

Japan Labor Issues

11

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Volume 2 Number 10

● Trends

News: Work Style Reform Bill Enacted: Discussions Underway at the Council on the Contents of Specific Procedures

● Research

Japan's Employment System and Formation of the "Abuse of the Right to Dismiss" Theory
Keiichiro Hamaguchi

● Judgments and Orders

On Payment or Non-payment of Premium Wages When Incorporated Into Annual Salary
The Iryo Hojin Shadan Koshin Kai Case
Hirokuni Ikezoe

● Series: Japan's Employment System and Public Policy 2017-2022

Corporate In-house Education and Training and Career Formation in Japan (Part I):
In-house Skills Development
Makoto Fujimoto

● Statistical Indicators



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Japan Labor Issues

Volume 2 Number 10
November 2018

CONTENTS

Trends

- | | | |
|------|---|---|
| News | Work Style Reform Bill Enacted: Discussions Underway at the Council
on the Contents of Specific Procedures | 2 |
|------|---|---|

Research

- | | | |
|--|--|---|
| | Japan's Employment System and Formation of the "Abuse of the Right to Dismiss" Theory
Keiichiro Hamaguchi | 8 |
|--|--|---|

Judgments and Orders

- | | | |
|--|---|----|
| | On Payment or Non-payment of Premium Wages When Incorporated
Into Annual Salary
<i>The Iryo Hojin Shadan Koshin Kai Case</i>
Hirokuni Ikezoe | 12 |
|--|---|----|

Series: Japan's Employment System and Public Policy 2017-2022

- | | | |
|--|---|----|
| | Corporate In-house Education and Training and Career Formation in Japan (Part I):
In-house Skills Development
Makoto Fujimoto | 16 |
|--|---|----|

Statistical Indicators	21
------------------------	----

NEWS

Work Style Reform Bill Enacted

Discussions Underway at the Council on the Contents of Specific Procedures

“The Work Style Reform Bill,”¹ the government’s highest-priority task for the 196th session of the Diet, was enacted on June 29, 2018. It was passed by the upper house with votes from a majority of lawmakers in the ruling Liberal Democratic Party (LDP), its coalition partner Komeito, Nippon Ishin no Kai and other opposition parties.

The bill is a comprehensive legal package with proposed amendments to a total of eight laws including the Labor Standards Act (LSA) and the Industrial Safety and Health Act (ISHA).

Under the amended LSA, the legal limit on overtime working hours will be capped at 45 hours per month and 360 hours per year in principle, with penalties stipulated for employers that violate the regulations.

The establishment of a “highly professional” work system was a contentious point. This targets workers in specialist professions, who will be eligible for payment based on performance rather than work hours. On June 28, the day before the vote, the Committee on Health, Labour and Welfare (a standing committee of the upper house) requested mechanisms for thorough supervision and guidance of employers that come under the system. A 47-point supplementary resolution,² which passed with a majority of votes from five parties including the LDP, Komeito, the National Democratic Party, and the Constitutional Democratic Party of Japan, accompanied the voting on the bill itself.

Outline of Work Style Reform Bill

In a policy speech on January 22, 2018, Prime Minister Shinzo Abe referred to the passage of the Work Style Reform Bill as one of the Diet’s most important tasks.

The bill bundles together amendments to eight laws: Employment Measures Act (EMA), LSA, Working Hours Arrangement Improvement Act,³ ISHA, Pneumoconiosis Act, Part-Time Work Act,⁴ Labor Contracts Act (LCA), and Worker Dispatching Act (WDA)⁵ (see Table 1). The amendments have three main focus areas.

The first is that the EMA will be amended to state clearly the national government’s basic stance regarding work style reform. The government will use this as the basis for establishing a “basic policy” for comprehensively and continuously pursuing reforms in the future. To promote the efforts of SMEs, a provision was inserted prescribing an obligation to the local governments to take steps to establish collaborative frameworks, such as councils composed of regional stakeholders. This partial revision of the bill was made during deliberations in the lower house.

The second area of focus addressed correcting the culture of long working hours and realizing diverse, flexible working styles. Central to this is a revision of the systems governing working hours. Key amendments to the LSA and ISHA were as follows.

1. The Act on Arrangement of Relevant Acts on Promoting the Work Style Reform (Cabinet Public Relations Office’s provisional translation). https://japan.kantei.go.jp/98_abe/actions/201806/_00069.html

2. A supplementary resolution indicates items to be noted when implementing a law. After a bill is adopted, a supplementary resolution may be attached to the draft legislation. Although it does not constitute an amendment to the main bill itself, inclusion in a supplementary resolution is equivalent to giving instructions to future sessions of the Diet for enforcement of the law. It has political impact, but is not legally binding. (Source: Website of House of Councilors, the National Diet of Japan)

3. The Act on Special Measures for Improvement of Working Hours Arrangements.

4. The Act on Improvement, etc. of Employment Management for Part-Time Workers.

5. The Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers.

An upper limit for overtime working hours was set at 45 hours a month and 360 hours a year in principle, and this cannot be exceeded unless there are temporary, special circumstances. Even if there is an agreement between labor and management regarding such circumstances, overtime working hours must be limited to no more than 720 hours a year and 100 hours a month including work on holidays. The monthly average is to be no more than 80 hours including work on holidays, with a basic limit of 45 hours that is not to be exceeded six times (for six months) in a year (Figure 1). Exemptions were established for certain occupations such as vehicle drivers, construction workers, and medical doctors, with a grace period attached. An exemption was also set for workers engaged in R&D, on the condition of an interview with and guidance from a medical doctor.

With regard to the extra wage pay rate for overtime work exceeding 60 hours a month, exemptions for SMEs will be abolished. The rate for SMEs is currently 25% or higher, and will be raised to 50% or higher, the same rate as that for large enterprises.

Employers will be obliged to let workers take at least five days of annual paid leave. For workers who have been granted 10 days or more of annual paid leave, employers have to designate a period for leave after accommodating worker's wishes for when to take leave.

The establishment of the highly professional work system was the biggest point of contention between the ruling and opposition parties during debates on the bill. Measures to ensure the health of the relevant workers will be strengthened. Provisions were added to the bill at the lower house to enable these workers to withdraw their consent to come under the system.

The ISHA will be amended to ensure the effectiveness of measures to maintain workers' health. The amendment stipulates that employers must monitor actual working hours using methods prescribed by ministerial ordinance.

Also, the Working Hours Arrangement Improvement Act will be amended to promote the adoption of a work-interval system. Employers are

required to make efforts to ensure a certain number of hours of rest period between the ending time of work on a given day and the starting time of work on the next day.

The ISHA and Pneumoconiosis Act will be amended. Enterprises will be required to provide information necessary for industrial physicians to properly perform their medical services, with the aim of strengthening the functions of industrial physicians and occupational health.

The bill's third main area of focus was the requirement that workers receive appropriate treatment and compensation regardless of their forms of employment. The Part-Time Work Act, LCA, and WDA will be amended with provisions to eliminate unreasonable disparities in treatment.

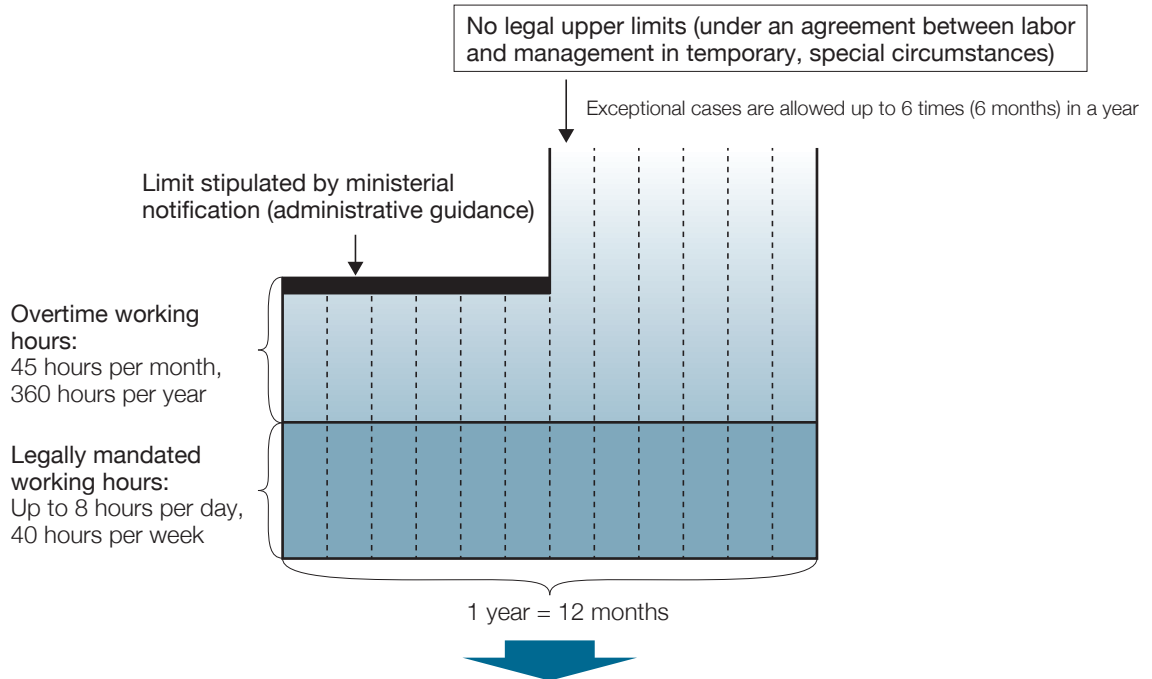
In particular, regarding the prohibition on unreasonable differences in treatment between regular workers and part-time workers or fixed-term contract workers within the same enterprise, the amended act clarifies how to judge whether or not treatment is unreasonable. It states that, considering the content of workers' duties and the responsibility accompanying the duties, the extent of changes in the content of duties and work locations, and other circumstances, employers must consider the rationality of each item of the working conditions individually taking into account the nature and purpose of the items including base salary and bonus as well as other allowances. This provision will be transferred from LCA to the Act on Improvement, etc. of Employment Management for Part-Time and Fixed Term Contract Workers (the current Part-Time Work Act).

Regarding dispatched workers, employers will be obliged to ensure either treatment equal or equivalent to that of workers regularly employed at the client enterprise, or treatment dictated by labor-management agreements that satisfy certain requirements. Basic provisions for guidelines governing these matters are to be drawn up.

In addition, it will be mandatory for employers upon request to provide part-time workers, fixed-term workers, and dispatched workers with explanations of the content of treatment disparities between these

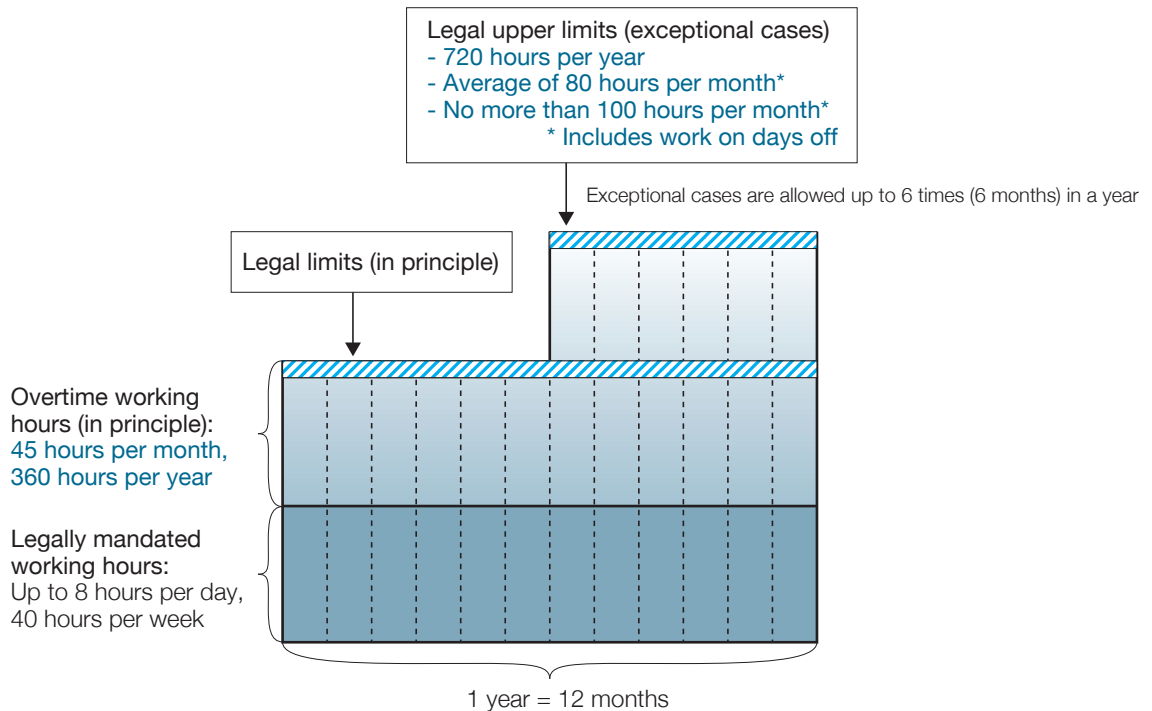
Currently

No legally mandated limits on overtime working hours (only administrative guidance applies)



From April 2019 onward (application to SMEs is from April 2020)

Upper limits on overtime working hours are mandated by law, and overtime exceeding this limit will be prohibited.



Source: Ministry of Health, Labour and Welfare's leaflet on the Work Style Reform with slight changes to the explanatory text by JILPT, 2018.

Figure 1. Legal limit on overtime working hours (amendment to the Labor Standards Act)

workers and regular workers, and the reasons for them. The bill provides for measures to ensure these explanations through administrative enforcement and ADR (Alternative Dispute Resolution).

Expansion of scope of discretionary work system deleted from the bill

The date of enforcement and items for amendment were partially revised. They were originally based on a summary of the bill reviewed by the Labor Policy Council (an advisory panel to the Minister of Health, Labour and Welfare) in September 2017, which they found to be “generally appropriate.” A Cabinet decision was made on April 6, 2018. Deliberations in the lower house began on April 27 and continued until the bill was passed on May 31. Deliberations in the upper house started on June 4.

In late April 2018, before Diet deliberations began, it was discovered that there were flawed data in the Comprehensive Survey on Working Hours, etc., which was conducted in April through June 2013 by the Ministry of Health, Labour and Welfare. Prime Minister Abe announced on February 28 that the provisions on expanding the scope of the discretionary work system would be deleted from the bill and handled separately.

After the government gave up on submitting this section of the bill to the ongoing Diet session, the opposition insisted that the highly professional work system would promote *karōshi* (death from overwork) because it was to exclude some high-income professions from regulations on working hours. They took a firm stand against the system. There was a gulf between the ruling and opposition parties on this issue.

The law passed by the Diet contains many items, including the amendment to WDA, that still require the formulation of practical implementation procedures such as ministerial ordinances and guidelines. Going forward, these matters will be discussed among academics representing public interests, labor, and management in sub-committees and working groups of the Labor Policy Council.

In the summary of the bill approved by the Labor Policy Council, the date of enactment was originally

set as April 2019 in principle, with a one-year grace period for SMEs regarding the provisions on equal pay for equal work (with the exception of those involving WDA). Under the law passed after Diet deliberations, the enforcement date was modified. The revised provisions concerning limits on overtime working hours go into effect in April 2019 as planned for large enterprises, and one year later, in April 2020, for SMEs. The revised provisions on equal pay for equal work take effect in April 2020 for large enterprises and April 2021 for SMEs. For both large enterprises and SMEs, the provisions on the application of the highly professional work system will go into effect in April 2020.

Government, labor, and management statements on passage of the bill

Upon passage of the bill, Prime Minister Abe remarked, “These are the first major reforms [to labor laws] in 70 years. We will rectify the problems of working long hours, and eradicate the expression ‘non-regular employment’ from Japan. We have enabled people to work even while raising children or providing nursing care through the passage of this legislation that makes diverse ways of working possible. I intend to continue to take the perspective of working people as I press forward with reforms. Of course, various viewpoints on this legislation were expressed in the Diet. I will bear those in mind as I advance reforms putting myself in workers’ shoes.”

JTUC-RENGO (Japanese Trade Union Confederation) General Secretary Yasunobu Aihara issued a statement on June 29. He praised “the realization of several measures JTUC-RENGO has been requesting, including limits on overtime working hours with penalties for violators, the abolition of measures exempting SMEs from paying higher wages for overtime exceeding 60 hours, and equal pay for equal work so as to eliminate unreasonable disparities among people of different employment types.” However, he criticized the highly professional work system, calling it “extremely regrettable that the bill passed without eliminating this provision for a system that

disregards the work-hours regulations and threatens to encourage excessively long working hours.” He noted that the Constitutional Democratic Party of Japan and the National Democratic Party, which have a cooperative relationship, submitted a counter-proposal to the lower house with removal of the highly professional work system as a key point. Their proposal, he said, “digs into problems not clarified in the bill, and contains much material that will provide fodder for future Labor Policy Council discussions.” Aihara also expressed admiration for the efforts that led to “adoption of a 47-point supplementary resolution by the upper house Committee on Health, Labour and Welfare, which will heighten the effectiveness of the bill.”

Chairman Hiroaki Nakanishi of Keidanren (the Japan Business Federation) issued a statement on June 29. “Development of work environments where

workers can exercise their creative potential, and rectification of the culture of working long hours are urgent issues,” he commented. “We have high regard for the Work Style Reform Bill that has passed under the leadership of Prime Minister Abe. It is unfortunate that expanded scope of the discretionary work system was removed from this bill, and we call for swift resubmission of a bill containing this provision. We in the business community will also accelerate our efforts to reform working styles so as to improve motivation and productivity and generate innovation.”

Related articles from back numbers:

Government Decides “Action Plan for the Realization of Work Style Reform: Relevant Laws to Be Amended Aimed at Overtime Limits and Equal Pay for Equal Work.” *Japan Labor Issues*. Vol. 1, No. 1, September 2017. <https://www.jil.go.jp/english/jli/documents/2017/001-01.pdf>

Table 1. Key aspects of the Work Style Reform Bill

Name of law	Details of amendments	Date of enforcement (for SMEs)
Labor Standards Act	Enhancement of flextime system · Period of adjustable working hours (“calculation period”) will be extended from 1 month to 3 months.	April 1, 2019
	Introduction of legal limits on overtime working hours · In principle, the upper limit for overtime working hours will be capped at 45 hours per month and 360 hours per year. · Even if there is an agreement between labor and management on an extraordinary need due to temporary special circumstances, overtime working hours will be capped at 720 hours a year and 100 hours a month, with a monthly average of no more than 80 hours (including work on days off). · The basic limit of 45 hours is not to be exceeded 6 times (for six months) in a year.	April 1, 2019 (April 2020)
	Raise in extra wage rate for overtime work exceeding 60 hours per month · SMEs will have to pay the same extra pay rate (50%) as large enterprises.	April 1, 2023
	Ensuring use of a certain number of days of annual paid leave · For workers who are granted 10 days or more of annual paid leave, employers will be obliged to let the workers take at least 5 days of annual paid leave during a period designated by the employer, having accommodated the worker's wishes regarding when to take leave. (This can exclude days off that have been taken during a period requested by the worker or during a period pre-determined by the employer.)	April 1, 2019
	Establishment of a “highly professional” work system · Workers who have a clear scope of duties with specialized skills and a definite annual income above a certain level (currently expected to be 10.75 million yen or more a year) will be excluded from regulations regarding working hours, holidays, extra wages for late-night work, etc., on conditions including that measures to ensure health are taken, the worker personally consents to the system, and a resolution of the Labor-Management Committee is passed. · These workers can withdraw their consent to be covered by the system.	April 1, 2019

Table 1. Continued

Name of law	Details of amendments	Date of enforcement (for SMEs)
Employment Measures Act (The name of the Act is to be changed ⁶)	Comprehensive and continuous promotion of Work Style Reform · The government will establish a basic policy on comprehensive promotion of labor-related measures.	July 6, 2018
Industrial Safety and Health Act	Strengthening functions of industrial physicians and occupational health, and monitoring working hours · Eight new items will be added, including requiring enterprises to provide information necessary for industrial physicians to properly perform their duties. · With the exception of workers covered by the highly professional work system, employers must monitor employees' working hours using methods specified by an ordinance of the Ministry of Health, Labour and Welfare. · If workers covered by the highly professional worker system spend more than a designated length of time in the workplace, the employer is obliged to ensure that the workers are interviewed by and receive guidance from a medical doctor.	April 1, 2019
Pneumoconiosis Act	Provisions for handling information on the physical and mental condition of workers	April 1, 2019
Working Hours Arrangement Improvement Act	Encouraging enterprises to adopt a work-interval system · Employers must endeavor to ensure a certain number of hours of rest period between the ending time of work on a given day and the starting time of work on the next day.	April 1, 2019
Labor Contracts Act	Revision of laws and regulations to eliminate unreasonable disparities in treatment · Provisions for balanced treatment ("prohibition of disparities judged to be unreasonable") will be transferred to the Part-Time Work Act.	April 1, 2020 (April 1, 2021)
Part-Time Work Act (The name of the Act is to be changed ⁷)	Revision of laws for equal and balanced treatment, and obligation to explain treatment · Unreasonable disparities between regular and non-regular workers (part-time workers, fixed-term contract workers) are to be prohibited. · At the request of non-regular workers, employers will be obliged to provide explanations of the content of treatment disparities between these workers and regular workers, and the reasons for them.	April 1, 2020 (April 1, 2021)
Worker Dispatching Act	Revision of laws for equal and balanced treatment, and obligation to explain treatment · Worker dispatching business operators will have to ensure either equal and balanced treatment with workers regularly employed at the client enterprise, or treatment meeting certain requirements determined by a labor-management agreement at the worker dispatching business operator. · Clients seeking to hire dispatched workers will be obliged to provide dispatching business operators with information regarding the treatment of dispatched workers.	April 1, 2020

6. The name of the Employment Measures Act is to be changed to the "Act on Comprehensive Promotion of Labor Policies, Stabilization of Employment and Improvement of Workplace Environments."

7. The name of the Act on Improvement, etc. of Employment Management for Part-Time Workers (the Part-Time Work Act) is to be changed to the "Act on Improvement, etc. of Employment Management for Part-Time and Fixed-Term Contract Workers."

Article

Japan's Employment System and Formation of the "Abuse of the Right to Dismiss" Theory

Keiichiro Hamaguchi

1

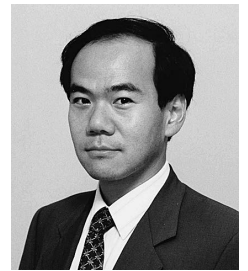
In Japanese labor studies, it is common to think of long-term employment practice as a major characteristic of Japan's employment system and to position the "abuse of the right to dismiss" theory (*Kaiko-ken ranyō hōri*)¹ as part of the legal framework supporting it. This perception is not necessarily mistaken, but viewing it too simplistically is not appropriate for the following reasons.

First, regarding constraints on dismissal as the most prominent feature of Japan's employment system, is not a very appropriate or effective means of comparing laws of Japan with those of developed Western countries other than the United States. In terms of comparative law, only the United States is an outlier in that it continues to uphold companies' freedom to dismiss employees at will. In other Western countries, legislation requiring just cause for dismissal has been developing, albeit with varying with degrees.

Second, from this standpoint, we can say that what distinguishes Japan is that restrictions on dismissal have been developed exclusively in courts through an accumulation of judicial precedents, without going through legislation, whereas they have developed through legislation in Western countries.

In other words, viewing the abuse of the right to dismiss theory and Japan's employment system as virtually synonymous is incorrect in that it treats American freedom to dismiss employees, which is the exception rather than the rule, as a universal international standard. Furthermore, it is

considered to run the risk of giving a false impression that the transformation of Japan's employment system might inevitably cause the loosening of dismissal regulations.



This article seeks to clarify the relationship between Japan's employment system and the abuse of the right to dismiss theory through historical analysis of the process by which the theory was formed.

2

The former Labor Union Act, enacted in 1945, prohibited dismissal that constituted unfair labor practices, with the passage that "[t]he employer shall not commit...to discharge or otherwise treat a worker in a disadvantageous manner a worker by reason of such worker's being is a member of a labor union," but only imposed penalties as a legal effect and did not stipulate dismissal itself as invalid. Even if a case was confirmed as a violation under the criminal provisions, there was no immediate civil effect. Therefore, it was necessary to file a separate civil lawsuit in order for the employee to be reinstated.

In a groundbreaking example of such a case, the court issued a verdict on the *Tsuruoka Toho* case on November 24, 1948, invalidating a dismissal as an unfair labor practice with a civil effect, the first judicial precedent regarding dismissals. In 1949, the Labor Union Act was fully revised. In addition to disadvantageous treatment such as dismissals,

the Act incorporated new regulations into its framework of unfair labor practices; that is, refusal to engage in collective bargaining, and domination and interference with labor union activities. The penalty system was abolished, and instead the form of orders for relief issued by the Labor Relations Commissions² was adopted. This stipulated the Commissions' authority to issue relief orders, including reinstatement of workers to their previous positions. Combined with the judicial precedent on the invalidity of dismissal from the era of the previous penalty system, the idea that dismissal constituting an unfair labor practice was invalid became widespread.

3

Meanwhile, in the 1950s, with regard to dismissals of individual workers that did not fall into the category of unfair labor practices, the abuse of the right to dismiss theory was formulated and established at the lower court level. As for its theoretical framework, in the early 1950s there were conflicting theories—the theory of employer's freedom to dismiss workers, the abuse of the right to dismiss theory, and the theory of justifiable dismissal—but in the late 1950s the abuse of the right to dismiss theory became overwhelmingly dominant.

With the basic principles of civil litigation, the burden of proof is imposed on employer under the theory of justifiable dismissal, whereas the burden of proof is on workers under the abuse of the right to dismiss theory, and this point ought to differentiate the two theories. However, the *Nippon Reizo* case verdict of May 22, 1950 shifted this burden of proof of validity for the dismissal to the company while adopting the abuse of the right to dismiss theory. And this became the standard practice in such court cases. In other words, the abuse of the right to dismiss theory, which became the mainstream, was not different from the theory of justifiable dismissal at all in its substance.

So why didn't the theory of justifiable dismissal become mainstream? Important precedents were the *Red Purge Dismissal* cases and the *USFJ (US*

Forces Stationed in Japan) Employees' Dismissal cases. In the former cases, a large number of labor union activists were dismissed based on allegations that they were Japan Communist Party members or sympathizers. And it was the abuse of the right to dismiss theory, rather than the theory of justifiable dismissal from which it barely differed in any substantial way, that was intentionally used in order to reach the conclusion that the dismissals were valid. The major ruling in the latter cases stated that “even if the military has not explicitly specified the justification of dismissal, claiming it as ‘reasons of national security,’ the demands for ‘confidentiality’ in a military cannot be denied,” and the abuse of the right to dismiss theory was formulated under special conditions, to reach the conclusion that the dismissals were not abusive even if no specific justification was given.

4

As the abuse of the right to dismiss theory developed in the 1950s, Japan's employment system was not overtly stated as its reasoning. On the contrary, considering the enactment of the Protection against Dismissal Act in West Germany in 1951, there seems to have been a broad-based movement in developed countries around this time toward attempting to regulate dismissal without just cause, regardless of the form of employment system. In Japan, the same result was reached by an accumulation of judicial decisions. In other words, the abuse of the right to dismiss theory was not deeply rooted in Japan's employment system, at least during its initial, formative period.

A group of court cases citing Japan's long-term employment practices as reasons for invalidity of dismissal appeared only later, in the 1960s. However, in the August 9, 1967 verdict in the *Singer Sewing Machine Co.* case, involving dismissal of an American employed by a Japanese branch office of the American company, the abuse of the right to dismiss theory was recognized as an aspect of Japan's distinctive lifetime employment system, but the dismissal was recognized as valid on the grounds that the invalidity of abusive dismissal

does not apply to Americans. This legal prescription may seem logical when compared to the status of American employees of American companies where freedom of dismissal is the norm. It is, however, not necessarily appropriate when compared to the systems of European countries that place some restrictions on dismissal although their employment systems differ from Japan's. In this sense, such cases involving American companies doing business in Japan played a role in developing the overly simplistic discourse that justified the abuse of the right to dismiss theory in terms of Japan's distinctive employment system.

5

In the 1970s, the oil crises struck developed countries, and corporate restructuring resulted in dismissal of employees en masse. In response to this, many rulings on economic dismissal were issued at the lower court level in Japan, forming the basis for the so-called theory of economic dismissal (*Seiri kaiko hōri*). In these rulings, Japan's employment system was often referred to as a rationale, and here for the first time a judicially created theory based on the employment system was established. The *Toyō Sanso* case at Tokyo High Court ruling on October 29, 1979 stated,

In Japanese labor relations, lifetime employment is assumed to be a basic principle, and workers usually make their long-term life plans on the premise of a permanent and stable employer-employee relationship. Dismissal not only deprives workers of their means of making a living, or forces them to change jobs against their will to employers with more unfavorable working conditions, but also often severely disrupts their overall life plans. Therefore...employer's freedom to dismiss employees for reasons of business necessity should be subject to certain restrictions, as is dismissal for other reasons.³

This established the economic dismissal theory on the basis of Japan's employment system.

6

The abuse of the right to dismiss theory,

established at the lower court level in the 1950s, was confirmed by a Supreme Court ruling in the 1970s and became a judicial precedent. Ironically, the theory of economic dismissal itself, which embodies Japan's employment system, has to this day never been confirmed by a Supreme Court decision, and in a strict sense cannot be called a judicial precedent.

Since 2000, with relaxation of dismissal regulations rising near the top of Japan's labor law policy agenda, the theory of economic dismissal has been one of the areas of focus, in particular what is called its second requirement (or element)—the obligation to take various measures to avoid economic dismissals. The government's Council for Regulatory Reform asserted the importance of “shifting the main thrust of employment policy, from ensuring employment within specific companies to ensuring employment across society as a whole,” and suggested “proposing re-employment assistance and skill development support as other options, in place of the obligation to make efforts to avoid dismissal.”

It is important to note that at this point, neither the theory of economic dismissal nor the abuse of the right to dismiss theory is officially prescribed by legislation, and under the provisions of the Civil Code, the principle of freedom to dismiss employees is upheld. These proposals for relaxation of economic dismissal argued that legislation should be used to transform and mitigate judicially created theories, which are not actually legal provisions.

However, the Labor Standards Act Article 18-2, which was enacted in 2003 after discussions of the tripartite Labor Policy Council composed of labor, management and public interest members, faithfully stipulated not the economic dismissal theory but only the abuse of the right to dismiss theory, for which there is a Supreme Court judicial precedent. This article of the Act defines “[i]f a dismissal lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms, it is treated as an abuse of rights and is invalid.” This article was subsequently transferred to Article 16 of the Labor Contracts Act in 2007, but its content remains completely unchanged. In other words, the

current dismissal laws in effect in Japan merely stipulate minimal dismissal regulations in the same manner as Western countries other than the United States, and the theory of economic dismissal grounded in Japan's employment system is still backed by nothing more than lower court precedents.

7

Meanwhile, there is a debate over whether a system for financial resolution of dismissal cases should be introduced, besides an issue with different dimensions from revising the abuse of the right to dismiss theory and the theory of economic dismissals in themselves. Various proposals were made when drafting the 2003 and 2007 legislation described above, but none of them came to fruition. In recent years, discussions have been held in the Study Group on a Fair and Transparent Labor Dispute Resolution System, established by the Ministry of Health, Labour and Welfare. The study group's report issued in May 2017 worked out the policy direction of stipulating, in practical legal terms, workers' right to request monetary payments.

However, the issue seems to be quite a thorny one. Japanese law does not prohibit any financial resolution of dismissals. In fact, a large number of dismissal cases have been resolved financially through Labor Bureau's conciliation and in labor tribunals, and a considerable number have also been settled through monetary compensation of dismissal-related lawsuits. The author has comprehensively clarified these matters by reviewing JILPT surveys (Hamaguchi 2016). However, unjust dismissals do not result in payment for damages—unlike *Auflösung des Arbeitsverhältnisses* (cancelling of

labor contract) known in Germany—when a worker seeks invalidation of dismissal and confirmation of their employee status.

In the future, there will be further Labor Policy Council discussions on dismissal legislation. It is to be hoped that these will be grounded in an awareness of the historical background outlined in this article.

1. This theory “is for screening and restricting employers’ exercise of the right to dismiss employee (manifestation of the intention to dismiss employee)” (Ikezoe 2018).
2. The Labor Relations Commissions, established in March 1946 following the enactment of the Labor Union Act, are tripartite bodies instituted in each prefecture. They are entrusted with adjustment of labor disputes under the Labor Relations Adjustment Act through conciliation, mediation and arbitration.
3. Administrative Reform Committee, *Kisei kaikaku ni suite* [Committee's view on administrative reform], last modified December 12, 2000, <https://www.kantei.go.jp/jp/gyokaku-suishin/12nen/1215kenkai/kakuron12.html> [in Japanese].

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On Payment or Non-payment of Premium Wages When Incorporated Into Annual Salary

The Iryo Hojin Shadan Koshin Kai Case

Supreme Court (Jul. 7, 2018) 1168 *Rohan* 49

Hirokuni Ikezoe

Facts

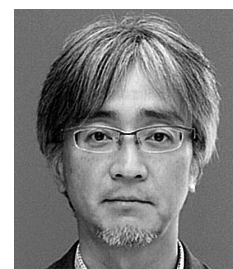
In this case, X (plaintiff of the first instance, appellant of the court below) was employed as a medical doctor at incorporated medical institution Y (defendant of the first instance, appellee of the court below), and sued for premium wages for overtime and night work, etc. Below, only the points debated in the final appeal are described.

(1) According to the employment contract between X and Y, wages should consist of an annual salary totaling 17 million yen (approx. US\$14,100) made up of a monthly base salary of 860,000 yen (approx. US\$7,100) and a total of 341,000 yen (approx. US\$2,800) in monthly fringe benefits (managerial position allowance, duty allowance, adjustment allowance), with a bonus based on the equivalent of three months' salary.

The employment contract specified a five-day work week, with working hours from 8:30 a.m. to 5:30 p.m. (with an hour's recess), and two days off per week, in principle, but stated that if needed the doctor could be called on to work at other times, in which case overtime wages would be based on Y's overtime compensation plan for doctors (hereinafter referred to as the "overtime plan").

In the overtime plan, work that qualifies for an overtime allowance is limited to (a) operations that directly contribute to hospital income or essential emergency services, (b) allowance payments are limited to the actual hours of emergency operations, and payment must be authorized by the manager in charge, (c) the time for which overtime allowances are paid shall be the time spent on emergency services occurring between 9:00 p.m. on a workday

and 8:30 a.m. on the next day, or on days off, (d) overtime allowance is not paid for overtime work regarded as an extension of ordinary work, and (e) a separate duty allowance would be paid to doctors on duty or day duty.



In the employment contract, it was agreed that premium wages for overtime work, etc., other than those paid under the overtime plan, would be included in annual salary of 17 million yen (hereinafter referred to as "the agreement"), but what proportion of the annual salary consisted of premium wages for overtime work, etc. was not disclosed.

(2) Y calculated X's overtime work during the employment period (six months) as 27.5 hours (of which 7.5 hours was night work) for X, paid an overtime allowance of 155,300 yen for this, and paid a total of 420,000 yen as a duty allowance. In the calculation of overtime allowance, although night work was compensated at a premium rate, other overtime work was not.

(3) X filed a lawsuit against Y for payment of premium wages for overtime totaling 4,380,000 yen and damages for delayed payment, etc.

In both the first and the second trials, the judgments recognized part of X's claim, limited to 563,380 yen in premium wages, but dismissed the rest of the claim, and X appealed.

Judgment

The supreme court decided that in the high

court judgment the part of the claim related to premium wages was reversed, and the case was remanded to the Tokyo high court.

(1) Employers' obligation to pay premium wages for overtime work etc. under Article 37 of the Labor Standards Act (LSA) is intended to curtail overtime work etc. by making employers pay premium wages, and thus such obligation under the Act is understood to have the purpose of ensuring employers observe the Act's provision on working hours and compensate their employees... It is understood that employers are obligated only to pay premium wages to ensure that the amount paid is not less than that calculated by the method prescribed in said Article (author's note: related provisions on calculation of premium wages), and here the method itself, of paying premium wages by including them in advance in the base salary or other allowances, is not immediately against said Article.

(2) On the other hand, in order to determine whether an employer has paid an employee the premium wages mandated by Article 37 (LSA), it is necessary to consider whether the amount paid as premium wages is not less than the amount of premium wages calculated by the method prescribed in said Article, based on the wages for ordinary working hours. In line with said Article, in cases where premium wages are paid in advance as part of the base salary etc., as a prerequisite for this consideration, it is necessary to be able to distinguish between the ordinary wages and premium wages respectively in the employment contract's provisions on base salary. If the amount of the premium wages falls below the amount calculated by the method prescribed in said Article, etc., the employer is obligated to pay the difference to the employee.

(3) Although the agreement between X and Y states that premium wages for overtime work, other than those paid based on the overtime plan, are included in the annual salary of 17 million yen, it does not clarify which portion of wages corresponds to premium wages for overtime work etc. This means the agreement cannot be used to determine what amount of wages have been paid to X as premium wages for overtime work etc. Also, with regard

to the annual salary paid to X, it is not possible to distinguish between the portion corresponding to wages for normal working hours and that corresponding to premium wages.

Therefore, it cannot be said with any certainty that Y has paid X premium wages for X's overtime work and night work.

(4) Being different from above-mentioned opinion, the judgment of the court below violates laws, which has obviously affected its decision. We hereby remand this case to the court below and ask for further, careful consideration of whether Y has paid X all the premium wages calculated by the method prescribed by Article 37 (LSA) based on the amount of the portion equivalent to the wage of normal working hours.

Commentary

This decision is significant and distinctive in several ways.

First, regarding the form of wage payment, with premium wages included in wages normally paid, the court followed the precedents of Supreme Court decisions¹ in making a judgment on the suitability of this form of payment of premium wages for legally mandated overtime work and night work. It judged that in order to determine whether legally mandated premium wages have been paid, it is necessary to be able to distinguish between ordinary wages and premium wages, and furthermore that the amount of premium wages paid must not be less than the amount calculated by the legally prescribed method (see (2) in Judgment).

Second, while the court reiterated that the premium wage payment method of including premium wages in wages normally paid is not invalid per se,² as a precondition, there must be clear compliance with the purport of the premium wage provision under Article 37 of LSA. In particular, the purport of said Article is interpreted as being the curtailing of overtime work by mandating that employers pay premium wages (see (1) in Judgment).

The prior to Supreme Court rulings stated that the significance of the premium wage regulation was ensuring compliance with the working hours

principle (8 hours per day, 40 hours per week) and financial compensation for employees who do overtime work. The new judgment further emphasizes these and explicitly shows understanding of the intent to curtail overtime work. With the enactment of the Work Style Reform Bill (Jun. 29, 2018), while reducing excessively long work hours is being carried out on both the policy and practical fronts, this court judgment is in line with social trends in terms of its legal interpretation.

Third, the plaintiff in this case is a professional, medical doctor, who has discretion in performing work tasks and whose salary is considerably higher than those of average employees. According to this judgment, working hours regulations regarding premium wages are to be strictly applied not only to average employees such as shop-floor operators and office employees but also to specialized employees with high salaries and discretion in performing work tasks.

There were already lower court precedents with regard to premium wage for overtime work by such specialized employees with high salaries and discretion in performing work tasks.³ In one of these cases, the *Morgan Stanley Japan* case, involving a foreign currency trader with a monthly salary of about 1,830,000 yen, interpreting premium wages as being included in wages ordinarily paid was not in violation of the LSA.

Also, regarding the *Tech Japan* case, the lower court ruled⁴ that if fixed monthly salary of 410,000 yen is paid for total monthly working hours of between 140 hours to 180 hours, premium wages need not be paid even when exceeding the standard monthly working hours of 160 hours, and rejected the claim of the plaintiff, a programmer, whose salary was set significantly higher than those of other employees, as having voluntarily waived the right to premium wages if working in excess of 160 hours but less than 180 hours per month (however, the court mandated that for work exceeding 180 hours a month, the employer was to pay an hourly rate determined by dividing the prescribed monthly salary by the prescribed monthly working hours).

The initial and second decision in the *Koshin*

Kai case adopted the same position as the lower court ruling for the *Morgan Stanley Japan* case, but the Supreme Court judgment in this case rejected its interpretation. In the decision for the *Tech Japan* case, the lower court judgment on normal wages and premium wages was overturned due to the impossibility of distinguishing between them at the Supreme Court. This can be seen as the Supreme Court reiterating the position that mandated premium wages regulations are to be strictly applied, regardless of the nature and mode of work and salary amount.

Given the Supreme Court ruling in this case in question, some readers may wonder whether Japanese law lacks provisions on exclusion from working-hours limits and premium wages for professional, discretionary, high-salaried employees.

In fact, such provisions exist in Japan. One is in Article 41(ii) of LSA (persons in positions of supervision or management), another in Article 38-3 and 38-4 of LSA (specialized work and discretionary management-related work, and the other in the bill that recently passed the Diet (The “highly professional” work system).

The system for persons in positions of supervision or management excludes said persons from the application of the provisions regarding working hours. As to whether or not someone is covered by this system, in administrative practice and judicial precedents thus far, people have been judged on whether they (i) participate in management decisions and have labor management authority, (ii) have discretion about working hours, such as what time they begin and end work, and (iii) their wages and treatment, etc. are in line with such status and authority. Those who meet these criteria are excluded from the application of the regulations pertaining to working hours, rest periods, and days off, including regulations governing overtime work and premium wages (those regarding premium wages for night work and annual leave still apply).

The discretionary work system is one that deems people to have worked for a certain period of time, and in some cases overtime work and premium

wage regulations do not apply to these employees. Execution of tasks is largely up to the discretion of employees because of the nature of the work, and it is difficult for employers to specify procedures and allocation of time for the jobs in question (19 specialized and 8 planning-oriented occupations). The system can be applied after certain procedures such as a majority labor-management agreement (specialized type) or a resolution by a labor-management committee and employee's consent (planning-oriented type). Since the discretionary work system deems employees to have worked the hours prescribed in these agreements or resolutions, regardless of the actual working time, unless the number of hours deemed worked exceeds the legal limit working hours, premium wages are not paid. This system has the same effect as the system for exclusion from overtime work and premium wages (regulations governing premium wages for night work, rest periods, days off, and annual paid leave still apply).

The highly professional work system was established as one of the work style reforms the current administration is pursuing, and excludes a wider range of application than the above two systems. Under this system, in cases where the scope of jobs is clear and employees with a specified annual income (at least 10 million yen) are engaged in work requiring highly specialized knowledge, they are excluded from premium wage regulations governing working hours, rest periods, days off, and night work (annual paid leave regulations still apply), on the condition that they are given, and actually take, 104 days off per year as a health protection measure, and that there is both a resolution by a labor-management committee and employee's consent. As a result, employees to whom this system applies are not covered by overtime work and premium wage regulations.

Those exclusionary systems or similar systems do not specify "medical doctor" as a job category to which they apply (note that the highly professional work system has not yet gone into effect), and cases like these regarding overtime work and premium

wages for employees of this particular profession must be determined by court decisions such as this one. Thus, in practice, an employer adopting a system where total wages include premium wages (even if there is some form of agreement between the employer and employees about the wage payment system, as in this case) bears the duty to calculate the premium wages based on the purport of Article 37 (LSA) covering the wage form of all employees including high-salaried employees who perform specialized, discretionary work, unless the employer applies one of the above systems of exclusion from regulations governing overtime work and premium wages to the employees. Otherwise, the employer is required the thorough management of working hours and calculation of overtime and night work hours. And under a wage system where it is possible to distinguish between the portion constituting normal wages and that constituting premium wages, it is necessary to pay employees premium wages not less than the amount calculated by the method specified by law. Therefore, this judgment promises to have a highly significant impact on employers' wage and working-hours practices.

1. The *Kochi Kanko* case, Supreme Court (Jun. 13, 1994) 653 *Rohan* 12; The *Tech Japan* case, Supreme Court (Mar. 8, 2012) 1060 *Rohan* 5; The *Kokusai Motorcars* case, Supreme Court (Feb. 28, 2017) 1152 *Rohan* 5.
2. This point was also mentioned in the *Kokusai Motorcars* case (see note 1) reviewed in *Japan Labor Issues*, vol 2, no. 4 (January 2018).
3. The *Morgan Stanley Japan* (overtime allowance) case, Tokyo District Court (Oct. 19, 2005) 905, *Rohan* 5.
4. The *Tech Japan* case, Tokyo High Court (Mar. 25, 2009) 1060 *Rohan* 11. The *Tech Japan* case, Yokohama District Court case (Apr. 24, 2008) 1060 *Rohan* 17.

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▶▶ Human Resource Management

▼ Labor-Management Relations

▼ Labor Market

▼ Labor Administration and Legislation

▼ Social Security System

Corporate In-house Education and Training and Career Formation in Japan (Part I):

In-house Skills Development

Makoto Fujimoto

I. OJT and Off-JT at Japanese companies

There are two types of education and training considered necessary for workers to improve their vocational skills. One is on-the-job training (OJT), namely, acquiring the necessary knowledge and skills for a job while working. The other is education and training conducted while they are not on duty.

For the majority of workers, the main training opportunities are OJT. Such training is particularly important in Japanese companies, where job contents may not be specified, and the vocational skills required are easily influenced by the situations surrounding the company or workplace.

Off-the-job training (Off-JT) is conducted outside the workplace but under the supervision of the company. It has certain advantages that OJT does not, such as the fact that workers are efficiently taught the necessary knowledge and skills that are common to certain departments, job types, or managerial positions, and are able to obtain knowledge and information that they would not be able to acquire in their everyday work.

Off-JT at Japanese companies can be classified into two types: 1) training by employee's position level, that is, training focused at each of the different levels within the company, such as managerial positions or grades according to vocational qualifications; and 2) training by specialty, namely, training focused on certain specialized vocational fields. The latter can be further categorized into two: a) training by division, which seeks to develop the different areas of vocational skills within the organization, such as sales, accounting, or human resources, and b) training by task, which is

aimed at achieving specific tasks in corporate management, such as reforms to the organizational climate or the establishment of more efficient management systems.

Of the above, OJT and Off-JT fall under the category of in-house education and training.



Skills Development at Japanese Companies

● On-the-job Training (OJT)*

Training conducted for the workers to acquire the necessary knowledge and skills for the job at the company while working.

● Education and training conducted away from workers' normal workplace while they are not on their own duty.

> Off-the-job Training (Off-JT)*

Education and training conducted away from workers' normal workplace but under the supervision of the company.

1. Training by employee's position level
2. Training by specialty
 - a. Training by division
 - b. Training by task

> Self-Development

Education and training conducted outside the workplace which workers autonomously pursued.

*Corporate in-house education and training.

II. How do Japanese companies conduct in-house education and training?

According to *Basic Survey of Human Resources Development* conducted annually by the Ministry of Health, Labour and Welfare (MHLW), 74.0% of the responding businesses conducted Off-JT for their regular employees in 2016. There are significant differences in the tendency to implement Off-JT according to company size; while 54.5% of businesses affiliated with companies with 30–49 employees conducted Off-JT for their regular employees, that figure is as high as 85.8% among businesses affiliated with companies with 1,000 or more employees.

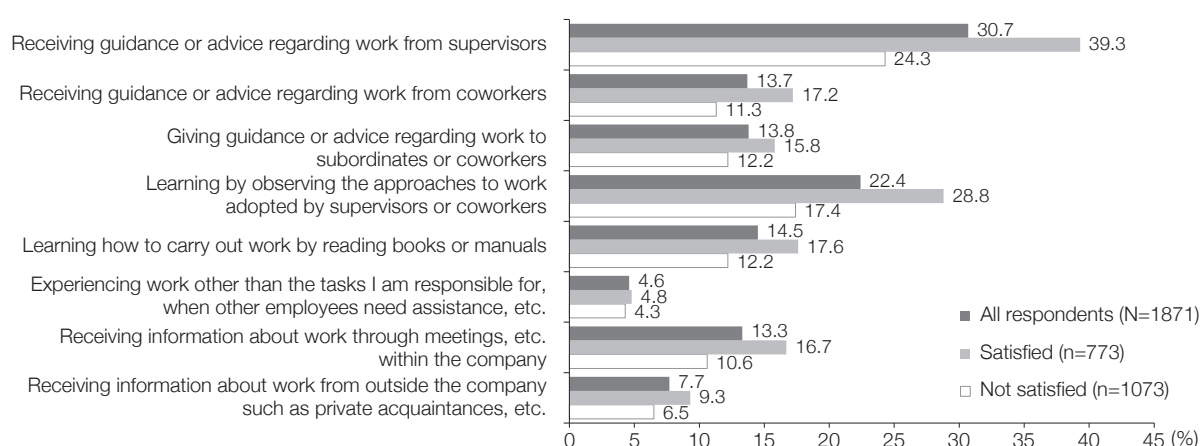
OJT is more commonly implemented in the larger company. 59.6% of businesses provided their regular employees with a type of OJT referred to as “planned OJT.” Planned OJT is education and training conducted on the basis of programs that specify details including the staff in charge of training, the employees who will receive the training, and the time period and content of said training (MHLW 2016). The tendency to implement such planned OJT shows marked differences by company size. 39.0% of businesses affiliated with companies with 30–49 employees provided planned OJT for their regular employees, while 76.5% of business affiliated with

companies with 1,000 or more employees.

Let us explore the current state of corporate in-house education and training in detail by looking at the results of another survey. The questionnaire survey on human resource development, in-house education and training, and career management conducted by the Japan Institute for Labour Policy and Training in 2016 (hereafter, “JILPT Survey 2016”) asked regular employees working at companies with 300 employees or more to what extent they experienced situations in the course of their everyday work that helped to improve their vocational skills and knowledge (Figure 1).

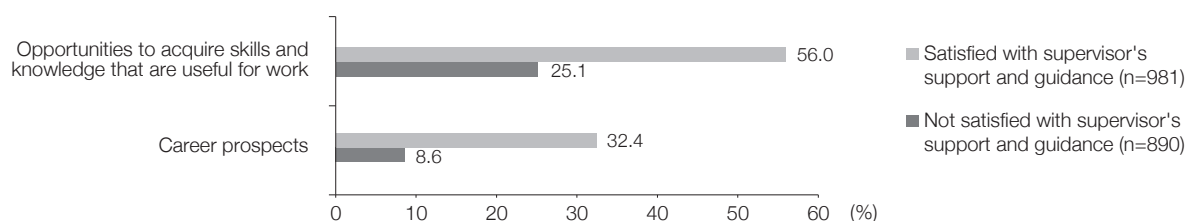
We find here that, from the perspective of employees, the main sources of vocational skills development are the daily interactions and communications with supervisors and coworkers. The kinds of situations that received the most “often experience” responses were “receiving guidance or advice regarding work from supervisors” (30.7%) followed by “learning by observing the approaches to work adopted by supervisors or coworkers” (22.4%) and “learning how to carry out work by reading books or manuals” (14.5%).

Let us then look at the state of such experiences with results divided according to whether employees were satisfied with the learning opportunities in the course of their current jobs or ways of working



Source: JILPT, “Questionnaire Survey on Human Resource Development, In-house Education and Training, and Career Management,” 2016.

Figure 1. Experiences that help to improve vocational skills and knowledge: Percentages of “often experience” responses for 2015 (January–December) and differences according to whether respondents were satisfied with learning opportunities



Source: JILPT, "Questionnaire Survey on Human Resource Development, In-house Education and Training, and Career Management," 2016.

Figure 2. Percentages of respondents satisfied with the learning opportunities and career prospects at the company which they work: Responses divided according to whether respondents were satisfied with the support and guidance provided by their department supervisor

to acquire useful skills and knowledge for work (hereafter, "learning opportunities"). Nearly 40% of respondents who were satisfied said that they often experienced learning opportunities through "receiving guidance or advice regarding work from supervisors," around 15 percentage points more than the percentage for respondents who were not satisfied. Moreover, the percentage of respondents who answered that they often experienced opportunities for "learning by observing the approaches to work adopted by supervisors and coworkers" was more than 10 percentage points higher among respondents who were satisfied.

III. Managers play key role in skill development

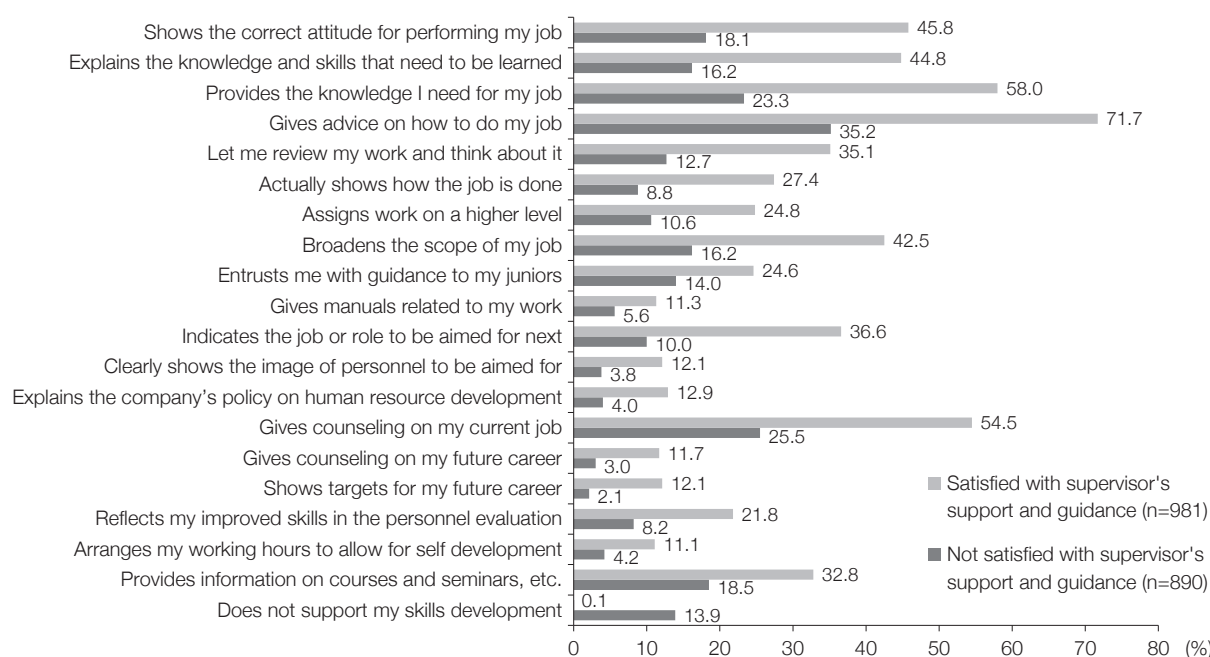
The percentage of respondents who frequently have opportunities for "receiving guidance or advice regarding work from supervisors" and "learning by observing the approaches to work adopted by supervisors and coworkers" was notably higher among respondents who were satisfied with learning opportunities than among unsatisfied respondents. Given this, it is conceivable that the place in which employees work and the department to which they belong have a significant influence on vocational skills development and career formation. Among those factors, the supervisor of an employee's department seems to have a particularly considerable effect on the improvement of employee's skills.

Figure 2 draws on the responses to the JILPT Survey 2016 to show the percentages of respondents (regular employees) satisfied with learning opportunities at the company they work and of

respondents satisfied with career prospects at the company they work, each divided into employees satisfied with the support and guidance received from the supervisor of their department and those not satisfied with such support and guidance. The percentage of those satisfied with learning opportunities was more than 50% among those satisfied with the support and guidance received from the supervisor of their department, in contrast with under 30% among those not satisfied with such support and guidance. Furthermore, while the percentage of those satisfied with career prospects was around 30% among those satisfied with the support and guidance received from their supervisor, among those not satisfied with such support and guidance, that figure was less than 10%.

How are the human resources and skills development activities pursued by supervisors regarded by employees?

In the JILPT Survey 2016, regular employees were asked about what kind of support they were receiving for their own skills development from their supervisors. Figure 3 shows the results, with respondents divided according to whether they were satisfied with the support and guidance received from supervisors. For all of the items, there is a noticeable difference in the response rates depending on whether respondents were satisfied with such support and guidance. The difference is particularly marked for the following items: the supervisor "gives advice on how to do my job" (36.5 percentage-point difference in response rate; the same applies to following percentage points),



Source: JILPT, "Questionnaire Survey on Human Resource Development, In-house Education and Training, and Career Management," 2016.

Figure 3. The support that department supervisors provide for skills development: Response divided according to whether respondents were satisfied with the support and guidance provided by their department supervisor

“provides the knowledge I need for my job” (34.7 points), “gives counseling on my current job” (29.0 points), “explains the knowledge and skills that need to be learned” (28.6 points), and “shows the correct attitude for performing my job” (27.7 points). That is, employees’ opinions regarding their supervisors are divided by the factors of whether a supervisor explains to employees the knowledge and fundamental approach essential for conducting the current work, or whether the supervisor deals with the issues and concerns that workers face in their work.

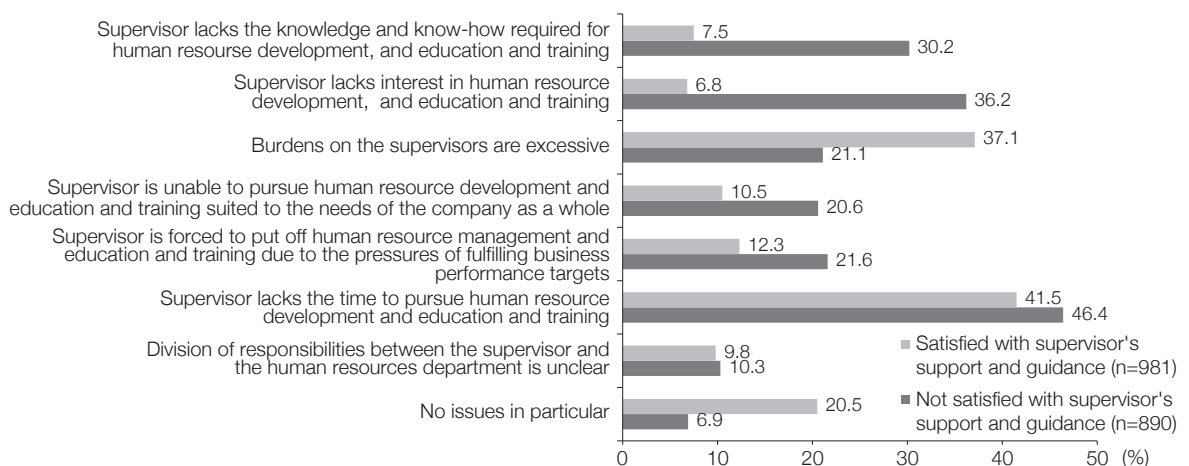
Figure 4 compiles results on the issues that employees identify regarding the human resources development conducted by their supervisors, according to whether they were satisfied with the support and guidance provided by their supervisors. The tendency among respondents who were not satisfied with such support and guidance to note their supervisor’s lack of interest in the employees’ skills development under their supervision as well as their supervisor’s lack of knowledge and know-how are especially pronounced in comparison with

respondents who were satisfied with the supervisors’ support and guidance. As a downside trend, almost 40% of respondents who were satisfied with such support and guidance expressed concern that the “burdens on their supervisor are excessive.” This is a far greater percentage in comparison with that of those respondents who were not satisfied with the support and guidance provided by their supervisors

Moreover, regardless of whether respondents were satisfied with the support and guidance provided by their supervisors or not, the percentages of respondents are highest for the option “supervisor lacks time to pursue human resources and skills development.” This seems to be a clear indication of the problems affecting education and training in Japanese companies.

IV. Differences in opportunities for in-house education and training by form of employment

In addition to above-mentioned issues identified in the education and training environment for regular employees, issues in in-house education and training in Japan can also be found in the state of in-house



Source: JILPT, "Questionnaire Survey on Human Resource Development, In-house Education and Training, and Career Management," 2016.

Figure 4. Issues regarding human resources development pursued by department supervisors: Responses divided according to whether respondents were satisfied with the support and guidance provided by their department supervisor

education and training opportunities for regular employees and non-regular employees.

According to the *Basic Survey of Human Resources Development* (MHLW 2016), while, as noted above, around 60% of businesses conducted planned OJT for regular employees, the percentage of businesses that conducted such training for non-regular employees was 30.3%—that is, only half the number of businesses that conducted such training for regular employees. Likewise, in the case of Off-JT, there is also a significant gap. Only 37.0% of businesses provide Off-JT for non-regular employees, and in contrast, more than 70% of those for regular employees.

The fact that the education and training opportunities for non-regular employees are conspicuously scarce in comparison with those for regular employees can be seen as companies' reasonable decisions and behavior in light of factors such as the content of the tasks that non-regular

employees are in charge of, or the tendency for such employees to work at a company for shorter periods than regular employees.

In Japan, non-regular employees accounting for almost 40% of the total persons in employment. It is important for society to address what kind of processes should be adopted to enrich the opportunities available to non-regular employees to receive internal training and education, or what kind of approach should be taken to develop a new training and education and career formation as an alternative to corporate in-house education and training and career formation.

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Economy

The Japanese economy is recovering at a moderate pace. Concerning short-term prospects, the economy is expected to continue recovering, supported by the effects of the policies, while employment and income situation is improving. However, attention should be given to the effects of situations over trade issues on the world economy, the uncertainty in overseas economies and the effects of fluctuations in the financial and capital markets. Furthermore, sufficient attention should be given to the economic impacts by the successive natural disasters. (“Monthly Economic Report,”¹ September, 2018).

Employment and unemployment (See Figure 1)

The number of employees in August increased by 1.13 million over the previous year. The unemployment rate, seasonally adjusted, was 2.4%.² Active job openings-to-applicants ratio³ in August, seasonally adjusted, was 1.63.⁴

Wages and working hours (See Figure 2)

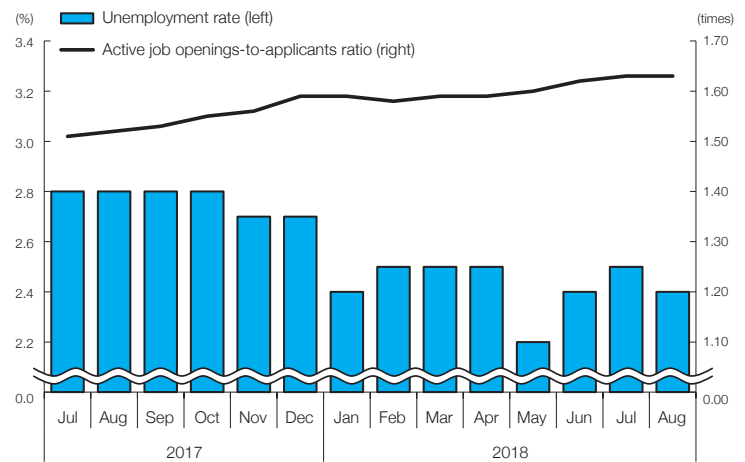
In July, total cash earnings (for establishments with 5 or more employees) increased by 1.6% and real wages (total cash earnings) increased by 0.5% year-on-year. Total hours worked decreased by 0.4% year-on-year, while scheduled hours worked decreased by 0.3%.⁵

Consumer price index

In August, the consumer price index for all items increased by 1.3% year-on-year, the consumer price index for all items less fresh food rose by 0.9%, and the consumer price index for all items less fresh food and energy increased 0.4% year-on-year.⁶

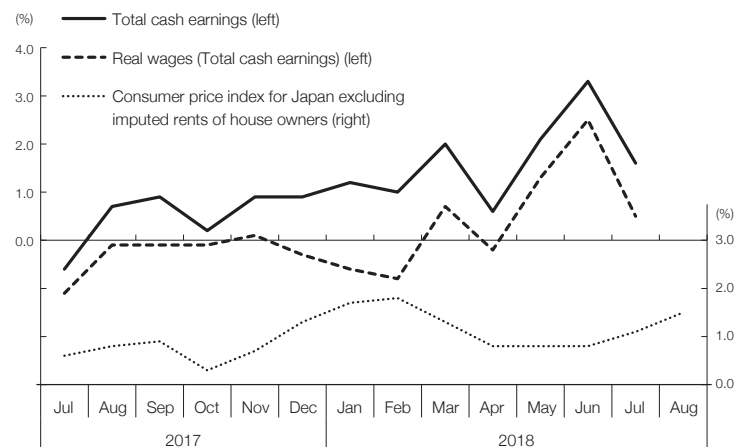
Workers' household economy

In August, consumption expenditure by workers' households increased by 6.1% year-on-year nominally and increased by 4.5% in real terms.⁷



Source: “Labour Force Survey”²; “Employment Referrals for General Workers.”⁴

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



Source: “Monthly Labor Survey”⁵; “Consumer Price Index.”⁶

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

See JILPT “Main Labor Economic Indicators” for details 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 economics, and indicating the assessment by the Japanese government. Published once a month. <http://www5.cao.go.jp/keizai3/getsurei-e/index-e.html>

2. Ministry of Internal Affairs and Communications (MIC). “Labour Force Survey.”

<http://www.stat.go.jp/english/data/roudou/results/month/index.htm>

3. Active job openings-to-applicants ratio: An indicator published monthly by Ministry of Health, Labour and Welfare (MHLW), showing the tightness of labor supply and demand. It indicates the number of job openings per job applicant at public employment security offices.

4. MHLW, “Employment Referrals for General Workers.” http://www.mhlw.go.jp/english/database/db-l/general_workers.html

5. MHLW, “Monthly Labour Survey.” <http://www.mhlw.go.jp/english/database/db-l/monthly-labour.html>

6. MIC, “Consumer Price Index.” <http://www.stat.go.jp/english/data/cpi/index.htm>

7. MIC, “Family Income and Expenditure Survey.” <http://www.stat.go.jp/english/data/kakei/index.htm>

Back Number

Vol. 1, No. 1 September 2017

Trends

Key Topic: Government Decides “Action Plan for the Realization of Work Style Reform”

News: The 2017 *Shunto*, Wage Rise in SMEs and Non-Regular Employment

News: One in Every Three Workers Experienced “Power Harassment”

Research

Polarization of Working Styles: Measures to Solve the Polarization and New
Category of Regular Employees

Koji Takahashi

Judgments and Orders

Job Changes for Re-employed Retirees: *The Toyota Motor Case*

Keiichiro Hamaguchi

Series: Japan’s Employment System and Public Policy 2017-2022

What is Japanese Long-Term Employment System? Has it Vanished?

Makoto Fujimoto

Statistical Indicators

Vol. 1, No. 2 October 2017

Trends

Key Topic: Rengo Wavering in Party Support and Joint Struggle by Opposition Parties

News: Nearly 40% of Companies Aim to Spend More on Training: Corporate Focus on
Training Comes Clear

Research

Elderly Employment in a Society of Population Decline

Takaaki Tahara

Basic Information on Recent Elderly Employment Trends in Japan

Yutaka Asao

Judgments and Orders

Interpretation of Work Rules on Conversion from Fixed-Term to Open-Ended
Contract for a College Lecturer: *The Fukuhara Gakuen (Kyushu Women’s
Junior College) Case*

Yota Yamamoto

Series: Japan’s Employment System and Public Policy 2017-2022

Recruitment and Hiring in Japan

Shinsaku Matsumoto

Statistical Indicators

Vol. 1, No. 3 November-December 2017

SPECIAL ISSUE The 1st JILPT Tokyo Comparative Labor Policy Seminar 2017 “*Identifying Major Labor Policy Issues in Contemporary World of Labor—Commonalities and Differences Crossing Regions and Nations*”

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Vol. 2, No. 4 January 2018

Trends

Key Topic: Regional Minimum Wages Hiked by Average 3% for 2nd Straight Year:
Hourly Rate Now 848 yen

News: Rengo Holds 15th Biennial Convention, Re-Elects President Kozu: Aims to
Establish “Rengo Vision 2035” as It Nears 30th Anniversary

Research

Is Career Counseling Effective? Hideo Shimomura

Judgments and Orders

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Statistical Indicators

Vol. 2, No. 5 February-March 2018

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Why Companies Use Them Koji Takahashi

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Hours in Japan Hiroshi Ono

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Technology) Education Masakazu Yano

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and Development of Next-Generation Executive Human Resources at Japanese
Manufacturers Itaru Nishimura

Vol. 2, No. 6 April-May 2018

Trends

News: Employment Quota for Persons with Disabilities at Private Enterprises to be
Incrementally Raised to 2.3%

Research

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Vol. 2, No. 7 June-July 2018

Trends

News: Analysis of Japan's Labor Economy 2017 Ministry of Health, Labour and Welfare

Research

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Companies' Approaches to Compliance and the Subsequent Policy Developments Yuko Watanabe

Judgments and Orders

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Vol. 2, No. 9 October 2018

Trends

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MHLW'S White Paper on the Labor Economy 2017

Research

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Women's Active Participation in the Workplace Tamotsu Nagata

Judgments and Orders

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The Towa Kogyo Case Keiichiro Hamaguchi

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Mandatory Retirement Age System Hirokuni Ikezoe

Statistical Indicators

What's on Next Issue

Japan Labor Issues

Volume 2, Number 11,

December 2018

tentative

● Trends

[Key Topic]

▷ The 2018 *Shunto* and Regional Minimum Wages: Wages Up More Than 2% for Fifth Straight Year, Minimum Wages Up More Than 3% for Third Straight Year

● Research

[Article]

▷ Gender Segregation at Work in Japanese Companies: Focusing on Gender Disparities in Desire for Promotion

● Judgments and Orders

▷ Is Wage Disparity between Fixed-term Contract Workers and Open-ended Contract Workers Justifiable or Against the Law?: *The Nagasawa-Unyu Case*, Supreme Court (Jun. 1, 2018)

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