyogo and Fukuoka, all of which handle numerous cases of relief against unfair labor practices and labor dispute adjustment cases. Moreover, these three prefectures also have separate systems offering consultation and conciliation on individual labor disputes set up within their local authorities, and it was probably judged appropriate to entrust the process to them.

20 The response to individual labor disputes is also being discussed by the review committee studying ways of revitalizing LRCs. In recent years, it has always been raised as an agenda topic at General Assemblies of the National Labour Relations Commissions Liaison Council, where efforts by each LRC are introduced and discussed.
IV. Future Tasks

The LRC system was established soon after the war, as a mechanism for resolving collective industrial disputes. This system has contributed greatly to the formation and stability of industrial relations in Japan, thanks to its efforts in creating a framework for industrial relations through dispute resolution, protecting the right to organize, adjusting rights and interests, etc. So today, when industrial relations are stable but the organization rate has fallen and there are fewer collective disputes, has the raison d’être of LRCs diminished? In one sense, this cannot be denied as a long-term trend, as discussed above. But when examined from a different perspective, we can see that their social raison d’être has certainly not diminished at all.

Firstly, although cases of relief against unfair labor practices and labor dispute adjustment cases in Japan have decreased in number, the total still reaches nearly 1,000 cases every year. For cases of relief against unfair labor practices, in particular, the number of cases filed for administrative review by parties in the last five years has far from decreased, compared to the first five years after the system was launched; if anything, the number has increased. The existence of a public body that deals with collective disputes is indispensable as a device for social stability, and it cannot be considered appropriate to overlook the existence of the LRC system or the knowledge and experience that have been amassed in it.

Moreover, the proportion of cases filed by company unions has decreased while the

21 If cases adjusted by the Central LRC are added, the average over the five years from 2009 to 2013 was 921.6 per year.
Figure 10. Proportion of Community Unions Involved in Unfair Labor Practice Cases Processed in 2009–2013, by Company Size (%)

Source: Central LRC survey.

The proportion filed by community unions that organize local small and medium-sized enterprise workers and non-regular workers has increased. Thus, in terms of protecting the right of workers with weaker social bargaining power, LRCs are still presumed to fulfill a certain role (Figure 10).

Cases involving community unions often concern situations in which the number of organized workers in individual companies is small and there is a high degree of localization. In that sense, the cases are undeniably small in scale. However, they are also highly significant in that they help to protect the rights of dispatched workers (temporary workers), fixed-term workers, part-time workers, and workers on the borderline between contracting and employment who are now proliferating outside the world of regular employment, while also presenting new legal and policy issues. In fact, recent LRC orders that are important in terms of legal theory and have had a significant social impact have often been issued in connection with cases filed by community unions. Besides this, cases involving community unions also throw up many issues in the relationship to legal doctrine and practical

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22 In cases involving community unions, if even a single worker in a specific company succeeds in organizing a union branch, the company enters an obligation to engage in collective bargaining with that union. If the company refuses to negotiate, or is insincere in its negotiating attitude, community unions often attempt to reach settlement via LRCs based on the prohibition of refusal to bargain collectively under LUA, Article 7 (ii). In this case, disputes lean more strongly toward the nature of individual labor disputes in essence, despite being conducted in the collective arena.

23 Examples include the Central LRC order of July 15, 2010 in the Sokuhai case, and the Central LRC order of October 18, 2012 in the Showa case.
The Present Situation and Issues of the Labour Relations Commission System

processing, arranged with company unions in mind.

Meanwhile, there is a degree of independence in the roles and significance of LRCs, in the sense that they can handle both collective and individual disputes and attempt detailed dispute processing based on the tripartite composition of workers, employers and public interest. As bodies specializing in processing labor disputes, relationships of social division of labor and cooperation are being formed in collaboration with various other agencies, and such moves should be further promoted.24

Another area to be explored is the idea of functions to prevent disputes in advance, i.e. educational or consultation functions, rather than processing after a dispute has arisen. As for the educational function, the Central LRC collaborates with LRCs all over the country to hold seminars on industrial relations about 18 times a year, with total audiences of more than 2,500 participants (2014), while Prefectural LRCs also send lecturers to senior high schools and labor counselors to give consultation at railway stations, among others. Education on labor law, employment and labor is important as general education for working citizens, and there is scope for LRCs to make a contribution by taking advantage of their tripartite composition.25

V. Conclusion

A legal system originating in the USA has been transplanted to Japan and has taken root in Japanese soil while undergoing peculiarly Japanese changes. Even today, it has still not lost its raison d’être. This much could be said in positive evaluation of the LRC system. However, all systems harbor the potential for system fatigue, if continued for a long time. And of course, the LRC system, with its history of 70 years, is not exempt from this danger. As such, everyone connected with the LRC system seems to be striving to ensure that the system does not lose its posture of challenging new issues in society. They are doing so by accumulating various efforts such as legal amendments, regular replacement of members and employees, and discussions and ideas within LRCs for activation, in order to prevent this kind of system fatigue from taking hold.

24 Schemes for giving LRCs more positive roles, such as fulfilling a hub function between the various bodies responsible for processing labor disputes, have already been proposed (for example, Suwa [1992]). However, considering the position of LRCs within dispute processing as a whole, the stance of LRCs, etc., it will be difficult to attain this kind of situation directly from the present status quo without revising the whole system.

25 As the unionization rate continues to decline, the search is on for appropriate ways of dealing with problems of a collective nature within companies. If an employee representation system were introduced, there should be scope for involvement by LRCs in addressing problems of electing representatives, their activities, and so on. Meanwhile, even for public sector employees whose remunerations are currently being reviewed by annual recommendation of the National Personnel Authority, there have been repeated proposals that these should be decided via autonomous industrial relations. If that were to happen, a new role could be created for LRCs.
References


