

Japan Labor Issues

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January-February 2019

Volume 3 Number 12

Special Issue

● EULOGY

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To the Memory of the Late Professor Ronald Dore
Takeshi Inagami

● ARTICLES

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Japan Labor Issues website

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

To sign up for mail delivery service

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

Published by

The Japan Institute for Labour Policy and Training

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

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

ISSN 2433-3689

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Printed in Japan.

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The Sense of Humor to See Through Human Hypocrisy

To the Memory of the Late Professor Ronald Dore

Takeshi Inagami

Ronald Dore passed away in Bologna on November 14, 2018, at the age of 93, after being in hospital for nearly ten days due to breathing difficulties. I am told that his passing was very peaceful.

Even in his late eighties, Dore visited Japan once a year and stayed in an inexpensive guesthouse. He appeared to have no desire for creature comforts and his tastes were by no means epicurean—he was always content with cheap *sushi*. However, when it came to discussion on academic issues or international affairs, he was instantly eloquent and sharp in wit. If I responded vaguely or quickly to his ideas, he would always push me to offer a definite opinion.

While his great academic achievements need no lengthy introduction, some brief remarks are necessary.

From his first book *City Life in Japan* (1958) to *Shinohata: A Portrait of a Japanese Village* (1978), his distinguished monographs share several common elements. Firstly, they always presented firm, empirical evidence, gathered from thorough fieldwork carried out over long periods, or, as in the case of *Education in Tokugawa Japan* (1964), from intensive study of a truly extensive range of historical materials.

Secondly, as a classic sociologist, Dore provided a comprehensive picture of society—social relations, structure and function—by paying close and wide attention to politics, economy and culture.

Thirdly, he had a deep interest in the effects of influential theories or the common ways of thinking of the time, which appeared to be hypocritical to him. Striving to identify the truth, he unveiled the faults of prevailing theories or myths and presented an alternative perspective or approach in place of

them. A clear illustration of this is his first work *City Life in Japan*, in which he simultaneously criticized on the one hand the unilinear theories of social and economic evolution—such as Marxian theories and the simplistic theory of development that does not take into account the ‘late development effects’ of catching-up society which often accompany the geographical shift in the focal area in the international economy—and on the other hand the theory emphasizing the uniqueness of Japanese culture exemplified by Ruth Benedict’s *The Chrysanthemum and the Sword* (1946), which labelled Japanese society and culture only as the peculiar. Dore enlightened readers in and outside of Japan by disclosing these hypocrisies on the basis of unshakeable evidence.

City Life in Japan not only provided his remarkable definition of Confucian ethics, but also drew in all its readers with warm and heartfelt portrayal of small families or neighborhoods that were filled with laughter despite their daily struggle with poverty and hardship after the war.

Fourthly, Dore’s ability to reach such brilliant conclusions could be attributed to his international comparisons, largely of Japan and the UK, and also to his own ‘sense of humor to see through human hypocrisy.’ By ‘hypocrisy’ he was generally referring to the popular social theories and ideologies in a certain society of that time.

Dore maintained this basic stance throughout his subsequent works. In that sense, it is particularly important to look at one of his major works, *British Factory - Japanese Factory* (1973). After explaining causally the contrasting phenomena of the ‘British Disease’ and ‘Japanese prosperity’ by investigating the employment practices and industrial relations of both countries, he reached a bold and noteworthy conclusion; that is, that the

‘backward’ UK should catch up with the ‘advanced’ Japan.

We need to carefully ascertain to what extent Dore’s interpretative schema of Japanese economic development and modernization can help us to understand the individual process of development followed by South Korea, Taiwan, China and the Southeast Asian nations and to gain foresight into the way ahead for other impoverished societies.

In the 1990s, dark clouds hung low over the advanced societies. The strong winds of financialization, globalization, and neo-Americanization began to blow, and in China the great cogs of the ‘Socialist Market Economy’ began to turn vigorously. This era after the collapse of the Cold War structure may not have seen ‘The End of History,’ but it was seen as the age of ‘Capitalism contra Capitalism.’ In these circumstances, Dore had begun to view things more critically, having transitioned over half a century of Japanese study from Japanophile to Japanologist, and from Japanologist to Japanophobe, as noted in *Genmetsu* (*Disillusionment*, published in 2014). Moreover, in his short book *Dare no tame no kaisha ni suruka* (*Who is the Company to be for?*) in 2006, he drew the conclusion that a ‘shareholder revolution’ had occurred in Japan at the beginning of the twenty-first century. While this bold hypothesis comes in the form of a fierce polemic, it is true that a

number of ‘worker shareholders’ have emerged in the onset of the ‘pension society.’ The question to consider is what impact the increasing influence of such worker shareholders might have on Japanese postindustrial society.

Dore’s fertile mind was truly broad and deep. Among his lesser-known works is a sharp and timely comment on international politics. In ‘Human Progress...?’, the final chapter of his last work *Cantankerous Essays* (2015), Dore made reference to the accumulated experiences of international peace conferences—the Congress of Vienna (1815), Congress of Versailles (1919) and San Francisco Congress (1945)—noting that we have stepped gradually toward ‘more rational collective world government.’ In the midst of anxiety over the emergence of the New Cold War, Dore ultimately posed a serious question for us: “Does this mean that the fourth and decisive step is only likely to be taken after one more disastrous battle for world hegemony?”

Dore has left us with outstanding works that will no doubt continue to be read across the societies and generations for many years to come. Now, as we honor his passing, is the time to offer a respectful nod of gratitude and farewell. Sayonara, Dore-sensei!

Professor Emeritus, The University of Tokyo

About this issue:

Here is a special feature for two (in January-February and March-April issues) including six significant papers selected by the Editorial Office of *Japan Labor Issues* from various relevant papers published in 2016–2017. These papers address the latest subjects as well as conventional themes on labor in Japan. Each author has arranged the original papers, written in Japanese, in translation for the benefit of overseas readers, which surely will offer useful information and deeper insights into the state of labor in Japan. We sincerely thank them for their effort for this issue.

Editorial Office, *Japan Labor Issues*

The Corporate Community and Changes in the Japanese-style Employment System

Mitsuru Yamashita

This article examines the historical transformation of the “corporate community” in Japan in terms of its relationship with the employment system. The corporate governance, labor-management relations, and personnel systems that underpin the Japanese corporate community were formed after World War II, although some companies adopted new management systems and practices that showed continuity from the period around World War I through the postwar period. The corporate community has provided stable employment for core employees, nevertheless many studies have shown that Japanese workers do not make particularly positive assessments of their employers. And it has been noted that throughout the period of rapid economic growth (1955–1973) employees’ sense of belonging continued to decline, with a corresponding drop in degree of satisfaction. Amid financial market reforms and sluggish economic growth from the 1990s onward, employers reassessed corporate governance and human resource management so as to emphasize the interests of shareholders, but since the late 2000s, there has also been movement back toward protecting the interests of employees. Workers’ mentalities are changing to adapt to increased competitiveness, and young people are increasingly inclined to select more stable jobs and workplaces. It is clear that the corporate community as a whole is also adapting to a more competitive environment, but the pace of change is gradual. The fact that the corporate community is often a hotbed of corporate scandals, and the issue of how to treat employees fairly, remain major challenges. Resolution of these issues requires a new paradigm for the corporate community, geared towards resolving conflicts among different value systems.

- I. Issues of concern
- II. The corporate community and the Japanese-style employment system
- III. Historical background of the corporate community
- IV. Formation of the corporate community in postwar Japan
- V. Sluggish growth and transformation of the corporate community
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I. Issues of concern

This article examines the historical transformation of the corporate community in Japan in terms of its relationship with the Japanese-style employment system. Here the “corporate community” refers to communitarian natures of Japanese companies, which are characterized by the nation’s traditional concepts

including corporate governance, labor-management relations, and personnel system. While the Japanese corporate community is known to have made the nation's enterprises internationally competitive and delivered stable standards of living, this success was mainly achieved through regular male employees. In contrast to these aspects, it is equally important to note that its excessively company-centric and closed mentality have long been criticized. In a business environment characterized by long-term sluggish growth and advancing globalization, the questions of whether the corporate community will disintegrate or endure, and what kind of form it will take if it does endure, are crucial when considering the future of the Japanese employment system and work styles. Although there are various issues related to the changing corporate community in Japan, this article focuses on the issues of corporate governance and employee mentality, and examines them from a historical perspective.¹

This article will first summarize the relationship between the concept of the corporate community and its characteristics and the employment system. Next, it will look at the formation of the corporate community during the period lasting from before to after World War II. Finally, focusing on the latter half of the 1990s, when there were significant changes in the business environment, it will discuss the transformation of today's corporate community and related issues through analysis of changes in financial markets and corporate governance, employee mentality, and youth attitudes during a deflationary economy.

II. The corporate community and the Japanese-style employment system

1. Corporation and concepts of community

"Community" is a fundamental concept in sociology, but it is ambiguous and controversial one. Its classic sociological definition involves (1) a group of people with specific social relationships, (2) a sense of belonging and solidarity, (3) self-sufficient activities within a certain geographical area. However, in recent years it has often been discussed in a manner that transcends locality, and is used as a construct for the sense of identity and affiliation. Reconfiguration of the concept of community is progressing, based on the perception that people's desire for a sense of belonging is intensifying amid the present-day instability that post modernism and globalization bring (Delanty 2003, 2006).

A corporate organization, in particular a workplace group or other organization to which employees belong, is assumed to be a network of social relationships that is bound by economic interests, and is commonly understood as an "association" with limited degree of relationship, in contrast with a community.

However, many surveys and historical studies have indicated that companies take on the nature of communities in various ways (Jacoby 1997, 1999; Tanaka 2001). Also, the communitarian nature required for corporate management has been discussed in criticizing the adverse effects of business practices arising from excessive pursuit of self-interest (Solomon 1994, Mintzberg 2009, Otsuka 2017).

2. The corporate community in Japan

Joint Japan-UK research by Dore (1973, 1987) and Hazama (1974) showed the communitarian nature of Japanese companies. Differences between the communitarian nature of companies in the two countries were clarified based on interviews and questionnaire surveys conducted from 1966 to 1969. Dore (1973, 1987) showed that regarding differences in the scale and scope of employee benefits, in the UK workers took a skeptical attitude towards companies' benefits and believed that companies prioritize productivity over employee welfare, while in Japanese companies the divisions in charge of employee benefits were deeply involved in various aspects of employees' lives including ceremonial occasions like weddings and funerals, leisure activities and so forth. In terms of employees' relations with companies, while workers in the UK sought to limit their participation with the company and maintain individualism, Japanese workers had high expectations for their companies and accordingly showed lower satisfaction levels for the same survey items. Furthermore, while British workers tended to evaluate their companies based on the local labor market, their

Japanese counterparts compared their companies with others in the same industry. These findings indicated that differences in the communitarian nature of corporations are closely related to the attitudes of workers.

Hazama stated that corporate organizations in the UK have the strong character of associations, while those in Japan have a strong communitarian nature. On the contrary, labor unions in the UK have a strong communitarian nature while those in Japan take on the character of associations. Furthermore, there are intrinsic correlations among degrees of communitarian nature and individualism, and the formation of hierarchies, and the communitarian nature of Japanese enterprises is characterized by abnormal levels of diligence, lack of social justice, and corporate egoism (Hazama 1974; Inagami 1999).

3. The employment systems and diversity within capitalism

The corporate community in Japan is thought to be rooted in the Japanese-style employment system (Inagami 1999; Sato 1999; Sato 2012). Abegglen (1958, 2004) pointed out the relationship between corporations' communitarian characteristics and social institutions, while Dore (1973, 1987) employed the concepts of "market-oriented" and "organization-oriented" systems to show that the Japanese corporate community is inherently defined by the Japanese-style employment system.

The view that employment relations in a particular country are embedded in the wider social and cultural structure has been developed into the "diversity within capitalism" model seen in developed countries (Sako 2005). Many issues including corporatism, regulation theory, varieties of capitalism, etc. have been discussed in terms of how the capitalist system of developed countries differ and how they evolve (Albert 1992, Coriat 1992; Tanaka 2001; Yamada 2008; Hall and Soskice 2001, 2007). The Japanese employment system has been cited as one of the diverse capitalist models. Today, with the globalization of economic activity progressing, the possibility of Japan's relatively unique system undergoing a change is once again being debated (Olcott 2009, 2010; Yamauchi 2013; Suda 2015; Ichimori 2016; Yashiro 2017).

Discussions of corporate community are focused on labor-management relations within enterprises, but from the standpoint of the capitalist system, various other aspects merit examination, such as government involvement in industrial policy, corporate organizations and industry associations, and social networks among individual employers. Many international comparative studies have identified communitarian ties in the form of mutual relationships among government, industry associations, labor unions, and individual company employees (Anchordoguy 2005, 2011; Hall and Soskice 2001, 2007).

III. Historical background of the corporate community

1. The capitalist system before World War II

How was the corporate community formed in Japan? From the perspective of the relationships between employers and workers within enterprises and between elements of the employment system, the conditions required to form a corporate community which emerged after World War II did not exist before the war. There are especially significant differences in terms of corporate governance before and after the war. Prior to the war, shareholders' influence on corporate management was stronger, and income disparities between management and workers were also larger. Moreover, clear hierarchical distinctions were observed among workers, and employee benefits for blue-collar workers were limited as well. Workers frequently changed jobs, while managers and foremen were always unsatisfied with workers they viewed as lazy (Gordon 1985, 2012).

Shareholders' powerful hold over corporate management was prominent before World War II, especially during the Meiji Era (1868–1912), and there existed the structure of what would today be called shareholder-value oriented corporate governance. Newly established companies were required to pay high dividends to general shareholders. Just like general shareholders, company executives tended to demand high dividends as they, in a way, represented the interests of major shareholders and many of them served as concurrent and

part-time executives. (Takamura 1996: 167).

The ratio of executive bonuses to profits was much higher before World War II than after. The incentive system for executives was designed to be consistent with the interests of shareholders, and management was strongly motivated to boost profits. Prior to the war, the majority of earnings were immediately distributed to shareholders, in accordance with the amount of profits (Okazaki 1993: 105–106).

2. The rise of full-time corporate executives and expansion of internal promotion

However, there were some attempts which might be the basis of the postwar corporate community even under these circumstances. For example, some companies sought to curtail the influence of shareholders for the sake of the corporate long-term prosperity, and systems of internal promotion and employee benefits were introduced in order to secure and maintain a stable workforce. These trends are considered to have emerged from attempts to revise or alter the “prewar system.”

The emergence of full-time corporate executives in the Meiji-era companies largely related to these trends, and the number of full-time corporate executives had gradually increased since the end of the Meiji Era. This is mainly because of management issues such as introduction of new technologies, cultivation of sales channels, management of the workforce, and fund procurement, which could not be handled effectively by shareholders acting as part-time directors, as well as directors including chief engineers, factory directors, and general managers amid the competitive domestic and international business environment of the time. Full-time corporate executives took shareholder interests into account while increasing loyal shareholders and building a trust-based relationship with them (Morikawa 1981; Miyamoto, Abe 1999).

As for white-collar workers, major textile enterprises, for example, began to adopt mechanism for profit allocation between management and senior employees, which functioned as an incentive for employees who were graduates of higher education institutions, valuable human resources at that time, to continue to work for the same employers, gradually resulting in employees’ longer service (Yonekawa 1985). Throughout the Taisho Era (1912–1926), Mitsui & Co., Ltd. encouraged white-collar workers to work for a long term by establishing a unique pension scheme (retirement payment system) and increasing dormitories for singles (Wakabayashi 2007).

These measures were taken as incentives for university graduates and other similarly qualified personnel, seen as vital assets for companies as the business world modernized, to continue working there. With regard to white-collar workers, to expand the coinciding interests of senior executives and senior white-collar workers and the employee benefits that prompted their long-term service became basis of the postwar corporate community. However, it is important to recognize that differences existed, as hierarchical disparities among employees were extremely large compared to today, dismissals were frequent, and long-term employment did not necessarily mean job security (Yonekawa 1985).²

3. The growth of managerial paternalism

As for blue-collar workers, labor-management that later led to the corporate community model developed through the growth of managerial paternalism at large factories, in industries such as textiles, mining, and shipbuilding, from the late Meiji through the Taisho Era (Hazama 1964; Hazama 1996: 112). At textile mills and coalmines, workers lived near the work sites, and labor-management covered all aspects of their life. Many of these mechanisms were heavily influenced by the British textile industry, which operated mills with workforces consolidated in a specific area, and systems of employee benefits as seen in the Welfare Capitalism gaining prevalence in the United States. Welfare Capitalism was, by the way, near to the stance of excluding labor union movement and state intervention (Jacoby 1997, 1999: 19).

Sanji Muto of Kanegafuchi Spinning Co., Ltd. was a key figure that aggressively developed a managerial paternalism style of labor-management in the late Meiji and Taisho eras. Muto was also a chief executive who tried to consciously solve the problematic dilemma of balancing the interests of shareholders and employees

(Kawai 2005). While recognizing that he was the primary guardian of shareholder interests (Kawaguchi 2004), Muto actively sought to improve employees' facilities and working conditions, developing a number of measures to balance what we would today call "shareholder-oriented" and "employee-oriented" approaches.³ He worked to build shareholder trust with high dividends and active investor relations, while also expanding employee benefits (called at that time a "happiness promotion program") when operating results showed an upturn (Yamashita 2017). Before the war, the managerial paternalism expanded mainly at large factories, which definitely improved working conditions of blue-collar workers to a certain extent. However, it was only framed in the context of prewar hierarchical distinctions within companies, and there were limits to its scope in that the status of white-collar workers and blue-collar workers was clearly differentiated.

IV. Formation of the corporate community in postwar Japan

After the nation's defeat in World War II, Japanese society went through unprecedented processes of conflict and adaptation in terms of both political philosophy and social values. The corporate community was formed amid the transformation of labor-management relations, to which vast amounts of political and social resources were dedicated.⁴

Hazama has enumerated the conditions that became the norm for Japan's corporate community after the war. First, large companies, in particular the prewar *zaibatsu* conglomerates, were divided up as a result of the defeat and capital was diversified among many individuals and institutional investors. Second, working conditions of employees were determined through labor-management relations within the company and were influenced by corporate performance, so the interests of companies and employees were aligned. Third, the custom of steady long-term employment spread as a result of opposition to employee dismissals by labor unions, which were legitimized after the war, and their calls for age- and seniority-based living wages to struggle against hard living in the impoverished postwar environment. Thus company and employee more practically share the common interests. Fourth, many of management positions were gradually filled through internal promotion of regular employees, and labor unions campaigned to eliminate discrimination against union members, so both labor and management came to have friendly or cooperative relations rather antagonistic, class-based conflict (Hazama 1996: 112–113).

Although the corporate community formed after the war provided core workers with secure employment and stable livelihood, workers' sense of belonging and job satisfaction were by no means high. According to Odaka (1965), sense of belonging among steel workers declined from the early 1950s through the rapid economic growth period (1955–1973). The joint study by Dore and Hazama (Hazama 1974) conducted in the latter half of the 1960s, which compared evaluation on the employers by Japanese and UK workers, found lower levels in Japan: 67.4% in Japan and 82.5% in the UK in the steel industry, and 82.5% in Japan and 91.2% in the UK in the electrical equipment industry.

Ishikawa (1975) noted that during the period of rapid economic growth, while steep rises in labor productivity were achieved through rationalization of operations at large private-sector companies, leading to increased wages for workers, they began to regard companies or labor unions rather as a means of making a living than as objects of loyalty or self-identification (Ishikawa 1975: 183).

Hazama stated that employee attitudes during this period of robust growth were not necessarily those of sense of belonging, love of company, or loyalty, but rather the interests of the company and its regular employees were in alignment, and the growth of the company was equated with the stability and improvement of regular employees' standards of living (Hazama 1996).

Based on a 2000 international comparative survey, Shiraishi (2005) showed that workers in the electronics and electronic industry placed in the low-end group internationally in terms of overall evaluation of workplace conditions, and while there are positive factors such as highly multi-skilled blue-collar workers and high levels of decision-making authority, autonomy, and skill acquisition, overall satisfaction with working

conditions is extremely low, due in large part to relationships with supervisors and coworkers and excessive workloads (Shiraishi 2005: 27).

In light of the above, discussions related to the corporate community in Japan have clarified the internal structure of the so-called “Japanese work style,” including the distinctive Japanese sense of “working for a particular company” (as opposed to “doing a particular job”), the tendency to prioritize work at the expense of personal life, the negative correlation between the levels of employee expectations to companies and those of employee satisfaction, the expansion of employers into workers’ personal lives so that even after working hours the latter spend time in groups financially supported by their companies or with co-workers, customers or other work-related people, and internal promotion systems open to employees.

These insights have provided a framework for subsequent field surveys of companies, research has accumulated, and methods of identifying how workers in Japan work have been developed. While the business performance of Japanese companies has been evaluated positively since the 1980s, one viewpoint in the discussion of corporate community is critical of the way companies strongly stipulate not only how employees work but also how they live their lives, with such phenomena as “compelled spontaneity,” the “company man/woman,” and “corporate society.”⁵ These critical perspectives on work styles are not only important in light of widespread recent questioning of work styles, but also as a benchmark for the self-image of the Japanese work style.

V. Sluggish growth and transformation of the corporate community

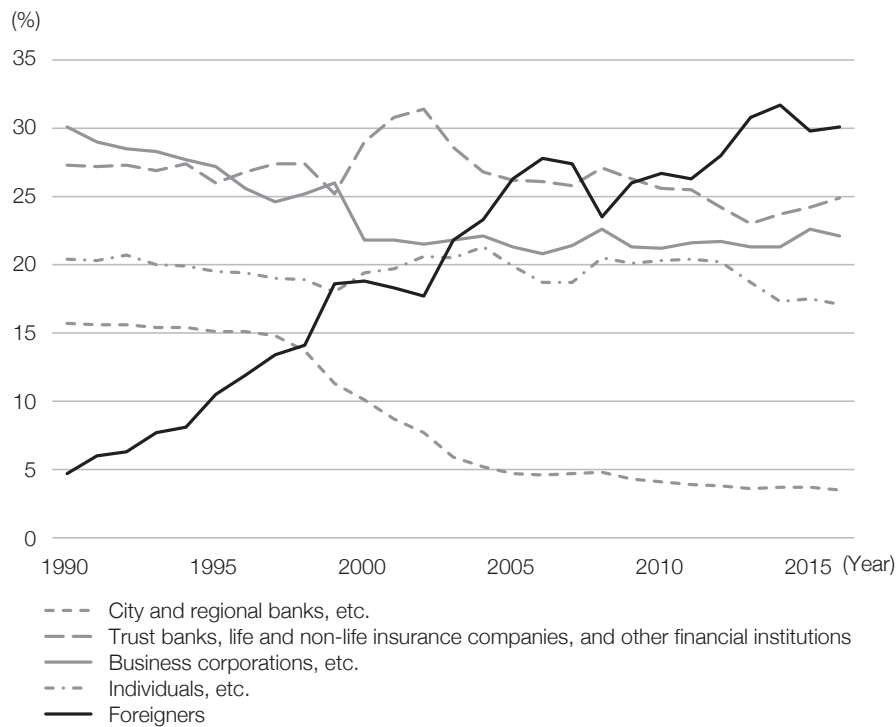
1. Trends in corporate governance

With the amendment of the Companies Act, against the backdrop of a long-term economic downturn after the collapse of Japan’s economic bubble (1986–1991), the financial crisis in 1997, and the globalization of the economy, it became easier to bring shareholder lawsuits, and existing companies were able to change to a committee governance structure (companies with nominating committees, etc.). Characteristic changes in Japanese corporate governance as a consequence include changes in ownership structure centered on cross holding of shares and a rise in the ownership ratio of institutional investors, primarily overseas investors (Miyajima, et al., 2013). Figure 1 shows transition in shareholding ratios by investor category, and the ratio of foreigners (consisting mainly of foreign corporations) exceeded those of city and regional banks in the latter half of the 1990s, and became the highest of all categories in the 2000s.

It was thought that changes in financial markets would force management to focus on shareholders. In the mass media, there were growing arguments that corporate governance should be reviewed from the standpoint of countermeasures against corporate scandals and improvement of corporate competitiveness. Significant attention was given to the influence of changes in governance, as emphasis on employees had been one of the characteristics of conventional Japanese corporate governance.

Table 1 lists data on newly appointed executives’ views of different stakeholders, from a survey conducted by Japan Management Association (JMA). The percentage of those emphasizing shareholders surpassed the percentage of those emphasizing employees by nearly 10% in the early 2000s, confirming the fact that emphasis on shareholders was growing at this time. However, with a substantial drop in 2006, emphasis on shareholders has been declined except for some fluctuations, and the percentage placing priority on employees has exceeded that prioritizing shareholders (Public Relations Committee of JMA Group 2012). Examining changes in the 2000s, Dore shows that an increase in salary and bonus per executive and dividends to shareholders, which had been growing until the first half of the 2000s, tended to be curtailed from 2007 onward (Dore 2014: 209).

Based on a 1999 survey, Inagami (2005, 2008), described three models of corporate governance: 1) the classic shareholder model, 2) the sophisticated shareholder-value oriented model, and 3) the pluralistic model. Trial calculations from a survey of executives of large corporations showed that models 2 and 3 gained the



Source: Prepared on the basis of survey by Japan Exchange Group, 2017.

Figure 1. Transition in shareholding ratio by investor category (1990–2016)

Table 1. Stakeholders most prioritized by company executives

	(%)											
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Shareholders	39.2	36.5	40.5	38.4	37.4	25.1	25.5	29.1	19.0	22.2	19.7	18.2
Employees	27.3	26.6	33.3	25.8	31.8	42.3	47.2	45.3	51.6	43.7	43.7	45.0
Customers	20.0	23.6	12.9	21.5	17.3	18.3	16.1	18.7	20.1	17.5	20.1	23.0
Suppliers	0.0	1.7	0.0	0.4	0.5	0.0	0.6	0.0	0.0	0.4	0.9	1.1
Society	9.4	7.3	8.6	9.0	10.3	9.1	7.5	5.4	6.5	13.1	11.4	8.6
Others	2.4	3.7	4.3	3.9	2.8	4.0	2.5	1.5	2.7	2.8	3.5	3.0

Source: Prepared on the basis of survey by Public Relations Committee of the Japan Management Association Group, 2012.

combined support of 90% (Inagami, Research Institute for Advancement of Living Standards 2000, Inagami, Mori 2004: 4; Inagami and Whittaker 2005).

While emphasizing shareholder interests has been on an upward trend, it is also pointed out that when shareholder interests come into decisive conflict with those of employees (for example, with sluggish business performance the company must decide whether to allocate resources to dividends or to employment), no fundamental change has arisen in Japanese companies' stance of prioritizing employee interests (Miyajima et al., 2013: 6–7).

Miyamoto (2014) made an analysis of employee perceptions as governance reforms advanced. He analyzed the relationship between review of long-term employment practices and introduction of performance-based systems being promoted in parallel with governance reforms, in terms of employee motivation. The results indicate that introduction of performance-based systems when accompanied by denial of long-term employment security significantly lowers willingness to contribute to the enterprise as a whole and to take on new challenges (Miyamoto 2014: 143–145). He categorized employees into four types according to a

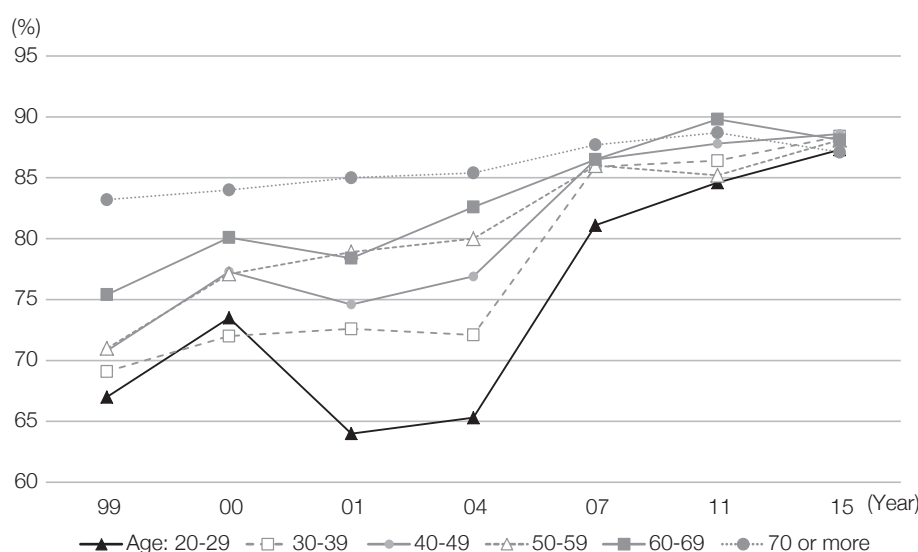
combination of employment and personnel systems: employees that are positive about both introduction of performance-based systems and maintenance of long-term employment security were described as the “new Japanese type,” those positive about introduction of performance-based systems accompanied by denial of long-term employment security as the “American type,” those who are positive about maintenance of long-term employment security without introduction of a performance-based system as the “conventional Japanese type,” and those who are negative about both long-term employment security and introduction of a performance-based system as the “declining type.” And he compared the scores evaluating motivation to work respectively. According to the 2009 survey, the score was 2.21 for the new Japanese type, 2.31 for the conventional Japanese type, 2.08 for the American type, and 1.82 for the declining type.

2. Sluggish growth and young people’s outlook

A low growth economy increases anxiety about livelihood among people, and accordingly their perceptions are changing. An ongoing survey by the Japan Institute for Labour Policy and Training (JILPT) (2016) found that while the percentage with a positive view of “Japanese lifetime employment, i.e. working at the same company until retirement” fell to 76.1% in 2001, it then rose again, and in 2015 it stood at 88.9%, its highest level ever. Also on an upward trend is “Having a sense of unity with the company and the workplace,” perceived as important by 87.9% in 2015. Changes among young people (aged 20–29) were remarkable, and although they fell to the lowest levels of 64.0% and 65.3% in 2001 and 2004 respectively during the Koizumi administration, it was 87.3% in 2015, no different from other generations (Figure 2). As for desirable form of career formation, covered by same survey, the total for “a career track of working for a long time at a single company and gradually rising to a managerial position” and “a career track of working at a single company and becoming a specialist in a specific profession” was 54.8% among those aged 20–29, the highest of any age group.

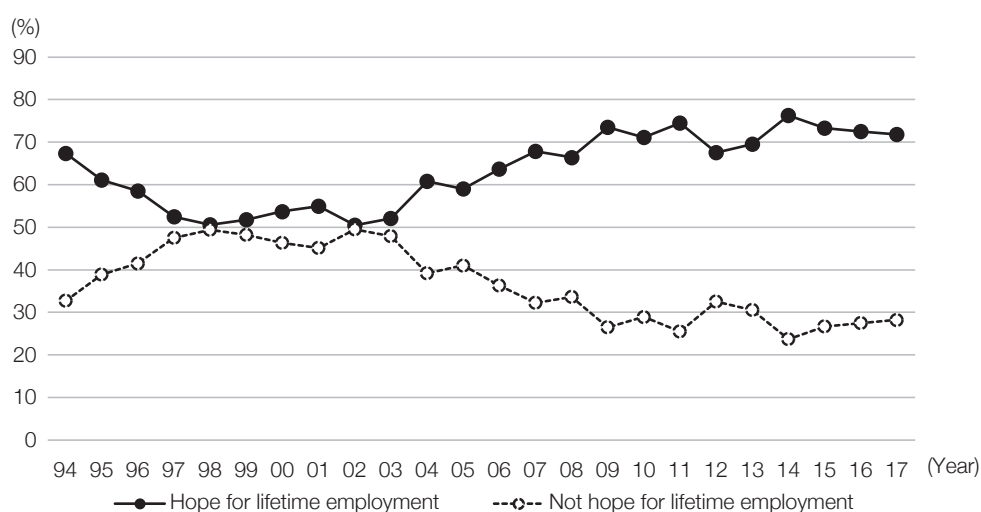
In a survey of newly hired employees by Sanno University (2017), the percentage of those who aspired to “lifetime employment” declined in the second half of the 1990s, but has been on an upward trend since the early 2000s (Figure 3).

The NHK Broadcasting Culture Research Institute (2015) reviewed surveys of attitudes over the past 40 years, and indicates the perception of young people (aged 20–29) that they attach importance to stability and sense of contribution. Examining changes from 1973 to 2013, declining percentages were observed for



Source: Prepared on the basis of survey by JILPT, 2016.

Figure 2. Change in percentage of persons hoping for “lifetime employment,” by age group



Source: Prepared on the basis of survey by Sanno University, 2017.

Figure 3. Percentage of newly hired employees hoping for “lifetime employment”

choosing “job that I can utilize my expertise and special skills” (specialization: 38%→25%) and “job that I can do independently without interference from others” (20%→1%). In particular, the percentage choosing “specialization” appears to be moving in a different direction, after holding steady at around 30% in all generations after it was first recorded as 26% in 1973 (Figure 4).

On the other hand, “job without fear of unemployment” rose from 12% to 30%. The percentage selecting this type of job, which in 1973 was high among middle-aged and older workers (aged 45 and above), has increased in the past 20 years by more than 10% among most age groups, with the exception of those aged 30–39 (NHK Broadcasting Culture Research Institute 2015: 145–154). Tanabiki and Miyata (2016) regard these trends as young people’s “return” to focusing on external values such as income, working conditions, and employment security from emphasizing the internal values inherent in the work itself.

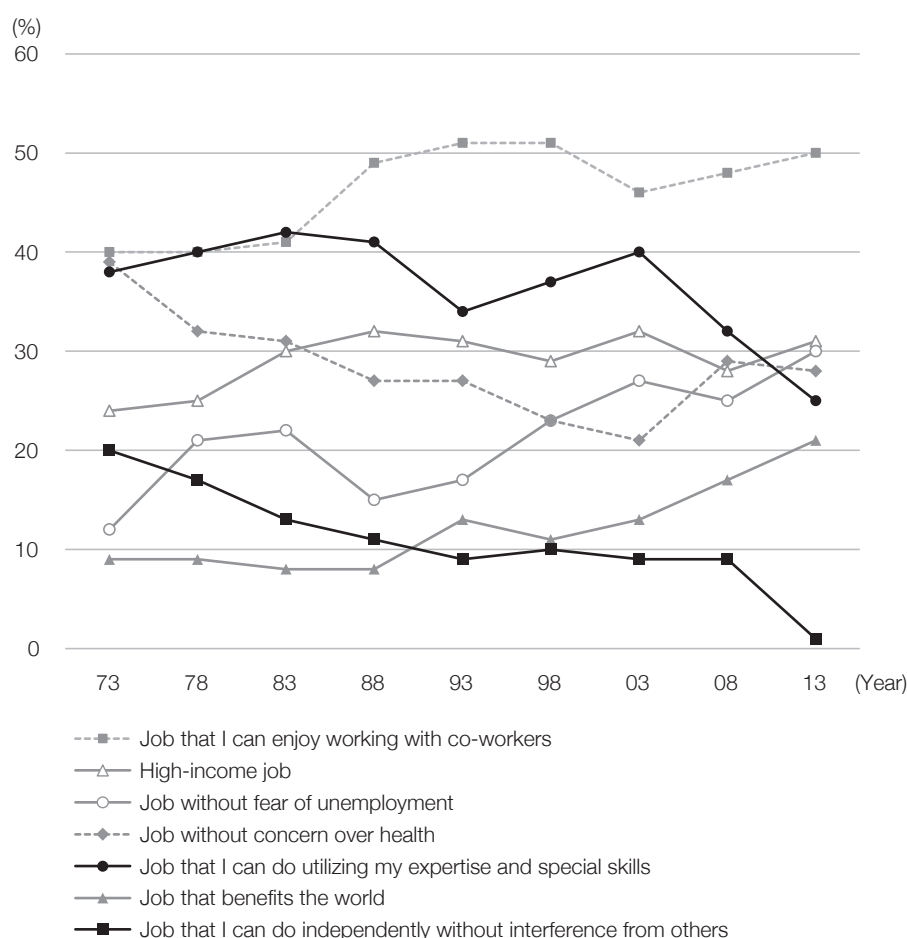
Meanwhile, a survey of high school students’ value orientation found an increasing number of positive responses, from 2001 to 2013, to “obtaining a high position,” “earning a high income,” and “beating the competition.” Tadakuma (2015) suggests that as economic growth remains sluggish, they might respond to social and economic conditions by adapting their current sense of values to the labor market which they may enter in the future.

For the items which inquired about modes of socializing at work, a significant drop was seen in the percentage viewing “friendship without limits” as desirable. This is considered to result from the progress of generational change and the growing influence of contemporary attitudes (NHK Broadcasting Culture Research Institute 2015).

Because of a long sluggish economic growth, only a limited people are able to obtain desirable jobs in the labor market, and thus discussion of economic disparity (Tachibanaki 1998, Yamada 2004, Otake 2005) developed as “social disparities theory” in the 2000s. And following phenomena such as the 2008 *toshikoshi haken mura* (a tent village where temp workers and jobless workers spent the year-end and New Year) was criticized in terms of companies’ treatment of non-regular employees. While these social changes appear to have an influence on corporate perspectives on stakeholders, including shareholders, and workers’ attitudes, we should pay close attention to their development over the long term.

VI. Future of the corporate community and the Japanese-style employment system

Finally, I would like to review this article and consider the future of Japanese corporate community.



Source: Prepared on the basis of survey by NHK Broadcasting Culture Research Institute, 2015.

Figure 4. Ideal jobs as perceived by persons aged 20–29

Several lineages were identified in the formation of this corporate community. Japan's corporate governance and labor-management relations before and during World War II were very different from those after the war. Among these were, at leading firms, expansion of employee benefits, the idea of balancing shareholder interests and employee welfare, continuous long-term service, and development of internal promotion systems. The characteristics of a corporate community have become popular among large companies reflecting the Japanese-style employment system formed after the war. It was formed amid changes to the structure of Japanese capitalism, such as occupation policy after the nation's war defeat, the transformation of labor-management relations, labor-related laws and regulations and administrative measures, the popularization of en masse recruitment of new graduates, and major changes in social attitudes.

The corporate community was developed through rejecting various values that were prevalent before the war as well as establishing new systemic relationships to replace the old. In terms of working conditions, the vast economic and social disparities between white-collar and blue-collar workers seen before the war were gradually alleviated. This was not only a systemic reform but also a source of the Japanese manufacturing industry's competitiveness, as shrinking the social distance between white-collar and blue-collar workers smoothed the exchange of information among people with different job categories (Yamashita 2002). It is also characteristic of a capitalist model in that elimination of disparities and robust business performance are considered compatible.

As described above, the corporate community is rooted in the Japanese-style employment system

developed after the war, but it also defines this Japanese-style employment system, and in a sense determines the direction of its evolution. For example, when an employee is internally promoted to a managerial or executive position, he or she is likely to have the values and priorities as a member of the corporate community, and tends to emphasize the company's long-term survival above shareholders' short-term interests. In addition, employees' work styles become a source of competitiveness as one of companies' core competences, which can help dictate corporate management strategies as well.

Regarding changes in the business environment surrounding Japanese companies in recent years, reforms to financial markets and corporate governance from the late 1990s onward strengthened executives' stance of prioritizing shareholders. Since the late 2000s, however, there has been a trend toward considering various stakeholders including employees, and executives do not necessarily focus on shareholders.

As Miyamoto (2014) has noted, it seems that employees of large companies are developing an adaptive approach to the combination of maintaining long-term employment and introducing competitive, performance-based personnel systems. Also, various surveys show that young people in recent years recognize competition as a positive value while at the same time seeking employment security, showing an affinity for a new model, the "more competitive corporate community" or "company value-oriented corporate community."

As a matter of fact, it was British and American researchers who recognized the strong presence of the corporate community in Japan (Jacoby 2005, 2005; Anchordoguy 2005, 2011; Olcott 2009, 2010; Olcott 2012). Considering the fact that the corporate community is a relative concept based on comparisons with British and American companies to begin with, we cannot deny the possibility that if capitalism globally shifts toward a free-market model, the corporate community will also draw closer to this free-market model.

Although the Japanese corporate community seems to be enduring, as a more competitive model, conventional work styles are being questioned and Japan's declining population and increasing disparities become significant problems. Changes in the corporate community that incorporate these perspectives will surely be necessary.

The concept of the corporate community was developed with a primary focus on differences in work styles (Hazama 1974). Several problems with the corporate community have been cited in terms of workers' lives, in particular fair and balanced treatment of workers and fulfilling professional lives. For example, a strongly company-centric mentality was the subject of debate from the 1980s onward. Excessive agreement between labor and management interests is prone to generating corporate scandals and corporate egoism, and especially if sluggish growth continues and global competition intensifies, this "common interest" is more likely to become a hotbed of corporate scandals. Typical deviant behaviors observed in the corporate community include so-called white-collar crimes because they were committed for the interests of the company rather than those of the individual.

It has repeatedly been pointed out that the exclusivity of the community is also a factor creating widespread mechanisms to prevent continued employment and promotion of women, and discriminatory treatment of non-regular employees. In recent years an increasing number of non-regular employees have transitioned to regular employment, but it remains to be seen whether this will solve the long-recognized problem of fairness in the corporate community, or will simply be the basis of a new form of hierarchy.

One lesson of history is that aiming to balance conflicting values has led to the formation of new systems and structures. In current Japanese employment and corporate management, there are various conflicts of interest, such as between regular and non-regular employees, and between shareholders and employees. Changes since 2000 include the diversification of corporate models (Suda 2015; Yashiro 2017) and changes in the mentalities of employers depending on type of industry and capital structure. It is safe to say that we need a new kind of corporate community that can resolve conflicting values and interests.

* This paper is based on an article commissioned by the editorial committee of *The Japanese Journal of Labour Studies* for inclusion in the special feature "The Present Situation of the Community Firm" in its September 2017 issue (vol.59, No.686) with additions and amendments in line with the gist of this journal.

Notes

1. For a discussion of corporate community and recent changes in Japanese employment and social trends, see Ogawa (2009; 2017).
2. For more on the process of development of white-collar employment practices and systems before World War II, see Sugayama (2011). For more on human resource development and personnel management relations, see Ichihara (2015).
3. Around this time, “corporate continuity” was institutionalized, and workers became called “company employees.” See Yui and Shimada (1996).
4. Regarding the formation of the postwar employment system, see Nita and Hisamoto (2008). For a historical study focusing on heavy industry, see Gordon (1985, 2012).
5. See Yamashita (2016) for a discussion of how the theory and analytical framework of corporate community overlaps with theories of business and society. Regarding the low degree of job satisfaction of Japanese workers seen in comparisons between Japan and the US, see Lincoln and Kalleberg (1990), and for a discussion of the “company man” work style, see Tao (1998).

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Can “Owners” of Convenience Stores be “Workers” under the Japanese Labor Union Act?



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Two remedial orders by the prefectural Labor Relations Commissions (*Rodo Inkai*) in Japan¹ that affirmed the worker status under the Labor Union Act (LUA) of “owners” of convenience stores who work in the stores they manage, have raised new interpretative issues in terms of franchisees being qualified as workers. Although the remedial orders of the Commissions seems basically reasonable, the unique characteristics of franchise agreements were not fully taken into account. In a franchise agreement, the “franchise package” entails the obligation to follow directions and orders from which worker status could be inferred. On the other hand, the franchisee increases opportunities to gain profits as a business trader. In overall judgment of worker status, the amount of income obtained ought to be a deciding factor, and thus it depends on respective convenience store “owners” as to whether they can be regarded as “workers” under the LUA. If labor unions organizing “owners” of convenience stores are recognized as legitimate labor unions meeting the requirements under the LUA, collective bargaining agreements concluded by such unions will be the content of franchise agreement by the effect of Article 16 of the LUA. In other words, franchise agreements will be recognized as “labor contracts.” However, even if the worker status of convenience store “owners” under the LUA is accepted, in the author’s opinion, their worker status under the Labor Standards Act (LSA) is not affirmed because with respect to franchise agreements, “equivalent protections” under a unique set of occupational and work regulations are provided as judicial precedents contributing to the protection of franchisees are being accumulated. Nonetheless, the relative nature of the definition of “worker” causes confusion in practice. Greater consistency of the definition of “worker” will be needed in labor legislation regulating the content of contracts. In the future, a regulatory framework for exemption for convenience store “owners” from application of the LSA/LCA should be drawn up. Meanwhile, there are problems in that convenience store “owners” who has the worker status under the LUA, in the author’s opinion, cannot be qualified as “enterprises” under the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (the Antimonopoly Act), and seemingly should be excluded from protections from abuse of superior bargaining position (the Antimonopoly Act, Article 19). But as collective agreements in Japan differ from those in Europe regulating working conditions for the industry as a whole, regulation of abuse of superior bargaining position will continue to be applied to the entire franchise system.

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- I. Introduction
 - II. Definition of “worker” and criteria for judgment
 - III. Author’s opinion
 - IV. Worker status of convenience store “owner”
 - V. Conclusion

I. Introduction

Regarding the status under the LUA of convenience store managers (referred to below as “convenience store ‘owners’”) who are franchisees of Japan’s two largest convenience store chains, Seven-Eleven Japan Co., Ltd. and FamilyMart Co., Ltd., the Okayama Prefectural Labor Relations Commission and the Tokyo Metropolitan Government Labor Relations Commission have issued remedial orders affirming their worker status.² Note that these are not judicial decisions on the worker status of franchisees under the LSA or in other contexts, which as far as I know have never been issued in Japan.³ Regarding franchise agreements, judicial precedents conducive to the protection of franchisees’ rights are accumulating, along with regulations based on the Antimonopoly Act. In issuing judgments on the worker status of convenience store “owners,” it is not the name of the contract but rather the actual practice that are important. It is necessary to consider the worker status of convenience store “owners” in terms of the significance of franchise agreements’ unique characteristics.

In this article, first we will look at an overview of the current debate over worker status (II), then after clarifying my position on the criteria and methods for judgment of worker status (III), it would be examined about the worker status of “owners” taking into account the unique characteristics of franchise agreements (IV).

Note that the convenience store “owners” whose worker status is considered in this article are franchisees that also engage in store operations such as customer service, cleaning, ordering, and inspections. As for convenience store “owners” who entrust all store operations to others, their worker status has not and is not expected to emerge as an issue.⁴

II. Definition of “worker” and criteria for judgment

1. “Worker” under the Labor Standards Act

Article 9 of the LSA defines ‘worker’ as “one who is employed at a business or office (hereinafter referred to as “business”) and receives wages therefrom, regardless of the type of occupation.” Of the terms in this definition, “wage” (LSA Art. 11) has a broad concept, and thus the criterion “one who is employed” has been used exclusively to determine worker status.

The definition of “worker” is often an issue in disputes over worker’s accident insurance in Japan. While the Industrial Accident Compensation Insurance Act (IACIA) does not contain a definition of “worker,” it is thought to follow the LSA in terms of the definition of “worker.”⁵ Although there are theoretical disputes among scholars, “workers” under the Labor Contracts Act (LCA) are also considered synonymous with “workers” under the LSA,⁶ and there is a prevailing opinion that labor contracts and employment contracts under the Civil Code are the same type of contract.⁷ Therefore, one can say that the definition of “worker” under the LSA is same as that of other labor laws defining the legal relationship between individual workers and employers. Furthermore, the scope of persons for whom labor and social insurance coverage is compulsory is basically equivalent to the scope of “workers” under the LSA.⁸

The specific criteria for (factors of) “employed persons” have been assembled from judicial precedents. The Labor Standards Law Study Group Report of December 19, 1985, *Criteria for ‘Workers’ under the Labor Standards Act*,⁹ analyses and summarizes the criteria for worker status. According to this report the criteria for worker status are: (i) whether the person in question can refuse the orders of the client, (ii) whether he/she is bound to the client’s directions in performing his/her work, (iii) whether he/she is bound

to a given working time and place, (iv) whether he/she can hire another person to perform his/her work, (v) whether his/her remuneration is qualified as for his/her work, not for the product, (vi) whether he/she can be qualified as a business trader (bearing financial burden of equipment, remuneration amount), (vii) whether he/she has only one client or many, and (viii) other circumstances (whether work rules apply to him/her, whether social insurance is applied to him/her, what tax status he/she has, etc.). Factors (i)–(v) are referred to collectively as criteria for “subordination to the control of the employer” (*shiyo juzoku sei*) while (vi)–(viii) are supplementary factors strengthening worker status.

In the *Yokohama Minami Rokishocho (Asahi Shigyo Inc.)* case (Supreme Court, [Nov. 28, 1996] 714 *Rohan* 14), the Supreme Court did not recognize the worker status under the LSA of X, a truck driver with his own vehicle. While acknowledging the importance of the above-mentioned criteria (ii) and (iii), interpreted them narrowly enough that in this case they did not sufficiently contribute to worker status. While X was in effect temporally and locationally confined, and was following the directions of the client, the Supreme Court stated that such directions did not exceed those “necessary due to the nature of the transport business,” and the degree of temporal and locational confinement was relatively loose compared to those of other employees, thus denying worker status. The Supreme Court also recognized X as fulfilling the criteria (vi) as the owner of the truck with responsibility for business expenses.

This tendency toward strict interpretation of “subordination to the control of the employer” while placing emphasis on factors contributing to business traders status also characterizes the *Fujisawa Rokishocho* (carpenter’s injury) case (Supreme Court [June 28, 2007] 940 *Rohan* 11), which denied the worker status of a so-called independent foreperson. On the other hand, the worker status under the LSA of drivers with their own trucks has tended to be denied since the Supreme Court ruling in the *Yokohama Minami Rokishocho* (Asahi Shigyo Inc.) case. There is a judicial precedent, however, that considered the definition of “worker” under the LSA same as that of LUA (see the next section) and acknowledged the worker status under the LSA of a consumers’ cooperative delivery driver. This is noted as a judicial precedent oriented toward unification of the definition of “worker” (The *Cargo Staff* case, Shizuoka District Court [Aug. 9, 2013,] LEX/DB 25501645).

2. “Worker” under the Labor Union Act

Article 3 of the LUA defines “workers” as “persons who live on their wages, salaries, or other equivalent income, regardless of the kind of occupation.” Since the wording differs from that of Article 9 of the LSA, and LUA is a law that supports collective bargaining, it is interpreted as a wider concept than that in the LSA.¹⁰

To give a specific example, the worker status under the LUA of orchestra members in a free performance agreement not confining them exclusively to the orchestra was affirmed in 1976.¹¹ In the practice of the Labor Relations Commission in 1985, both an association of home workers and the professional baseball players’ association were recognized as labor unions under the LUA.¹² In 2011 the Supreme Court affirmed the worker status of both chorus members at an opera house and entrusted workers who perform product repair services to customers based on contracts for service.¹³

Furthermore, a Ministry of Health, Labor and Welfare study group on labor relations act (chaired by Professor Takashi Araki, The University of Tokyo) began deliberations in May 2011 to clarify the criteria for judgment of worker status under the LUA, and compiled a report in July 2011.¹⁴ The report identifies six criteria (factors) in the above Supreme Court decisions: (i) whether the person in question is integrated into the business organization of the client, (ii) whether contents of the contract are determined unilaterally by the client, (iii) whether his/her remuneration is qualified as for his/her work, not for the product, (iv) whether he/she should respond to requests for work, (v) whether he/she is bound to the directions of the client, in a broad sense, and he/she is also bound to a given working time and place to certain degree, and (vi) whether he/she is qualified as a genuine business trader. Criteria (i) to (iii) are called “basic criteria,” criteria (iv) and (v) are called “supplementary criteria,” and criterion (vi) is called a “passive criterion.”

Among “basic criteria,” criterion (i) refers to whether or not the worker in question is secured as part of a workforce indispensable for the client’s business, but like criterion (ii) this can also include subcontractors who work for the only client, and these two criteria alone cannot be used to distinguish workers and business traders (self-employed). Meanwhile criterion (iii), “nature of the remuneration as that for work performed,” is the same as one of the criteria for the worker status under the LSA, and is considered one of the factors distinguishing employment contracts and contracts for service, but in reality it is not an effective standard, because the nature of remuneration is determined after worker status or lack thereof is already decided.

While “supplementary criteria” (iv) and (v) are intended to “reinforce and complement” the “basic criteria,” it is understood that if criteria (i) and (ii) are affirmed, criteria (iv) and (v) will tend to be judged in the direction of affirming worker status under the LUA.¹⁵ However, since criteria (iv) and (v) are also factors for judgment of worker status under the LSA, it is unclear how the criteria per se differ between the LSA and LUA.¹⁶ In the end, the difference between judgments of worker status under the LSA and under the LUA lies not in the *criteria* themselves but in *judgment procedures*, with decisions regarding the LUA tending to judge whether criteria are satisfied more loosely than those regarding the LSA.¹⁷

More recently, in the *Victor Service Engineering* case (Supreme Court [Feb. 21, 2012] 66–3 *Minshu* 955), the Supreme Court established a formula for interpretation of criteria (vi) as “whether the individual has, in practice, opportunities to manage revenue by conducting business based on his or her own independent decisions.” When the same case was remanded,¹⁸ it became clear that the temporal and locational confinement, and being under supervision, both criteria for worker status, are also criteria for denying status as a business trader. Thus, the correlation between worker status and business traders (self-employed) property was confirmed.¹⁹

3. Problems concerning current criteria and determining methods

(a) Problems concerning methods determining worker status under the Labor Standards Act

Judicial precedents denying worker status under the LSA recognize de facto temporal and locational confinement, and a certain number of directions from the client, as being “a natural obligation due to the nature of the work.” Other judgments denying worker status under LSA recognize lack of freedom to accept or reject clients’ requests as self-evident, because it is contractually obliged.²⁰ There is a tendency for this de facto confinement not to be recognized as “subordination to the control of the employer (*shiyo juzoku sei*).”

Directions may come from clients, rather than employers, making it difficult to distinguish these from the obligation to follow directions and orders that are the basis of labor contracts. However, worker status should be judged objectively based on the actual practice of work. “Natural obligations due to the nature of the work,” and contractual obligations, should also be taken into consideration in judging worker status.

(b) Unclearity between two different criteria applied in LSA and LUA

In the end, there are no clear differences between concrete criteria for judgments of worker status under the LSA and under the LUA. It appears that under the LSA, judgments of whether such criteria are satisfied are carried out strictly and tend to deny the worker status, whereas under the LUA they are looser so they tend to affirm worker status. The difference is only in judgment procedures.

However, as stated above, there are problems with current judgment procedures that do not admit de facto confinement as “subordination to the control of the employer (*shiyo juzoku sei*).” If so, the issue is how to establish clear grounds for relativity of the “worker” concept under the LSA and the LUA.

(c) The need for case-by-case approach

In a recent lower court case, the *Bunka Shutter* case (Saitama District Court [Oct. 24, 2014] 2256 *Hanrei Jiho* 94), there was a dispute over the application of the LCA and social insurance to X, who handled warehouse management and construction work allocation, based on an “contract for service,” in a distribution center of Company Y, which manufactures and sells exterior products and so forth for houses. The Saitama District Court found that while X himself had offered his own services, without hiring workers, some of the

workforce at the same facility had their own business names and entrusted tasks to other workers. Thus the court affirmed the “possibility of hiring another person performing tasks” and denied the worker status of X.

This judgment raised an issue—whether persons engaged in work for which worker status is an issue should be judged categorically or individually, when there are differences in the actual practice of work between individuals in the same sort of work. In my opinion, individual judgements should be made based on judgment procedures that objectively judge worker status from the actual practice of work. The result will be that among those contracted by the same client and engaged in the same sort of work, some will be recognized as “workers” and some will not.

III. Author’s opinion

1. Relativity of the definition of “worker”

In section II, I discussed how in current theory and judicial precedents, the definition of “worker” under the LSA and the LUA is considered to be relative. Then, what exactly are the occupations or positions recognized as “worker” under the LUA but not under the LSA? There has not been cases where worker status under the LSA and under the LUA were disputed at the same time. Currently, occupations where people are recognized as “workers” under the LUA but not under the LSA include home workers, orchestra and chorus members who have not signed exclusive contracts,²¹ professional baseball players, truck drivers who own their own vehicles,²² construction industry artisans (so-called independent foreperson),²³ messengers,²⁴ NHK subscription fee collectors,²⁵ and massage practitioners at relaxation facilities.²⁶

2. The basic definition of “worker”

The author is concerned with the fact that in the current judgment procedures for worker status under the LSA, worker status is judged too narrowly because the courts tend not to consider *de facto* confinement based on actual practice of work as “subordination to the control of the employer (*shiyo juzoku sei*),” which indicates worker status. I believe that, as with worker status under the LUA, *de facto* confinement should be emphasized, and basically the scope of worker status under the LSA should be expanded in line with scope under the LUA.

Thus, “worker” should be defined as “the essential feature of an employment relationship is that for a certain period of time a person performs services for and under the direction of another person in return for which he receives remuneration.” The concept contrasted with “worker” is “business trader” or “self-employed,” those who conduct transactions themselves in the market. This definition is similar to the definition of “worker” under EU law (Lawrie-Blum formula).²⁷ As criteria for whether someone qualified as “worker,” in addition to obligation to follow direction of another person, the criteria that deny the nature of a business trader should be taken into account, such as the number of clients, possibility of hiring his/her own workers, and presence or absence of equity capital. Here this definition of “worker” will be called a “basic definition of ‘worker.’”²⁸

Most of the people engaged in occupations or work types mentioned in the first paragraph above fall under this definition. They should basically be considered as “workers,” and their contracts that form the basis of their work should be qualified as “labor contracts.”

However, the building and development of labor legislation has historical background, and based on historical and systematic interpretations, not all “workers” should be understood synonymously under current law. Also, it is necessary to expand the “basic definition of ‘worker’ ” according to the aims of individual laws with regard to new forms of work emerging as the times change. In that respect, the relative nature of the definition of “worker” cannot be denied.

Most labor legislation contains provisions regulating the contents of labor contracts, and the different definitions of “worker” are mutually linked through labor contracts. In this respect, there is a need to discuss

worker status under the LSA separately from the status of “insured” or “income recipient” under social insurance and tax laws, which effectively use the same criteria as the “basic definition of ‘worker.’” This will be discussed in III 4 below.

The basic definition of “worker” is presupposed on a certain continuing relationship with the employer. Note that worker status is affirmed for occasional work as well in cases where there is an easily recognized obligation to follow.²⁹

3. “Equivalent protections” allow relativity of the definition of “worker”

As examples where worker status under the LSA is denied based on historical and systematic interpretations of the occupations or job types cited in III 1 above, which can be said to satisfy the criteria of the “basic definition of ‘worker.’” We can refer home workers, independent foremen, and professional baseball players.

Home workers are covered by a special labor law, the Home Work Act. Likewise, for independent foreperson, there is a special enrollment system based on the Industrial Accident Compensation Insurance Act, Article 35, which can be recognized as a special set of regulations under the LSA. With regard to these types of occupations, there is legislation aimed at ensuring protections equivalent to those of “workers.” In such cases where a certain degree of “equivalent protections” is recognized, worker status can be denied even for those who satisfy the “basic definition of ‘worker’” under the relevant regulations.

A similar situation is that of professional baseball players; there is a long-standing tradition of work conditions defined based on independent and autonomous collective regulations (baseball agreement) and there are no particular problems in terms of necessity of protections. Thus, the worker status of professional baseball players under the LSA can be denied. In other words, although in practice they are “workers,” reasonable protections are provided through special laws, etc.; denying worker status under the LSA is justified based on the principle of “equivalent protections.”

For future policy, it is not appropriate to use relative definitions of “workers,” and rules for exemptions should be prepared based on the same and uniform definition of “worker.” This is because establishing criteria for each type of worker status is difficult, and in the end, the ambiguity of the criteria cited in II 3 (b) remains unresolved. As legislative examples, working hours and income requirements, used as the standard for exclusion of persons covered by social insurance, or the exemption rule of domestic workers (LSA Art. 116 Para. 2) could be considered.

4. Reconsidering the definition of “labor contracts”

“Worker” is a person who satisfies the criteria of the “basic definition of ‘worker,’” and a contract where a “worker” is one of the parties is called a “labor contract.” But for certain occupations, if we admit relativity of the definition of “worker,” we need to reconsider the definition of a “labor contract.” That is to say, home workers and professional baseball players are considered as “workers” under the LUA but not under the LSA (or LCA). Is the contract on which their work is based still called a “labor contract?” Regarding home workers, under the Home Work Act, they are treated as subcontractors, and ostensibly this appears to conflict with dominant opinions and judicial precedents which interpret employment contracts and labor contracts as synonymous. However, a person who satisfies the criteria of the definition of “worker” is a “worker,” that employment contracts which form the basis of employment are “labor contracts,” and that these can be interpreted as synonymous with the “employment contract” under the Civil Code.³⁰ Therefore, based on Article 16 of the LUA, the normative effect should be extended to contracts of those who are not considered “workers” under the LSA. This is because the right to collective bargaining and the right to conclude agreements cannot be theoretically separated. As a result, we must recognize relativity of the concept of “labor contracts” (though labor contracts are interpreted in a narrow sense under the LSA / LCA).³¹ In the future it is necessary to use the broader definition of labor contract for all labor law regulations and to develop exemption regulations in the LSA/LCA.

Although relativity of the definition of “worker” is a prevailing opinion, the “labor contract” is not necessarily interpreted in a relative sense, and some confusion is occurring. For example, in the above-mentioned *Shin-Kokuritsu Gekijo Un’ei Zaidan* case, the Tokyo High Court ruled that the chorus members and the foundation “had not entered into a labor contract that was a prerequisite for application of the LSA and LUA,” indicating that they understood contracts to which LSA and LUA apply as “labor contracts.” Likewise, in the also above-mentioned the *Kensoan* case, the Nara Prefectural Labor Relations Commission’s remedial order stated that “when an individual is judged to be “worker” under the LUA, the contract for service with Y is recognized as a fixed-term labor contract for a one-year period,” meaning a rule governing refusal of the renewal (now LCA Art. 19) is applied. This judgement interpreted each worker status under the LUA and LCA as synonymous.

According to the relative definitions of “worker,” if worker status under the LUA is acknowledged, it should not be judged that the nature of the contract between the worker and the client is a “labor contract” under the LSA/LCA, unless criteria for worker status under the LSA are separately satisfied. In order to avoid practical confusion, there is a need to unify the definition of “worker” under labor legislation regulating the contents of “labor contracts.”

IV. Worker status of convenience store “owner”

1. Convenience store “owner”: contents of contracts and its practice

In this section the worker status of convenience store “owners” will be discussed, first of all by summarizing their contracts and work contents, based on the above-described remedial orders from the prefectural Labor Relations Commissions and FamilyMart Co., Ltd.’s “Key points and overview of franchise agreements” (Legal disclosure statement, July 1, 2012).

(a) Types of franchise agreements

Franchise agreements through which people become convenience store “owners” are roughly divided into two types: (i) contracts where the franchisee provides the storefront property, and (ii) those where the franchisor (company headquarters) provide one. Even if it is the type (i), they have to adhere to standards and requirements for store usage and layout by the headquarters’ instructions. If the franchisee does not procure the storefront property or invest his or her own funds in it (the type (ii) above), the headquarters procures the storefront property and interior work on the building, and the store property is loaned for use to the franchisee by the company. Sales furnishings, fixtures and equipment in the storefront are lent by the headquarters, in either type of (i) or (ii) above.

(b) Qualifications for membership, term of contract, etc.

The term of a franchise agreement is 10 years (FamilyMart Co., Ltd.) or 15 years (Seven-Eleven Japan Co., Ltd.), and agreements may be renewed. Both individuals and corporations can be franchisees. When concluding a franchise agreement, the franchisee must pay approximately 3 million yen to the headquarters as membership dues, etc. It is expected that spouses or family members of franchisees are also working in the store.

(c) Training

After concluding a franchise agreement, the franchisee must undergo and complete training provided by the company, with the cost borne by the franchisee (training costs are included in the above-mentioned membership dues etc.) Training includes lectures and on-site training on all matters necessary for store management, such as the structure and procedures of store management, preparation of documents, specific customer service procedures, etc.

(d) Store management

In order to ensure stores are operated with a consistent image and system, the franchise agreement specifies that the appearance, interior, and layout of the store must comply with the headquarters’ standards.

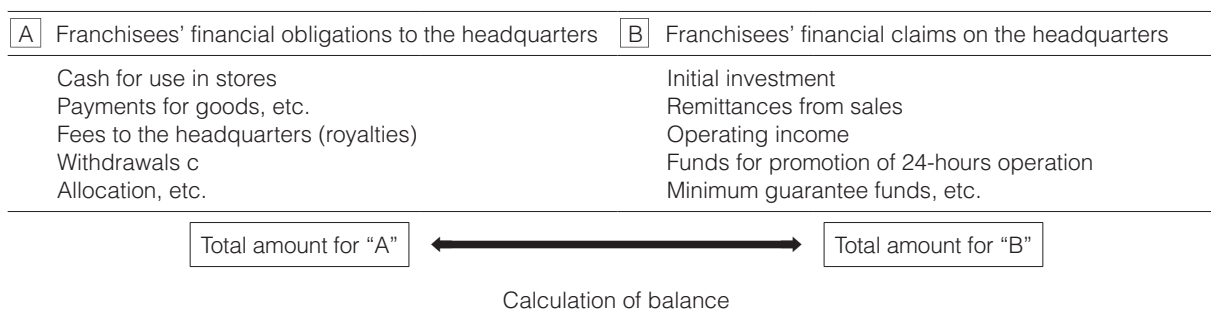


Figure 1. Overview of offset of lending and borrowing through cash settlement account (open account)

As a general rule, it is obliged to be open 24 hours a day, 7 days a week. All shops are operated using the company's data and logistics systems, and goods and suppliers are recommended. Franchisees have the option of purchasing goods from suppliers other than those recommended, but in fact this rarely occurs.

(e) Open accounts

The franchisee is obligated to use the above data and logistics system, as well as a cash settlement account (an "open account"). The open account is established by the headquarters and franchisee from the month the store opens until the month the agreement expires, and the franchisee remits sales proceeds to the headquarters every day, settles accounts payable to each party, and verifies the balance remaining, with the total deducted at the end of the month and the balance treated as a loan. Figure 1 shows amounts of liabilities that are offset between headquarters and franchisee on a monthly basis.³²

As revenue is remitted to the headquarters every day, the headquarters manages operating profits, and the franchisee cannot make withdrawals freely, but rather an amount calculated according to a prescribed method is paid to the franchisee by the headquarters once a month or once every three months, designated as "withdrawals" or "allocations."

With this approach, the headquarters is able to track gross profits thoroughly, can anticipate payment of royalties, etc. even before franchisee earns revenue, and can ensure that the franchisee pays for the purchase price of goods and products purchased from the headquarters or its designated companies.³³ "Withdrawals" or "allocations" may not be paid in cases of poor sales or the franchisee violating the contract.

If sales do not reach a certain amount, minimum guarantee funds to compensate for the deficiency are paid to the franchisee from the head office. The minimum guarantee system ensures the franchisee a certain fixed income.

2. Unique characteristics of franchise agreements

With regard to the definition of a franchise agreement, based on the definitions of the Japan Franchise Association and of the "Interpretation of the Antimonopoly Act in Franchise Systems" (amended June 23, 2011), etc., it is understood as a contract stipulating that (i) franchisors allow, and obligate, franchisees to use the franchise package (ii) franchisees are obliged to pay for the use of the franchise package (iii) the objective of the agreement is transactions of goods and services, (iv) franchisees are to carry out these transactions in their own name and according to their own calculations, (v) the contents of the franchise package include a) use of designated signs and a consistent appearance, b) provision of know-how to franchisee by franchisor, and c) continued management support for franchisees provided by franchisors.³⁴

As item (iv) in the above definition shows, in a franchise agreement, franchisees must be independent business traders. "Business trader" here, however, is regarded as a concept contrasted with "worker" under a labor contract. Thus it is considered a prerequisite for a franchise agreement that it is not a labor contract.³⁵

As discussed above, judgment of worker status should be based on the actual practice of work, not the

content of a contract, and emphasis should be placed on de facto temporal and spatial confinement. In II 3 (a) above, it was stated that mandatory provisions in contracts for service are mere contractual restrictions, and that judicial precedents that do not recognize de facto confinement as evidence of dependency to “the control of the employer (*shiyo juzoku sei*)” are not appropriate for judgment procedures. Likewise, franchise agreements contractually obligate franchisees to use franchise package. Various constraints arisen from this obligation should be considered as evidence for worker status.

However, it is necessary to consider the fact that the de facto constraints on franchisees arising from the use of the franchise package are not intrinsically a matter of worker status, but also can be seen as supporting business trader status in the overall judgment. In other words, it cannot be denied that franchise agreements could heighten profit opportunities for franchisees as business traders by using the franchise package. For example, franchisees have advantages in terms of ordering goods reliably, drastically reducing the burden of clerical work accompanying ordering and accounting by using a designated ordering system or open account, and being free from daily cash flow concerns³⁶ even though they are restricted in their suppliers and in a sense cannot exercise discretion as business traders.

3. Examinations of the prefectural Labor Relations Commissions’ remedial orders

Based on the all above, when remedial orders of the prefectural Labor Relations Commissions are examined, they can generally be supported. In several respects they needed to take the unique characteristics of franchise agreements more fully into account.

(a) Premise of the prefectural Labor Relations Commissions’ remedial orders

In the case of Seven-Eleven Japan Co., Ltd., the Okayama Prefectural Labor Relations Commission said that “Franchise agreements are concluded between independent business traders, namely, member stores and franchisors, based on their respective responsibilities,” but that “workers” under the LUA consist not only of those who supply labor under the LCA and the LSA, and even in negotiations between business traders there may be a significant power differential. As strict adherence to the principle of freedom of the contract may cause unfair consequences, it is quite reasonable to interpret those who organize labor unions and are protected by collective bargaining as being broadly included.” The Commission went on to consider franchisees’ fulfillment of criteria as “worker” under the LUA.

The Okayama Prefectural Labor Relations Commission acknowledged convenience store “owners” as “business traders” in that a franchise agreement is defined as an agreement between business traders; while recognizing that such “business traders” are contrasted with “workers” under the LSA, based on the relative definition of “worker,” it argued that being “business trader” does not hinder franchisees’ worker status under the LUA. This is a clear argument, but there remains doubt, although this may be *obiter dicta* in this case, as to whether franchisees can be interpreted to be “business traders” only by the fact of concluding a franchise agreement.

Meanwhile, in the case of FamilyMart Co., Ltd., the Tokyo Metropolitan Government Labor Relations Commission stated that “the franchisee should be said to provide labor to the company, and simply the format of a ‘franchise agreement’ is not sufficient grounds to render the LUA inapplicable,” because franchisees, i.e. store managers, engaged in work in member stores for a considerable length of time, such as running cash registers, cleaning and so forth, and this work was carried out based on detailed manuals and specific instructions.

This particular part of the Tokyo Metropolitan Government Labor Relations Commission decision is unclear, because this examination overlaps with the examination of worker status under the LUA, therefore it is pointed out that this argument is misreading.³⁷ Certainly, detailed instructions from headquarters can mean that the “owner” is working “under control, in a broad sense,” which leads to the affirmation of worker status under LUA. However, it is appropriate that it does not state that franchisees become “business traders” immediately after they conclude franchise agreements. To avoid overlapping with the examination of the

worker status of the “owner,” it would be better if the remedial order only mentioned that judgment of worker status should not be based on the contractual title “franchise agreement” alone, but objectively based on the actual practice of work.

The Okayama Prefectural Labor Relations Commission and the Tokyo Metropolitan Government Labor Relations Commission have the above-mentioned differences regarding the premise of their remedial orders, but they are nearly in alignment in terms of satisfaction of criteria under the LUA. Regarding (i) unilateral determination of contract contents, (ii) being integrated to a business organization, and (iii) nature of remuneration as work performed, as discussed above, such basic criteria do not themselves function effectively to distinguish between workers and business traders. Here it will be examined about the supplementary criteria and the nature of “business traders” or “self-employed.”

(b) Consideration of the unique characteristics of franchise agreements

With regard to supplementary criteria that have substantial meaning in judgments of worker status, both of the above remedial orders needed to take into account the unique characteristics of franchise agreements. Specifically, while they emphasized the fact that headquarters provided detailed advice and guidance as satisfying the criteria of (iv) lack of freedom not responding to requests for work and (v) providing labor under control, in a broad sense, there is room for further consideration of the unique characteristics of franchise agreements in terms of franchisees’ improved opportunities for profiting as business traders through mandatory use of the franchise package.

Regarding limits on goods and suppliers, both remedial orders recognized the franchisees as having little discretion to exercise their own skills and talents. Here they should have considered the unique characteristics of franchise agreements.

Contrary, in the FamilyMart Co., Ltd. case, the Tokyo Metropolitan Government Labor Relations Commission did not recognize franchisees as having noteworthy status as “business traders.” This is reasonable that store sales are influenced by location, and sales of no more than six million yen constitute over 70% of the total. It can be said that their lack of discretion to exercise as business traders, and their income being about the same as that of an average worker, supports for worker status.

In the Seven-Eleven Japan Co., Ltd. case, the company’s “dominant strategy” (of opening numerous stores in high-density areas), which aims to boost company profits by expanding a network of stores whose trade areas overlap, is a circumstance weighing against franchisees’ opportunities to profit as business traders, as it detracts from the interests of individual member stores.³⁸ As to whether the dominant strategy is immediately disadvantageous to individual member stores, consistent evaluation is difficult because headquarters encourage franchisees to manage multiple stores.

The major discrepancy between the worker status of convenience store “owners” and past cases in which worker status has been at issue is that the convenience store “owners” manage many employees. Regarding this point, both remedial orders note that hiring a large number of part-time workers, etc. is indispensable to fulfill the obligation of being open 24 hours a day, 365 days a year, and these hiring practices are not recognized as intended to expand the profits of “owners.” Being open 24 hours a day, 365 days a year is an important element of the franchise package of convenience stores, and it cannot generally be seen as improving franchisees’ opportunities to profit as business traders, being on the contrary a significant burden. The judgments are reasonable in this regard.

(c) Conclusion: The need for individual judgments

To summarize the above discussion, it is not possible to determine whether every convenience store “owners” should be qualified as “workers.” When examined on a case-by-case basis, the worker status of some will be recognized while those of others will be denied. As a general rule, if a franchisee acts as store manager and engages in store work personally, with income around the same level as an ordinary worker, his or her worker status ought to be affirmed. As mentioned in II 3(c) above, even if multiple parties are in contractual relationships with the same entity, if their worker status is to be judged using objective procedures

based on the actual practice of work, each of them must be examined individually.

As conclusions may differ depending on the individual convenience store “owners,” there is also the problem of whether labor unions consisting of convenience store “owners” who are qualified as “workers” and those who do not are labor union in the meaning of the LUA. In other words, labor unions consisting of convenience store “owners” will not be allowed to combat unfair labor practices unless they satisfy the stipulation of Article 2 of the LUA, “formed voluntarily and composed mainly of workers.” To that end, convenience store “owners” whose worker status is affirmed must outnumber those whose status is denied.

4. Worker status of convenience store “owner” under the Labor Standards Act

The worker status of convenience store “owners” affirmed under the LUA is likely to be denied under the LSA. This is because franchisees are an example of the relative nature of the definition of “worker” discussed in III 3 above.

Special regulations concerning franchise agreements include protections via disclosure restrictions based on the Small and Medium-Sized Retail Business Promotion Act, protection from abuse of superior bargaining position based on the Antimonopoly Act,³⁹ and contractual protections based on judicial precedents. For example, regarding open accounts, the Supreme Court has applied the concept of quasi-delegation (Civil Code Article 656), and the headquarters is obliged to report to franchisees on the specific content of the purchase price of goods not stipulated in franchise agreements.⁴⁰ In addition, in a lawsuit under Article 25 of the Antimonopoly Act, on the grounds of damages suffered due to a cease and desist order from the Fair Trade Commission ordering discontinuance of restrictions on below-cost sales of closeout goods, the Tokyo High Court judged that headquarters’ instructions and advice on refraining from below-cost sales may not be considered contractually obligatory, and may be deemed illegal if they are seen as constituting undue pressure on “owners.”⁴¹

Regulation of franchise agreements like that described above is still insufficient, and the necessity of legislation governing franchises has been pointed out.⁴² Franchisee can be seen as an occupational type for which unique regulations are developing that provide a certain degree of “equivalent protection.” While convenience store “owners” cannot be called “workers” under the LSA, in the future, it is necessary to admit their exemption from its application.

5. Reconciliation of labor law and competition law

While under the LUA, the worker status of convenience store “owners” is affirmed, on the other hand they are categorized as “business traders” subject to regulations of the competition law. Is it possible to reconcile the labor law with the competition law?

The competition law and the collective labor law can be seen as having close historical and systemic relevance,⁴³ and under EU law, the preliminary ruling in the *FNV Kunsten Informatie en Media* case⁴⁴ clearly found this to be true. In this case it is disputed whether a collective agreement for members of an orchestra in the Netherlands can constitute exemption from Article 101 of the Treaty on the Functioning of the EU (prohibition of cartels), when in this collective agreement working conditions of substitute members are regulated. In the Netherlands a substitute member of an orchestra is regarded as an independent contractor. The European Court of Justice (ECJ) stated that “a service provider can lose his status of an independent trader...if he does not determine independently his own conduct on the market, but is entirely dependent on his principal... (para. 33). . . . On the other hand, the term ‘employee’ for the purpose of EU law must itself be defined according to objective criteria that characterise the employment relationship...it is settled case-law that the essential feature of that relationship is that for a certain period of time one person performs services for and under the direction of another person in return for which he receives remuneration (para. 34)...in order that the self-employed substitutes concerned in the main proceedings may be classified, not as ‘workers’ within the meaning of EU law, but as genuine ‘undertakings’ within the meaning of that law, it is for the

national court to ascertain that, *apart from the legal nature of their works or service contract*. . . in particular, that their relationship with the orchestra concerned is not one of subordination during the contractual relationship, so that they enjoy more independence and flexibility than employees who perform the same activity, as regards the determination of the working hours, the place and manner of performing the tasks assigned, in other words, the rehearsals and concerts” (para. 37; italics added by author).

Paragraph 34 of the above preliminary ruling cites the Lawrie-Blum formula, and this indicates that the definition of “worker” under EU law can be interpreted uniformly in principle. In paragraph 37 of the ruling, there is a noteworthy reference to the irrelevance of the nature of their contract, although this article cannot possibly explain this point sufficiently. In Japan, unlike in Europe, a “labor contract” is synonymous with an employment contract under the Civil Code, and it is possible to interpret the scope of the employment contract as broader sense of the labor contract under the LUA (III 4 above).

From the above, convenience store “owners” for whom worker status under the LUA is affirmed are not “business traders” under the Antimonopoly Act but “workers” to whom labor laws apply, although their worker status under the LSA is denied.

There seems to be a problem in that as convenience store “owners” whose worker status under the LUA is acknowledged are not “business traders” (“enterprises”) under the Antimonopoly Act, they are excluded from protections from abuse of superior bargaining position. However, regulations protecting against abuse of superior bargaining position should apply to the franchise contract, which is qualified as a labor contract. Even if unions consisting of convenience store “owners” are recognized as legitimate labor unions under the LUA, franchise agreements are not regulated by collective agreements negotiated by these labor unions. In this respect, the situation in Japan can be seen as different from the EU, where labor-management relations are premised as being on an industry-wide basis.⁴⁵

V. Conclusion

1. The prefectural Labor Relations Commissions’ remedial orders that affirmed the status of convenience store “owners” as “workers” under the LUA can generally be supported, but they do not examine sufficiently whether the convenience store “owners” meet each of the criteria for worker status in light of the unique characteristics of franchise agreements. In franchise agreements, the use of the franchise package results in obligations to follow directions and orders, one of the criteria for worker status, but on the other hand, improve their opportunities to gain benefits as business traders. In comprehensive judgments of worker status, the amount of income obtained as a result of this arrangement is a deciding factor. Different conclusions can be reached for individual convenience store “owners.”

Labor unions consisting of convenience store “owners” will not be allowed to have remedial orders for unfair labor practices unless they satisfy the stipulation of Article 2 of the LUA, “formed voluntarily and composed mainly of workers.” To that end, convenience store “owners” whose worker status is affirmed must outnumber those whose status is denied. Headquarters cannot refuse to engage in collective bargaining with unions that meet the requirements under the LUA. If labor agreements are concluded as a result of collective bargaining, such collective labor agreements form the contents of franchise agreements, according to Article 16 of the LUA. That is, franchise agreements are qualitatively redefined as “labor contracts.”

2. Convenience store “owners” recognized as “workers” under the LUA cannot be qualified as “business traders” under the Antimonopoly Act. With regard to franchise agreements, however, judicial precedents with interpretations that contribute to protections for franchisees are accumulating. Therefore, it can be said that a certain degree of “equivalent protections” is being pursued through unique occupation- or job type-based regulations, meaning that worker status under the LSA is denied. Thus relativity of the definition of “worker” is confusing to deal with in practice. A consistent definition of “worker” should be applied in labor legislation regulating contract contents. In the future, regulations on exemptions from the LSA / LCA coverage should

be established by statute.

3. There seems to be a problem in that as convenience store “owners” whose worker status under the LUA is acknowledged are not “enterprises” under the Antimonopoly Act, they are excluded from protections from abuse of superior bargaining position. However, regulations protecting against abuse of superior bargaining position should apply to the franchise contract, which is qualified as labor contract. Even if unions consisting of convenience store “owners” are recognized as legitimate labor unions under the LUA, franchise agreements are not regulated by collective agreements negotiated by these labor unions. In this respect, the situation in Japan can be seen as different from the EU law, where labor-management relations are premised as being on an industry-wide basis.

* This paper is based on an article commissioned by the editorial committee of *The Japanese Journal of Labour Studies* for inclusion in the special feature “The Labor Issues that Franchises Face” in its January 2017 issue (vol.59, No.678) with additions and amendments in line with the gist of this journal.

Notes

1. The Labor Relations Commissions adjudicate unfair labor practice cases under Article 7 of the Trade Union Act, such as disadvantageous treatment of union members and refusal to bargain collectively (see Takashi Araki, *Labor and Employment Law in Japan*, 2002, pp. 191–203).
2. The *Seven-Eleven Japan* case, Okayama Prefectural Labor Relations Commission’s Remedial Order (Mar. 13, 2014) 1461 *Extra Churo-ji* 1. The *FamilyMart* case, Tokyo Metropolitan Government Labor Relations Commission’s Remedial Order (Mar. 17, 2015) 1488 *Extra Churo-ji* 1.
3. As will be described later, because a franchise agreement is defined as a contract between business traders, there is a deeply rooted view that franchisees’ worker status cannot arise as a problem in principle. Noriaki Kojima, “Dantai kosho to kyoyaku hosei ni kansuru oboegaki” [Memorandum on collective bargaining and collective agreement legislation], *Handai Hogaku* 64, no.5 (2015): 3–4; Kenji Kawagoe, “Furan chai-ji no dantai to rodo kumiai” [Franchisee organizations and labor unions], in *New edition franchise handbook*, Japan Franchise Association (Tokyo: Shogyokai, 2012), 443–446.
4. In such cases, there is an employment contract between the convenience store “owner” and the store manager, but when the manager’s working hours, etc. are managed by the headquarters, the issue of the headquarters’ acting as an employer arises.
5. The *Yokohama Minami Rokishocho (Asahi Shigyo Inc.)* case, Tokyo High Court (Nov. 24, 1994) 714 *Rohan* 16. *Rokishocho* means chief of Labor Standards Inspection Office.
6. Focusing on the character of the LSA as public law and the LCA as private law, it is argued that worker status under the LCA should be broader than that of the LSA. See Koichi Kamata, “Rodo keiyaku ho no tekiyo han’i to sono kihonteki seikaku” [Scope of application and basic character of the Labor Contracts Act], *Journal of the Japan Labor Law Association* 107 (2006):32, 200; Tomoko Kawada, “Kojin ukeoi/Itaku shugyosha no keiyakuho jo no chii” [Contractual status of independent contractors and outsourced workers], *Journal of the Japan Labor Law Association* 118 (2011): 20.
7. Takashi Araki, Kazuo Sugeno, and Ryuichi Yamakawa, *Shosetsu rodo keiyakuho* [Detailed Explanation of the Labor Contracts Act], 2nd ed. (Tokyo: Kobundo, 2014), 14, 79; Satoshi Nishitani, *Rodo ho no kiso kozo* [Substructure of Labor Law] (Tokyo: Nippon Hyoron-sha, 2016), 71. For an interpretation of labor contracts as broader in scope than employment contracts, Miki Kawaguchi, *Rodosha gainen no saikosei* [Reconstruction of worker status] (Osaka: Kansai University Press, 2012), 60–62.
8. Regarding worker status under the social insurance law, decision of the *Bunka Shutter* case (Saitama District Court (Oct. 24, 2014) 2256 *Hanji* 94) stated, “Although it is not understood that it is totally synonymous with worker status under the LSA, it is reasonable to view the two as basically equivalent, with the exception of corporate representatives and part-time workers, etc.”
9. The Labor Standards Inspection Division of Ministry of Labour ed., *Kongo no rodo keiyaku to hosei no arikata* [Future Labor Contracts and Legal Framework] (Tokyo: Japan Institute of Labour, 1993), 50–68.
10. Kazuo Sugeno, *Rodo ho* [Labor law]. 11th ed. (Tokyo: Kobundo, 2016), 781–782; Takashi Araki, *Rodo ho* [Labor law]. 3rd ed. (Tokyo: Yuhikaku, 2016), 573; Satoshi Nishitani, *Rodo ho* [Labor law]. 2nd ed. (Tokyo: Nippon Hyoron sha, 2013), 533–534.
11. The *CBC Radio Orchestra Labor Union* case, Supreme Court (May 6, 1976), 30–4 *Minshu* 437.
12. On August 17, 1960, the Central Labor Relations Commission recognized the Tokyo Mule Sandals Craftsmen’s Guild as a labor union (Central Labor Relations Commission’s Remedial Order (Aug. 17, 1960) 357 *Churo-ji* 36). The professional baseball players’ association was certified as a labor union by the Tokyo Metropolitan Government Labor Relations Commission on Nov. 5, 1985.
13. The *New National Theatre Management Foundation* case, Supreme Court (Apr. 12, 2011) 1026 *Rohan* 6; The *INAX Maintenance* case, Supreme Court (Apr. 12, 2011) 1026 *Rohan* 27.
14. Japan Labor Relations Act Study Group of MHLW, *Rodo kumiai ho jo no rodosha sei no handan kijun ni tsuite* [Criteria for worker status under the Labor Union Act] (Tokyo: Ministry of Health, Labour and Welfare, Jul. 25, 2011).

15. Araki, *supra* note 10, 575.
16. Yuichiro Mizumachi, “Rodo kumiai ho jo no rodosha sei” [*Worker Status Under the Labor Union Act*], *Jurist*, no.1426 (2011): 21.
17. Michio Tsuchida, “ ‘Rodosha’ sei handan kijun no kongo: Rokiho to rodo keiyakuho jo no ‘Rodosha’ sei o chushin ni” [The future of criteria for judgement of “worker” status: Focus on “worker” status under the Labor Standards Act and Labor Contract Act], *Jurist*, no. 1426 (2011): 55; Yoko Hashimoto, “Kojin ukeoi/itaku shugyosha to rosoko jo no rodosha gainen” [Independent contractors and the definition of “worker” under the Labor Union Act], *Journal of the Japan Labor Law Association* 118 (2011): 32.
18. The *Victor Service Engineering* case, Tokyo High Court (Jan. 23, 2013) 1070 *Rohan* 87.
19. Yoko Hashimoto, case law study, *Jurist*, no.1463 (2014): 121.
20. The *NHK Kobe Broadcasting Station* case, Osaka High Court (Sept. 11, 2015)1130 *Rohan* 22, etc.
21. In the *New National Theatre Management Foundation* case, although it was judged that the basic performance contract for one year was not an employment contract (Tokyo High Court (May 16, 2007) 944 *Rohan* 52), worker status under the Labor Union Act was affirmed by the Supreme Court.
22. Refer to the above-mentioned the *Yokohama Minami Rokishocho (Asahi Sigyo Inc.)* case, as a precedent decided at Supreme Court, the denial of worker status under the LSA. A case where worker status was affirmed under the LUA is the *Asahi Kyuhai* case, Osaka District Court (Apr. 25, 2007) 963 *Rohan* 68. However, among lower court decisions there are those in which worker status under the LSA was affirmed (the above-mentioned *Cargo Staff* case, etc.). Cases about the worker status of a truck driver are difficult to evaluate consistently.
23. As a Supreme Court decision denying worker status under the LSA, refer to the above-mentioned the *Fujisawa Rokishocho (carpenter's injury)* case. Although there seem to be no trial cases where worker status under the LUA of an independent foreperson was disputed, an example of a remedial order of the Central Labor Relations Commission affirming the worker status under the LUA of Brazilian workers of Japanese descent working in a plant producing concrete panels based on a “contract for service,” the *Shin'ei* case (Apr. 6, 2005). A labor union comprised of independent artisans (for example, Wakayama Construction Workers' Union) is affiliated with an industrial union UA ZENSEN (the largest industrial union in Japan) under the umbrella of JTUC-Rengo (Japan Trade Union Confederation).
24. In the *Sokuhei* (refusal to renew contract) case, although worker status under the LSA was denied by the Tokyo High Court (May 21, 2014) 1123 *Rohan* 83, it was affirmed by an administrative interpretation (Sept. 27, 2007 *Kihatsu* [notice issued by the Director of the Labor Standards Inspection Office] No. 0927004). There was a judicial precedent that worker status under the LUA was affirmed (the *Sokuhei* case, Tokyo High Court (Feb. 24, 2016) 1496 *Extra Churo-ji* 52).
25. Worker status under the LSA was denied (the *NHK Kobe Broadcasting* case, Osaka High Court (Sept. 11, 2015) 1130 *Rohan* 22) at the high court level, but worker status under the LUA was affirmed by the Central Labor Relations Commission (the *NHK Kobe Broadcasting* case, Central Labor Relations Commission's Order (Nov. 4, 2015) 1493 *Extra Churo-ji* 16).
26. Worker status under the LSA was denied in the *Rebirth Tokyo* case, Tokyo District Court (Jan. 16, 2015) 2237 *Rokeisoku* 11, but affirmed under the LUA in the *Kensoan* case, Nara Prefectural Labor Relations Commission (Sept. 27, 2012) 1445 *Extra Churo-ji* 1.
27. European Court of Justice (Jul. 3, 1986) Case 66/85, Lawrie-Blum, ECLI:EU:C:1986:284.
28. Yoko Hashimoto, “ ‘Rodosha’ no gainen keisei” [Building the definition of “worker”] in *Rodoko gaku no tenbo: Sugeno Kazuo sensei koki kinen ronshu* [Prospects for laborlaw studies: Kazuo Sugeno 70th birthday memorial journal] by Takashi Araki, Masahiko Iwamura, and Ryuichi Yamakawa, ed. (Tokyo: Yuhikaku, 2013), 46–47.
29. An opinion pointing out the necessity of affirming worker status under the LUA of an occasional work, see Hiroyuki Minagawa, “Shudan teki rodo ho ni okeru rodosha zo” [Image of the worker in collective labor law], *Journal of Japan Labor Law Association* Labor Law no. 119 (2012): 55–56.
30. For example, with regard to home workers, if there is an ongoing relationship with a specific customer, a contractual relationship beyond individual contract can be recognized.
31. Shinobu Nogawa, “Significance of the labor contract under Article 16 of the Labor Union Act, edited by Takashi Araki et al., *supra* note 28, 567.
32. FamilyMart, “Furanchaizu keiyaku no yoten to gaisetsu” [Key points and overview of franchise agreement] (Legal disclosure document, Jul. 1, 2012), 14.
33. Iwao Hako, “Furanchaizu shisutemu ni okeru opun akaunto sei ni tsuite” [The open account system in franchise systems], *New Business Law* 991 (2012): 31.
34. Soichiro Kozuka, *Furanchaizu keiyaku ron* [Franchise contract theory] (Tokyo: Yuhikaku, 2006), 45.
35. Kozuka, *supra* note 34, 43–44, 137.
36. Kozuka, *supra* note 34, 57.
37. Akira Hamamura, “Konbini chein kamei tenshu no rodo kumiai ho jo no rodosha sei” [Worker status of convenience store “owners” under the Labor Union Act], 1201 *Chuo rodo jiho* 24, 2016.
38. Regarding the dominant strategy, see Seigi Oyama, “Konbini owner tencho no rosoko jo no rodosha sei” [Worker status of convenience store owners under the Labor Union Act], 1821 *Rojun* 15 (2014). As brand power is increased when consumers often see shops of the same chain, headquarters can obtain royalties from multiple stores.
39. A cease and desist order was issued concerning restrictions on below-cost sales (order of the Japan Fair Trade Commission,

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- June 22, 2009). About this order, see Hajime Nishiguchi, Teruhisa Nara, and Ryo Wakamatsu ed. *Franchise Contract Judgment Handbook*, (Tokyo: Seirin Shoin, 2012), 451 (Teruhisa Nara).
40. The *Seven-Eleven Japan Open Account* case, Supreme Court (Jul. 4, 2008) 2028 *Hanji* 32 (Nishiguchi, Nara, and Wakamatsu ed., *supra* note 39, 335 (Teruhisa Nara).
41. The *Seven-Eleven Japan Antitrust Law Article 25 Lawsuit*, Tokyo High Court (Aug. 30, 2013) 2209 *Hanji* 10. This case is a civil lawsuit concerning the fair trade order, *supra* note 39, which was rejected the appeal to the Supreme Court and was confirmed.
42. Akiko Hasegawa, “Furanchaizu honbu no ranyo koi to sono hokisei” [Abuse of position by franchise headquarters and regulation thereof] 2015 *Annual Report of the Japanese Economic Law Association* no. 36, 126–127.
43. Katsutoshi Kezuka, “Hitenkei romu keiyaku shugyosha no ‘rosoho jo no rodosha’ sei ni kansuru saikosai hanketsu no teichaku to kongo no kadai” [Establishment of Supreme Court judgments on ‘Worker status under the Labor Union Act’ and future issues for atypical contract workers], 1164 *Churo-ji* 30, 2013. Hashimoto, *supra* note 16, 33–34; Hisashi Takeuchi (Okuno), “Shudan teki rodo kankei ni okeru rodosha gainen” [The definition of “worker” in collective labor relations] in *Henbo suru koyo/shuro moderu to rodo ho no kadai* [Changing employment and work models and labor law issues], ed. Shinobu Nogawa et al (Tokyo: Shojihomu, 2015), 149.
44. European Court of Justice (ECJ), Dec. 4, 2014. — Case C-413/13, FNV Kunsten Informatie en Media, ECLI:EU:C:2014:2411. For a comment on this preliminary ruling, see Masako Wakui, *Fair Trade* no. 783, p. 61 ff., 2016, and Goto Kiwamu, 1874 *Rojun* 26, 2016.
45. About the relation between the definition of “worker” under the LUA and the definition of the enterprise under the Antimonopoly Act, see Takashi Araki, “Rodo kumiai ho no rodosha to dokusen kinshi ho jo no jigyo sha” [Workers under the Labor Union Act and enterprises under the Antimonopoly Act] in *Rodo ho ga mezasu beki mono: Watanabe Akira sensei koki kinen* [What labor law should aim for: Professor Akira Watanabe memorial], eds. Kazuo Sugeno, Shigeya Nakajima, Shinobu Nogawa, Ryuichi Yamakawa (Tokyo: Shinzansha, 2011), 185 ff., Kezuka, *supra* note 42; Takeuchi (Okuno), *supra* note 43, 149.

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Who Holds Multiple Jobs? Empirical Analysis of Multiple Job Holding Using a Japanese Online Survey



Atsushi Kawakami

This paper supplies a labor supply model of multiple job holding based on Casacuberta and Gandelman (2012) and investigates relationships between multiple job holding and the main job or personal status by using an internet survey. In this research, we focus on the motivation of multiple job holding. Three results are estimated. (1) Non-labor income does not stimulate workers to have a second job with monetary motives but stimulates them to have a second job with both monetary and non-monetary motives. (2) Income from the main job decreases the probability of holding a second job. (3) Multiple job holding without monetary motives is not explained by main job status or personal characteristics. From a comparison of the second job's content, we investigate the relationship between the main job and second job by reasons of second job holding. Second jobs with only monetary motives are not useful for main jobs. On the other hand, second jobs with non-monetary motives stimulate the productivity of the main job, even though this result is based on the respondents' subject.

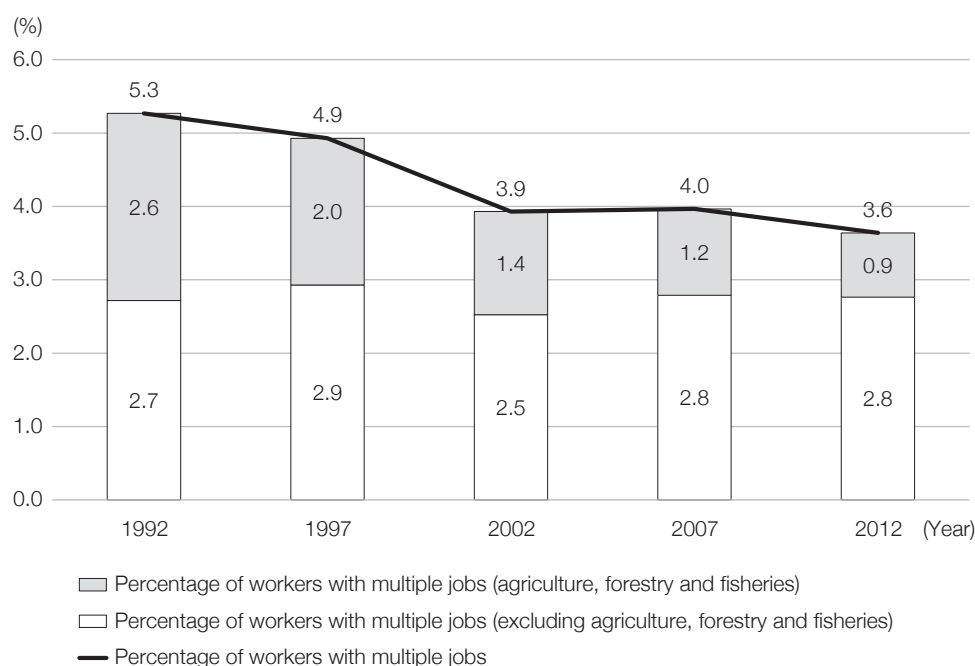
- I. Introduction
- II. Previous studies and hypotheses for verification
- III. Data
- IV. Analysis methods and results
- V. Conclusion and issues

I. Introduction

This article outlines hypotheses based on the models of Casacuberta and Gandelman (2012) and Kawakami (2017) regarding the effect of on the contents and conditions of a worker's main job (wage rate, working hours, unearned income) on multiple job¹ holding², and carries out an empirical analysis based on *Survey on Multiple Job Holding* conducted in 2007 by the Japan Institute for Labour Policy and Training (JILPT). This article also examines whether multiple job holding is beneficial for the employer or business owner by comparing the contents of multiple jobs according to type of motivation.

In 2017, the Office of the Prime Minister of Japan formulated the Action Plan for Work Style Reforms

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1. "Multiple jobs" consists of a main job and an additional job or jobs. Here it becomes necessary to distinguish between the main job and additional job(s). These can be defined by length of working hours, salary amount, or which job the employee had first, but this article employs the definition from the *Survey on Multiple Job Holding*, based on the perceptions of the job holder. This is the same definition used in the Ministry of Internal Affairs and Communications *Employment Status Survey*.
 2. The phrase "multiple job holding" is derived from previous research such as Shishko and Rostker 1976.



Source: Data aggregated from MIC *Employment Status Survey*. For 1992 data, anonymous data was used to divide respondents into “excluding agriculture, forestry and fisheries” and “agriculture, forestry and fisheries.”

Note: Multiple job holding rate is defined as the percentage of employed persons who have multiple jobs. Figures for “agriculture, forestry and fisheries” include those whose main or additional jobs fell in this category.

Figure 1. Percentage of workers with multiple jobs of employed persons

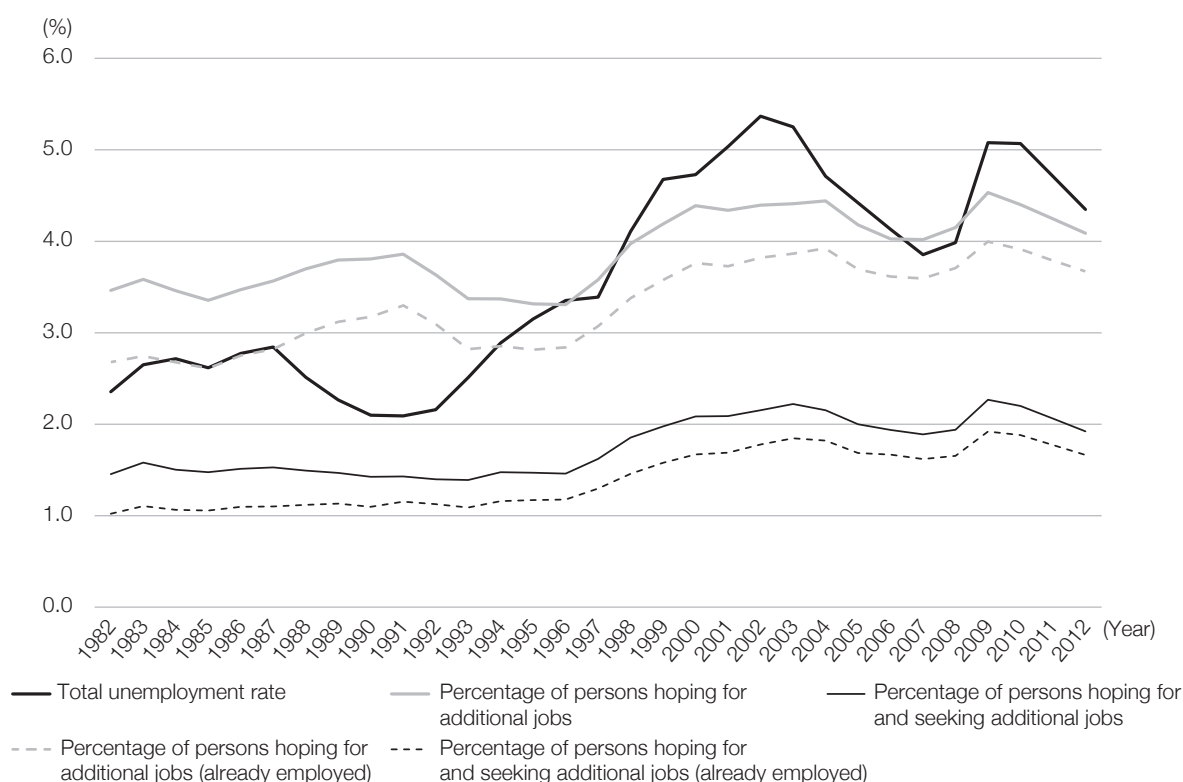
as one of the measures to address the labor shortage that has become increasingly apparent since the 2010s, and low productivity in the service industry. In addition to such key issues as alleviation of excessively long working hours and correction of disparities between non-regular and regular employees, the Action Plan encourages multiple job holding as follows. Here we see that holding multiple jobs is expected to lead to technological innovation and launching of new businesses.

“Side jobs and multiple jobs done in conjunction are effective means for development of new technologies, open innovation and entrepreneurship. It is also effective for preparation for a new life after retirement. In Japan’s case, there are still extremely few telework users, or companies that allow side jobs and multiple jobs done in conjunction. It is extremely important that we work to spread these practices.”³

Concerning the education and training effect of multiple job holding, Panos et al. (2014) used UK panel data, and Kawakami (2018) used data from the *Survey of Household Panels* provided by Panel Data Research Center at Keio University, to carry out empirical demonstrations, which indicate clearly, although to a limited extent, that multiple job holding has a positive effect on performance of main jobs.

With which industries and in what working styles do multiple jobs tend to be correlated? The status of multiple job holding in Japan is tabulated in the Ministry of Internal Affairs and Communications *Employment Status Survey* (Figure 1). The percentage of multiple job holders in Japan (the percentage of employed workers who hold multiple jobs) declined from approximately 5.3% to 3.9% during the 1990s, and has remained steady since then. When examining the breakdown of multiple job holders, however, the figures show that multiple job holding among business owners, family business operators, and employees engaged

3. From the Prime Minister’s Office website (https://japan.kantei.go.jp/97_abe/actions/201610/24article1.html)



Source: The author, based on MIC *Labor Force Survey*.

Note: The percentage of workers hoping for additional jobs was calculated by dividing the number of workers hoping for additional jobs by the total labor force population. "Workers hoping for and seeking additional jobs" are, among those hoping for additional jobs, those who are actively conducting job-seeking activities.

Figure 2. Change in the total unemployment rate and percentage of workers hoping for additional jobs

in industries other than agriculture, forestry and fishery remained unchanged until 2012 and rose in 2017. We must note that overall decline of multiple job holders is largely the result of a shrinking number of people farming on the side⁴ while holding main jobs (or farmers with side jobs). The drop in percentage of multiple job holders holds true when this side-job farming contingent is counted, and the decline has continued until 2017, the latest survey year at the time of this article's writing.

On the other hand, the demand for multiple jobs has also been consistently rising. Figure 2 shows, based on the Ministry of Internal Affairs and Communications *Labor Force Survey*, the percentage of people seeking multiple jobs, derived from the percentage of the working population that are seeking additional jobs. According to the figure, in the late 1990s and 2000s the percentage of workers seeking multiple jobs increased in the same manner as the total unemployment rate. As it appears that about half of unemployed people are engaged in job-seeking activities, we can understand that the scale of demand for multiple jobs is not to be overlooked.

In labor economics, early studies viewed multiple job holding caused by constraints on the working hours of main jobs, rather than an aspect of skills development or avoidance of unemployment risk. When working hours at main jobs are restricted, workers cannot earn enough income unless they have multiple jobs, which earn lower wage rates than the main job. Perlman (1966), who analyzed multiple jobs in the framework of economics, found that when an individual is not presented with a labor contract that pays a higher rate for

4. Those engaged in forestry and fishery are also included among the "people farming on the side" mentioned here. Japanese households that farm while also having other jobs are discussed in detail in Prindle 1984.

additional working hours at second or side jobs than that of the prescribed working hours of the main job, he or she tends to work multiple jobs at a wage rate lower than that of the main job, and Perlman examined this using a model that is an extension of the textbook labor supply and demand model. This argument suggests that multiple job holding is closely connected with the problem of the working poor. According to Kawakami (2018), who showed that there were no training effects from holding multiple part-time jobs, those population in working poor work inefficiently; earning lower wage rates and taking time to move between work places. In Japan, meanwhile, the issue of multiple job holding is discussed in terms of skill development, unemployment risk reduction⁵ and allowing or prohibiting provision.

As the interest in these multiple job-related issues indicates, diversification is a crucial aspect. Main jobs are generally held in order to earn a living, but among multiple job holders are those that secure a livelihood through their main jobs, but have motives for holding additional jobs other than income.

In previous studies, comprehensive theoretical models incorporating diverse reasons for multiple job holding have not been in place, and discussions have been focused on individual factors. On the empirical side, many studies have neglected to explore the factors⁶ contributing to multiple job holding with the premise of diverse motivations, and have instead examined the types of multiple jobs based on the results of estimates of multiple job holding's labor supply function.⁷ To supplement these studies, this article presents a labor supply model that generalizes the Casacuberta and Gandelman (2012) model of multiple job holding when there are both mercenary and non-mercenary motives, to clarify the differences between factors and content of multiple job depending on motivation. The model presented herein has been verified using the *JILPT Survey on Multiple Job Holding*. By verifying the benefits and drawbacks of the main job and additional jobs to business owners and workers themselves in cases of multiple job holding, this article examines to determine which issues related to multiple job holding in Japan require resolution.

The analysis results show that mercenary motives are less related to the content of the main job, and more likely to be present when the motivation for multiple job holding is constraints on hours at the main job (whether or not overtime is worked, number of working days). When non-mercenary motives are included, the results suggest that time constraints have a limited effect, and that the benefits include professional development, where additional jobs make a useful contribution to the main job.

The structure of this article is as follows: the next section (II) introduces previous research on multiple jobs and presents hypotheses to be verified. Section III outlines the *Survey on Multiple Job Holding* used for analysis in this article, and classifies multiple jobs for purposes of analysis by examining trends in overlapping of motivations for holding multiple jobs. Section IV examines the hypotheses using a multinomial probit model, and looks at the contents of multiple jobs by type. The analysis results are summarized in Section V, and future issues are outlined.

II. Previous studies and hypotheses for verification

Early studies on multiple jobs focused on the constraints to working hours. Using a labor supply model based on choice between income and leisure, Perlman (1966) showed that workers choose to hold additional jobs with lower wage rates than their main jobs when there are constraints to working hours at the main jobs. In addition, Shishko and Rostker (1976) and Frederiksen, Graversen and Smith (2008) focused on changes

5. Ogino (2009) focuses on the role of diversifying the employment insecurity of regular employees. JILPT (2005), Ogura and Fujimoto (2006) analyze provisions prohibiting additional job(s).

6. This article uses the terms "reason" or "motive" with regard to the reasons for having multiple jobs that the individual perceived when responding to the survey. The term "factors" is used to indicate attributes of the main job and the individual that contribute to the holding of multiple jobs.

7. For the purposes of analysis, the types of multiple job holding are differentiated according to whether they entail constraints on working hours at main jobs or not. The criterion is whether or not the wage rate at the additional job(s) is lower than that of the main job.

in the wage rate based on budget constraint tendencies, and analyzed the effects of declining wage rates and income taxes on the multiple-job labor supply. Krishnan (1990) showed that household income, thought to be increased by wives' working, has a negative influence on husbands' multiple job holding. Conway and Kimmel (1998) presented a multiple-job labor supply model to explain both constraint-oriented and non-constraint-oriented factors, but thus far the common practice has been to focus on mercenary motives for holding multiple jobs.

From 2000 onwards, there has been a growing body of research, largely consisting of empirical analysis focusing on the influence on multiple job holding of factors other than working hours constraints. Panos, Pouliakas and Zangelidis (2011) cite four types of factors for multiple jobs selection: working hours constraints, financial motives, experience motives, and heterogeneity motives.

Like working hours constraints, the impact of financial motives is clearly shown by empirical demonstration of the role of wage rates at main jobs in increasing the multiple-job labor supply (Shisko and Rostker (1976), Krishnan (1990), Dickey, Watson and Zangelidis (2011)). In addition, Böheim and Taylor (2004) concluded that workers choose multiple jobs as their own employment security in consideration of unemployment risk, by using data from the 1991–1998 *British Household Panel Survey* (BHSP) that shows strong tendency for short-term employment contracts at main jobs to be correlated with multiple job holding. With regard to the experience motive, Heineck and Schwarze (2004) used data from the German Socio-Economic Panel (SOEP) and BHSP to show that some workers hold multiple jobs in order to acquire new skills and gain experience.

Böheim and Taylor (2004) performed one analysis focusing on heterogeneity of work content. They state that different practical effects obtained from main jobs and multiple jobs are among the factors encouraging multiple job holding (as an example, they cite people with day jobs moonlighting as nightclub singers.) Casacuberta and Gandelman (2012) demonstrated that the increase in wages obtained from work other than music reduces time spent on creative activities among musicians in Uruguay.⁸ These activities differ from fields addressed in previous research, in that working hours have some of the same characteristics as leisure time, while it also assumes that this population obtains some practical effects from this time. Meanwhile, Casacuberta and Gandelman (2012) and Kawakami (2017), who interprets the model in general terms, show the labor supply function for multiple jobs when practical effects can be obtained from working multiple jobs in itself, based on non-mercenary motives. The following hypotheses for multiple job holding are derived from the conditions of the first order of the labor supply function.

Hypothesis 1: Increase in unearned income reduces multiple-job labor supply, i.e. reduces working hours at additional jobs, for mercenary motives.

Hypothesis 2: Increase in working hours at main job reduces multiple-job labor supply, i.e. reduces working hours at additional jobs, for mercenary motives.

Hypothesis 3: Increase in wage rate at main job reduces multiple-job labor supply, i.e. reduces working hours at additional jobs, for mercenary motives.

Hypothesis 4: Increase in unearned income increases multiple-job labor supply, i.e. increases working hours at additional jobs, for non-mercenary motives.

Hypothesis 5: The influence of increase in wage rate at main job on multiple-job labor supply, i.e. working hours at additional jobs, for non-mercenary motives, depends on the size of income effect and substitution effect.

8. Various additional job selection factors have been analyzed in addition to the above four factors. Paxson and Sicherman (1996) focused on activities in preparation for career changes, and Guariglia and Kim (2006) and Cabinet Office, Government of Japan (2011) focused on additional job(s) as preparation for starting one's own business. Also, Kimmel and Powell (1999) revealed that employed wives were correlated with husbands' having multiple jobs, and Krishnan (1990) showed that young single women were more to have multiple jobs.

From the next section onward, I will conduct an empirical analysis using data from the JILPT *Survey on Multiple Job Holding*. Besides this survey, a body of research on multiple job holding has been accumulating in Japan:

Ohki (1997) was among the first to study multiple job holding in Japan. Having recognized an “increase in multiple job holding by those who are regular employees at their main jobs could erode employment opportunities for non-regular employees,” Ohki (1997) categorized workers by form of employment and/or employment status at main job, as “regular employees,” “non-regular employees,” or “non-employees (self-employed, etc.)” based on a special aggregation of data from the special calculation of the *Employment Status Survey 1992*. Furthermore, by analyzing the *Survey on Salaried Workers’ Activities Outside the Workplace and Support Measures*, Ohki indicates the mainstreaming of regular employees’ multiple job holding with a subcontracting model of “earning money according to work performed.”

Ogura and Fujimoto (2006) analyzed the influence of workplace environment, personal attributes, and attitudes toward work on whether or not workers hold or wish to hold multiple jobs, based on the *Working Persons’ Survey 2000* conducted by Recruit Works Institute. The estimate results indicate that it has been shown that having past experience of resigning from a job or working as a “freeter” (part-time workers employed on a casual basis) was correlated with both holding and wishing to hold multiple jobs. In addition, while many of those hoping to hold multiple jobs are male employees of large companies, more of those actually holding them are female employees of small and medium-sized enterprises. There is also a tendency to hold, or hope to hold, multiple jobs among those who seek to change jobs or start independent careers, verifying the aspect of multiple job holding for the purpose of acquiring experience pointed out by Heineck and Schwarze (2004).

Takaishi (2004) used the Japan Institute of Life Insurance’s *Survey on Diversification of Work Styles and Life Design* to clarify factors of multiple jobs and, as a feature of this study it adds items to verify the influence of multiple job holding on main jobs. The results of probit analysis and simple summarization indicate that factors of multiple job holding can be divided into three categories: environment, motivation, and future career intentions. Environmental factors include influences such as age, mortgage payments, annual income, short working hours, and past experience of changing jobs. Motivation factors include degree of specialization. Regarding future career intentions, the survey indicates that many multiple job holders wish to change jobs or become independent. Also, in terms of the influence of multiple jobs on lifestyle and main job, it was confirmed that multiple jobs are held in order to boost income through the effects of self-development, attain security for retirement, and safeguard against unemployment.

Kawakami (2018) added verification of the effects of self-development to existing Japanese data. Kawakami used individual data from the *Japan Household Panel Survey* to show, with results of difference GMM estimates, that a main job with an analytical nature is correlated with a higher wage rate of the main job. Similar trends are also shown in studies by Hagiwara and Toda (2016) and Ishiyama (2018). Hagiwara and Toda (2016) note that the probability of holding multiple jobs increases when the holder is employed at both main job and additional jobs. It is clarified that multiple job holding among this population tends to be correlated with high annual income and the same with a high degree of specialization, as shown by data from Recruit Works Institute’s Japanese Panel Study of Employment Dynamics 2016. Ishiyama (2018) notes that the results of online surveys suggest that holding multiple jobs due to dissatisfaction with the main job has a negative influence on the main job, whereas holding multiple jobs because of seeking new skills contributes to interaction with diverse people and has a positive effect on the main job.

III. Data

To verify the hypotheses from 1 to 5 above, it is necessary to classify reasons for multiple job holding into mercenary motives and non-mercenary motives. With many surveys asking whether respondents hold

multiple jobs, however, the survey is mainly concerned with main jobs and does not inquire into reasons for holding multiple jobs. For this reason, this article employs the JILPT *Survey on Multiple Job Holding*, which focuses on the actual situations of multiple job holders. This online survey targeted monitors registered with Rakuten Research nationwide, numbering about 1.36 million (at the time of the survey), specifically men and women aged 18–64 excluding those registered under the occupations of (1) “employees of governmental or other non-corporate organizations,” (2) “students of high school age or younger,” (3) “unemployed,” and (4) “other,” totaling approximately 825,230 people.⁹

The survey was conducted between November 22 and 29, 2007, the number of valid responses was 174,318, and the response rate was 21.1%. Of these, 133,522 answered that they were working, and 122,719 respondents had only one job, 8,567 had two jobs, and 2,236 had three or more jobs. Of respondents with only one job, 2,000 cases were randomly extracted from 122,719 samples and included in the data, therefore the analysis required data reconstitution.¹⁰ The sample size available for analysis is 12,803 (133,522 samples when data is reconstituted). It should be noted that the distinction between additional job(s) and main job is left to the respondents’ judgment in this survey.

This article limits the scope of analysis based on analysis concerns and estimation issues as follows. Because this article is concerned with multiple jobs held by employed persons, the scope of analysis is limited to (i) those directly employed (consisting of regular workers, contract and temporary workers and part-time workers¹¹) and (ii) those whose main or additional jobs are non-agriculture and non-mining,¹² in order to eliminate families engaged in agriculture as a side business and so forth. Considering that there are differences in job selection behavior between dependents and heads of households and that unearned income may represent household income other than the respondent’s own income, the target population is limited to (iii) heads of households. Also, (iv) respondents with two or more additional jobs are excluded from the analysis. As a result, the sample size to be analyzed is 54,140 (of which employees with only one job number 51,972 and multiple job holders number 2,168, and the sample size before restoration is 3,020 in total).¹³

Note that the *Survey on Multiple Job Holding* involves the following biases: (i) because it is an online survey, its scope is limited to those with Internet access, (ii) because the survey target consists of Rakuten Research monitors, the respondent group contains many Internet users. In addition, (iii) the possibility that those interested in multiple jobs tended to respond cannot be dismissed. In fact, among valid responses to the questionnaire, 8.1% of employees held multiple jobs, which is significantly higher than the aggregate value of 3.97% on the 2007 *Employment Status Survey*.

Figure 3-1 and 3-2 compare the *Employment Status Survey* and *Survey on Multiple Job Holding* in order to clarify these biases. Figure 3-1, which compares the age structure, shows that there are few respondents to the *Survey on Multiple Job Holding* among the younger generation (20–24 years) and older people (over 50 years old). Figure 3-2 compares the industries of multiple job holders’ main jobs. In the *Survey on Multiple Job Holding*, there are fewer manufacturing industry workers while more service industry workers than the

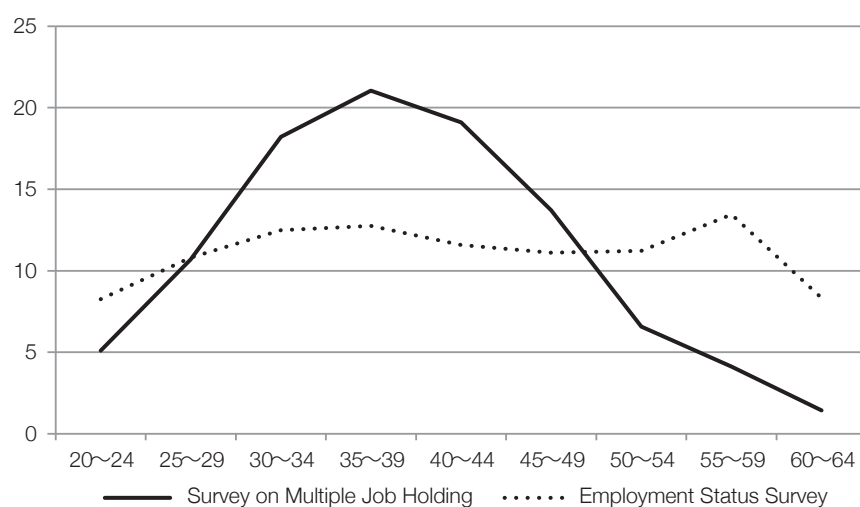
9. Specific methods of this survey are as follows: “The research agency creates a questionnaire page that is displayed on the web. The research agency then sends an email to survey target monitors asking them to respond to the survey. In the same email, the URL of the questionnaire page is given. Those who agree to respond access the web page themselves and inputs responses to the questionnaire on the screen. When the survey is finished and the respondent clicks the send button (end button), the content of responses is automatically stored on the server of the research agency.” (JILPT 2009)

10. However, in Table 1, which examines the differences between average values, the examination is carried out without applying the restorative magnification.

11. The reason for including non-regular employees such as contract employees and part-timers, rather than limiting the scope of analysis to regular employees, is that working hours tend to be restricted (in other words, not be excessively long) for non-regular employees more than for regular employees. The goal is to investigate the influence of hours constraints on additional job holding.

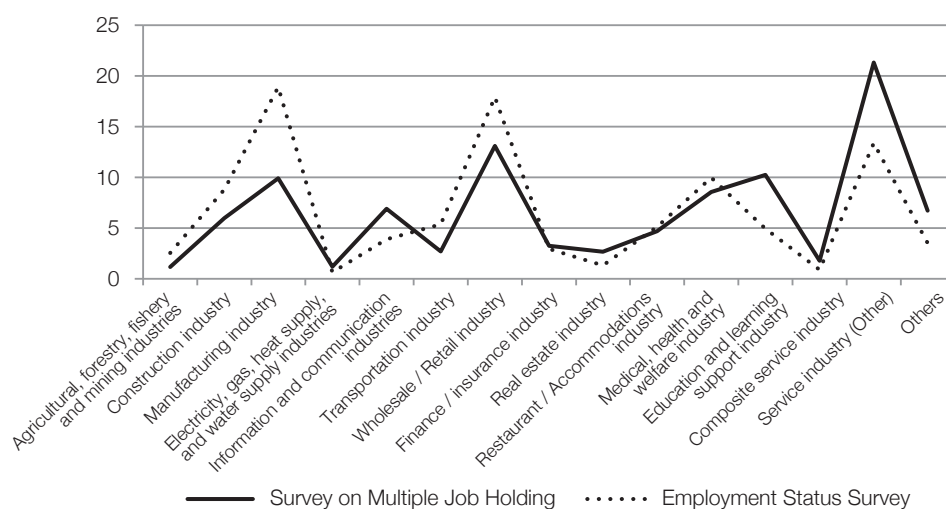
12. In the *Survey on Multiple Job Holding*, agriculture, forestry, fisheries, and mining are a single item. For this reason, multiple job holders in all these occupations are omitted.

13. Section IV estimates the wage rate, using the monthly wage classes from the *Survey on Multiple Job Holding*. There is an insufficient data on the monthly income class of 700,000 yen or more to find representative values of the class, so they need to be excluded from the analysis. As a result, in the analysis in Section V, 249 respondents are excluded from the sample shown here.



Note: The author, based on the Japan Institute for Labour Policy and Training (JILPT) *Survey on Multiple Job Holding* and Ministry of Internal Affairs and Communications *Employment Status Survey*.

Figure 3-1. Comparison of the *Survey on Multiple Job Holding* and *Employment Status Survey* (age comparison)



Note: See note in Figure 3-1.

Figure. 3-2. Comparison of the *Survey on Multiple Job Holding* and *Employment Status Survey* (main job occupation comparison)

trend. The analysis results in this article necessarily incorporate these biases.

The data's descriptive statistics are shown in Table 1. The numerical values in the table are the average values and standard deviations of the variables, the differences in value and null hypothesis test results used in the analysis of the three groups of multiple job holders, multiple job seekers (those who wish to have additional jobs but who do not have them), and multiple job non-seekers. Comparing the differences between multiple job holders and multiple job non-seekers, multiple job holders' working hours, monthly income, and unearned income are low compared to multiple job non-seekers, and the features of multiple job holding for mercenary motives indicated by Conway and Kimmel (1998) et al. can be seen.

Let us examine the overlapping tendencies of replies regarding reasons for holding multiple jobs, classifying them into mercenary and non-mercenary motives. The correlation coefficients used for overlapping

Table 1. Comparison of descriptive statistics and average values

	①Multiple job non-seekers (n=25193)		②Multiple job seekers (n=26779)		③Multiple job holders (n=2168)		③ – ① Average of the difference	② – ① Average of the difference	③ – ② Average of the difference
	Average	Standard deviation	Average	Standard deviation	Average	Standard deviation			
Working hours at main jobs (per day)	9.235	2.434	9.310	2.479	8.627	2.714	-0.608 ***	0.075	-0.682 ***
Working days at main jobs (per month)	21.550	4.085	22.032	3.266	20.833	4.716	-0.717 ***	0.482 *	-1.199 ***
Working hours at main jobs (per month)	203.448	72.019	207.688	72.223	183.644	76.111	-19.800 ***	4.240	-24.040 ***
Monthly income (Estimated record)	37.609	14.231	33.781	13.527	28.284	14.441	-9.325 ***	-3.828 ***	-5.497 ***
Unearned income (Estimated record)	581.398	266.970	510.467	244.251	467.449	288.249	-113.900 ***	-70.930 ***	-43.020 ***
Age	39.804	8.527	38.371	7.711	38.185	8.762	-1.619 ***	-1.433 **	-0.187
Women dummy	0.194	0.395	0.253	0.435	0.380	0.485	0.186 ***	0.059 **	0.129 ***
Marital status									
Married (unemployed spouse) dummy	0.291	0.454	0.269	0.443	0.140	0.347	-0.150 ***	-0.022	-0.129 ***
Married (employed spouse) dummy	0.332	0.471	0.321	0.467	0.307	0.461	-0.025	-0.011	-0.014
Bereaved or divorced dummy	0.082	0.275	0.093	0.291	0.155	0.362	0.073 ***	0.011	0.062 ***
Unmarried dummy	0.295	0.456	0.317	0.465	0.397	0.489	0.102 ***	0.021	0.081 ***
Academic background									
Graduated junior high or high school dummy	0.225	0.418	0.253	0.435	0.283	0.450	0.058 **	0.028	0.030
Graduated vocational school etc. dummy	0.119	0.323	0.134	0.341	0.143	0.350	0.024	0.016	0.009
Graduated junior college or technical college dummy	0.073	0.260	0.082	0.274	0.095	0.293	0.022	0.009	0.013
Graduated four-year university dummy	0.482	0.500	0.440	0.496	0.389	0.488	-0.093 ***	-0.042	-0.051 **
Completed graduate school dummy	0.102	0.302	0.091	0.288	0.091	0.287	-0.011	-0.011	0.000
Contents of main jobs									
Specialized or technical work dummy	0.373	0.484	0.358	0.479	0.319	0.466	-0.054 **	-0.015	-0.039
Administrative work dummy	0.211	0.408	0.157	0.364	0.113	0.317	-0.097 ***	-0.054 **	-0.044 **
Clerical work dummy	0.232	0.422	0.269	0.443	0.233	0.423	0.001	0.036	-0.035
Sales work dummy	0.077	0.267	0.096	0.294	0.117	0.321	0.039 **	0.018	0.021
Manufacturing work dummy	0.046	0.209	0.036	0.187	0.068	0.252	0.022 *	-0.010	0.032 **
Service work dummy	0.024	0.154	0.043	0.203	0.092	0.289	0.068 ***	0.019	0.049 ***
Others dummy	0.036	0.187	0.041	0.198	0.058	0.233	0.021 *	0.005	0.017
Provisions prohibiting multiple job holding									
Prohibited	0.603	0.489	0.424	0.494	0.178	0.382	-0.425 ***	-0.179 ***	-0.246 ***
Not prohibited	0.215	0.411	0.319	0.466	0.581	0.493	0.366 ***	0.103 ***	0.262 ***
Not sure	0.182	0.386	0.257	0.437	0.241	0.428	0.060 ***	0.076 ***	-0.016
Size of enterprises									
<29 employees dummy	0.213	0.409	0.301	0.459	0.339	0.473	0.125 ***	0.088 ***	0.038
30-99 employees dummy	0.174	0.379	0.210	0.407	0.190	0.393	0.016	0.035	-0.019
100-299 employees dummy	0.133	0.340	0.164	0.370	0.147	0.354	0.014	0.031	-0.017
300-499 employees dummy	0.075	0.263	0.073	0.260	0.058	0.234	-0.017	-0.002	-0.015
500-999 employees dummy	0.092	0.289	0.057	0.232	0.052	0.222	-0.040 ***	-0.035 *	-0.005
More than 1,000 employees dummy	0.293	0.455	0.187	0.390	0.179	0.383	-0.114 ***	-0.106 ***	-0.008
Not sure dummy	0.019	0.138	0.009	0.095	0.035	0.183	0.015	-0.010	0.026 ***

Note: The aggregated values are for main job and additional jobs, where work content is not agricultural, forestry or fisheries, and main job employment format of main job is regular or non-regular employee excluding temporary staff, limited-term and seasonal workers, and day laborers. Also excluded are those whose working hours at additional jobs exceed those at the main job. Weighting is not carried out in testing the differences of average values. Asterisks (*, **, ***) indicate that the null hypothesis (that the difference in mean value is 0) is rejected at the significance levels of 10%, 5% and 1% according to a *t* test.

tendencies are shown in Table 2.¹⁴

First, looking at the reasons for multiple job holding, the most frequent responses are “2. I want to increase my income” (57.3%), followed by “1. I cannot make a living with only one job” (29.0%) and “6. I would like to play a more active role in the workplace” (22.8%). Respondents who gives at least one of the mercenary motives (reason 1, 2, or “3. I have debts and liabilities such as loans” (14.7%)) amounts 65.4% of the multiple job holders analyzed. It is evident from the correlation coefficient that in many cases multiple job holding involves both mercenary and non-mercenary motives. (For example, those who have multiple jobs because they want to increase their income also tended to respond “4. I want to change jobs” and “9. I have free time available”). However, if we look at the correlation coefficient values, there are high correlation coefficients

14. The variable concerning the reason for having multiple jobs is a binary variable of “Yes (= 1)” if the reason in the question is applicable, “No (= 0)” if not, the tetrahoric correlation coefficient was estimated. For more on tetrahoric correlation, see Brown (1977).

among the three mercenary motives “1. I cannot make a living with only one job,” “2. I want to increase my income,” and “3. I have debts and liabilities such as loans.” This article classifies these items as a single group of “mercenary motives.”

On the other hand, there are a significant number of multiple job holders with non-financial motives, notably “6. I would like to play a more active role in the workplace” and also including “7. I want to make connections with people in various fields” (17.7%), “10. My additional job is the one I truly like” (16.7%) etc. There are reasons related to multiple job holders’ self-actualization (“6. I would like to play a more active role in the workplace,” “7. I want to make connections with people in various fields,” and “8. I would like to make more effective use of the expertise I have built at my current job”), reasons related to the fulfillment gained from the additional job in itself (“10. My additional job is the one I truly like”) and reasons related to career formation at workplaces other than the main job (“4. I want to change jobs” and “5. I would like to become independent”). There are high correlation coefficients among these reasons, which are classified together in the group of “non-mercenary motives.”

Based on these tendencies of replies, this article classifies the reasons for holding multiple jobs into four types of motives. First, multiple job holding with “mercenary motives” is defined as holding multiple jobs for one of the reasons “1. I cannot make a living with only one job,” “2. I want to increase my income,” or “3. I have debts and liabilities such as loans,” with no other reason(s) given. Second, multiple job holding with “non-mercenary motives” is defined as holding multiple jobs for one of the reasons “4. I want to change jobs,” “5. I would like to become independent,” “6. I would like to play a more active role in the workplace,” “7. I want to make connections with people in various fields,” “8. I would like to make more effective use of the expertise I have built at my current job” or “10. My additional job is the one I truly like,” with no other reason(s) given. Third, cases where one of the three “mercenary motives” and one of the six “non-mercenary motives” were cited are defined as “compound motives.” Fourth, the reasons “9. I have free time available,” “11. Given the nature of my main job, it is natural for me to have multiple jobs,” “12. I was asked to do another job and was unable to refuse,” and “13. Other” are treated as “other motives.”¹⁵

IV. Analysis methods and results

The hypotheses derived from the theoretical model were verified using a multinomial probit model,¹⁶ with the holding vs. non-holding or seeking vs. non-seeking of multiple jobs as explained variables. Here, employees who do not seek multiple jobs are the base group for explained variables. The main job’s wage rate w_1 , working hours h_1 and unearned income used to verify the hypotheses are as follows. The wage rate was obtained by dividing the monthly income reported on the survey by working hours per month, which were obtained by multiplying working days \times working hours.¹⁷ However, monthly incomes are grouped according to class rather than listed as specific numerical values, with the value representing each class obtained from the median value. Because a representative value cannot be obtained for the highest class of 700,000 yen or higher, it is excluded from the analysis.

With regard to working hours at main jobs, the *Survey on Multiple Job Holding* inquires about working hours per day and working days per month separately. Both variables are added to the estimation formula to confirm whether working hours constraints on multiple job holders with mercenary motives is due to the number of days per month or number of hours per day.

Unearned income was estimated by subtracting main job income from household income reported on the

15. “Other motivations” may overlap with mercenary and non-mercenary motives.

16. The multinomial probit model is a method used when explanatory variables are qualitative and the choices are not in any particular order. Since the multinomial logit model assumes independence from other options, a multinomial probit model was adopted here. For details of this method, see (Nawata 1997).

17. The question is “How much monthly income do you earn from your current job?” The response is before tax and social insurance fees are deducted, and does not include bonus and retirement allowance.

Table 2. Correlation coefficient between multiple job holding reasons

	Response rate (%)	1
1 I cannot make a living with only one job	29.0	1.000
2 I want to increase my income	57.3	0.160 *
3 I have debts and liabilities such as loans	14.7	0.425 *
4 I want to change jobs	4.2	-0.001
5 I would like to become independent	10.6	-0.088
6 I would like to play a more active role in the workplace	22.8	-0.152 *
7 I want to make connections with people in various fields	17.7	-0.086
8 I would like to make more effective use of the expertise I have built at my current job	12.7	-0.149 *
9 I have free time available	15.0	-0.060
10 My additional job is the one I truly like	16.7	-0.150 *
11 Given the nature of my main job, it is natural for me to have multiple jobs	5.2	-0.100
12 I was asked to do another job and was unable to refuse	14.3	-0.380 *
13 Others	3.5	-0.322 *

Note: Since multiple answers can be given for multiple job holding reasons, the total response rate exceeds 100%. The correlation coefficient is a quadruple (tetrachoric) correlation coefficient used when estimating the correlation coefficient between binary variables. Asterisks indicate that the null hypothesis with a correlation coefficient of 0 is rejected at a significance level of 1%.

survey.^{18, 19} The hypotheses state that working hours, wage rates, and unearned income of main job should have a negative influence on multiple job holding with mercenary motives, but with regard to compound motives (multiple job holding with both mercenary and non-mercenary motives), unearned income has a positive influence, and there is no fixed positive or negative correlation to wage rate.

Because unearned income includes income from spouses, etc., in this case, in order to exclude its influence from the analysis, a distinction was made as to whether or not the spouse was employed, with marital status already being included as a control variable.

To take into account the specific content of length of working hours, presence or absence of overtime at the main job was added as a variable. If respondents can earn extra wages from overtime, it is expected that the need to hold multiple jobs for mercenary motives due to constraints on time and need for income will be reduced, and the tendency to hold multiple jobs will be smaller. If the number of household members is large, the impact on income necessary for living is expected to increase. Other than above, added to explanatory variables were the main job attributes of job content, industry type, and presence or absence of prohibition on additional jobs, and the personal attributes of age, gender and academic background.

Decision-making with regard to multiple job holding is considered as follows: first, employees seek multiple jobs (at this stage, the sample group is divided into multiple job non-seekers and others). Those who want to have multiple jobs can be further divided into those who actually hold them (multiple job holders) and those who seek but do not have them (multiple job seekers). Such branched choices cannot be estimated with a multinomial logit model because the choices are not independent of each other. Therefore, in the analysis, estimation is performed using a multinomial probit model, which is applicable even if the options are independent.

Table 3 shows the results of a multinomial probit analysis that assigns employees not seeking multiple jobs (multiple job non-seekers) a category variable of 0, those seeking but not having multiple jobs (multiple job seekers) a 1, and those having multiple jobs (multiple job holders) a 2, as explained variables.

Focusing on multiple job holding, we see that increases in number of working days per month and wage rate per hour have a negative effect on multiple job holding, which is consistent with the analysis results from

18. The question is "What is your pre-tax household income bracket in the past year?" This includes income from pensions, interest, rent, dividends and inheritances.

19. There is a problem in that as indicated in footnotes 15 and 16, the working hours and wage rates are those at present, and bonus and retirement allowance are not included, but household income includes all income from the past year.

	2	3	4	5	6	7	8	9	10	11	12	13
1.000												
0.290 *	1.000											
0.171 *	0.205 *	1.000										
0.073	0.086	0.438 *	1.000									
0.000	-0.086	0.361 *	0.329 *	1.000								
0.064	-0.003	0.265 *	0.225 *	0.712 *	1.000							
-0.018	-0.034	0.216 *	0.234 *	0.497 *	0.363 *	1.000						
0.122 *	-0.088	0.011	-0.039	0.088	0.172 *	0.070	1.000					
-0.129 *	-0.167 *	0.272 *	0.367 *	0.368 *	0.261 *	0.093	-0.058	1.000				
-0.155 *	-0.220 *	0.137	-0.047	0.279 *	0.111	0.316 *	-0.035	-0.067	1.000			
-0.287 *	-0.267 *	0.003	-0.107	-0.025	0.161 *	0.115	-0.097	-0.128	0.037	1.000		
-0.506 *	-0.239	-0.090	-0.215	-0.218 *	-0.113	-0.321 *	-0.201	-0.271 *	-0.242	-0.347 *	1.000	

the model presented by Conway and Kimmel (1998). However, the marginal effect of unearned income had no observed effect on multiple job holding, which is inconsistent with previous research. Underlying this difference in results is the division of multiple job holding into mercenary and non-mercenary motives as described in Section III, with the results of unearned income divided into positive and negative, and results defining multiple job holding by integrating all reasons so that the unearned income variable did not produce significant results.

Based on these results, multinomial probit analysis was carried out for multiple job holding by dividing the sample group into non-multiple job seekers, multiple job seekers, mercenary motives, non-mercenary motives, combined motives, and other motives (Table 4).²⁰ Looking at the influence of working hours, wage rates, and unearned income, all had the effect of lowering multiple job holding due to mercenary motives. However, when the working hours are examined specifically, short working hours per day did not affect multiple job holding, while a low number of working days per month is connected to financially motivated multiple job holding. At the same time, multiple job holding for mercenary motives does not occur when there is frequent overtime work, and constraints on working hours per day can be explained by the presence or absence of overtime hours. The analysis results support hypothesis 1, hypothesis 2, hypothesis 3 relating to financially related multiple job holding. In addition, it is indicated that an increase in required income due to a large number of household members or an unemployed spouse encourage mercenary motives.

As for multiple job holding with non-mercenary motives, effects are divided into two types of cases for examination, those where there are also mercenary motives (compound motives) and where there are not (non-mercenary motives). Looking at the factors of compound motives, unearned income has a positive impact on multiple job holding, although the level of significance is 10%, supporting hypothesis 4 albeit to a limited extent. The wage rate has a negative influence, and as for hypothesis 5 we can interpret that the negative substitution effect works more strongly than the income effect. The magnitude of the marginal effect is lower, however, than that for mercenary motives, and the influence on multiple job holding of income at main job is relatively small.

20. In the estimations below, various options are given for reasons for multiple job holding, but all reasons are combined into a single option for those who seek but do not have multiple jobs. This is because in the *Survey on Multiple Job Holding*, the options for this latter group do not include "10. My additional job is the one I truly like," "11. Given the nature of my main job, it is natural for me to have multiple jobs," and "12. I was asked to do another job and was unable to refuse" (Figure 2) thus the reasons for multiple job seekers cannot be compared to those for multiple job holders.

Table 3. Influence of individual attributes and main job attributes on additional job selection

	① Multiple job non-seekers	② Multiple job seekers	③ Multiple job holders
Working hours (per day, natural log)	-0.0187 ** -2.06	0.0200 ** 2.19	-0.0013 -0.39
Working days (per month, natural log)	-0.1482 *** -13.44	0.1667 *** 14.99	-0.0186 *** -5.34
Wage rate (per hour, natural log)	0.0190 *** 2.73	-0.0084 -1.21	-0.0107 *** -4.44
Unearned income (per year, natural log)	-0.0042 -0.73	0.0016 0.28	0.0026 1.21
Age (natural log)	0.1156 *** 9.35	-0.1172 *** -9.35	0.0017 0.32
Women dummy [Men]	-0.0622 *** -9.37	0.0580 *** 8.67	0.0042 * 1.67
Number of household members [1 person]			
2 persons	0.0229 *** 3.16	-0.0212 *** -2.91	-0.0017 -0.64
3 persons	-0.0703 *** -8.72	0.0554 *** 6.71	0.0149 *** 4.05
4 persons	-0.0260 *** -3.15	0.0153 * 1.81	0.0107 *** 2.82
5 persons	-0.0771 *** -7.08	0.0684 *** 6.10	0.0087 * 1.70
6 persons	0.0117 0.64	-0.0219 -1.19	0.0101 1.16
Overtime work? (No)			
Yes, often	-0.0032 -0.50	0.0247 *** 3.77	-0.0215 *** -7.54
Yes, occasionally	-0.0551 *** -8.45	0.0627 *** 9.51	-0.0076 *** -2.63
Marital status [Unmarried]			
Married (unemployed spouse)	-0.0097 -1.13	0.0315 *** 3.61	-0.0217 *** -6.40
Married (employed spouse)	-0.0074 -0.95	0.0203 ** 2.58	-0.0129 *** -4.07
Bereaved or divorced	-0.0150 * -1.72	-0.0006 -0.07	0.0156 *** 3.50
Contents of main jobs [specialized or technical work]			
Administrative work	0.0657 *** 9.88	-0.0635 *** -9.55	-0.0022 -0.72
Clerical work	-0.0187 *** -3.05	0.0267 *** 4.32	-0.0080 *** -3.43
Sales work	-0.0223 ** -2.48	0.0182 ** 1.99	0.0042 1.06
Manufacturing work	0.1025 *** 9.17	-0.1286 *** -11.93	0.0262 *** 4.32
Service work	-0.1616 *** -13.26	0.1508 *** 11.71	0.0108 * 1.91
Others	-0.0905 *** -7.98	0.0866 *** 7.39	0.0039 0.79
Primary employer prohibits additional jobs? [Not prohibited]			
Prohibited	0.1923 *** 35.98	-0.1350 *** -24.81	-0.0573 *** -22.75
Not sure	0.0263 *** 4.36	0.0030 0.48	-0.0293 *** -9.35
Sample size	54140		
Chi2 value	6488.249		
Prob>chi2	0.000		
Log likelihood	-41760.000		

Note: Modeling was carried out with a multinomial probit model, with explained variables of “multiple job non-seekers” assigned a value of 0, “multiple job seekers” 1, and “multiple job holders” 2. The reported values are the marginal effect in the upper row, and the asymptotic *t* value in the lower row. Figures in parentheses indicate the reference group. Asterisks (*, **, ***) indicate that the null hypothesis (that the difference in mean value is 0) is rejected at the significance levels of 10%, 5% and 1% according to a *t* test. The results omit the results of control variables (main job occupation, company size, final academic background).

Table 4. Influence of individual attributes and main job attributes on additional job selection (multiple job seekers, by motive for holding multiple jobs)

	① Multiple job non-seekers	② Multiple job seekers	Multiple job holders			
			(③ mercenary motives)	(④ non-mercenary motives)	(⑤ combined motives)	(⑥ other motives)
Working hours (per day, natural log)	-0.0183 ** -2.02	0.0204 ** 2.24	-0.0015 -0.77	0.0005 0.34	-0.0013 -0.78	0.0002 0.08
Working days (per month, natural log)	-0.1484 *** -13.50	0.1665 *** 14.96	-0.0044 ** -2.19	-0.0015 -1.19	-0.0033 ** -2.08	-0.0089 *** -4.53
Wage rate (per hour, natural log)	0.0193 *** 2.77	-0.0081 -1.17	-0.0057 *** -4.32	-0.0006 -0.71	-0.0033 *** -3.00	-0.0015 -1.08
Unearned income (per year, natural log)	-0.0043 -0.75	0.0014 0.25	-0.0033 *** -3.11	0.0010 1.21	0.0019 * 1.96	0.0032 ** 2.38
Age(natural log)	0.1154 *** 9.35	-0.1175 *** -9.39	0.0055 * 1.78	-0.0001 -0.06	-0.0034 -1.43	0.0001 0.04
Women dummy [Men]	-0.0620 *** -9.35	0.0582 *** 8.71	0.0008 0.54	0.0014 * 1.68	-0.0014 -1.18	0.0029 * 1.95
Number of household members [1 person]						
2 persons	0.0227 *** 3.14	-0.0209 *** -2.86	0.0005 0.30	0.0000 0.01	0.0004 0.32	-0.0027 * -1.78
3 persons	-0.0705 *** -8.75	0.0555 *** 6.73	0.0086 *** 3.65	0.0001 0.12	0.0027 * 1.66	0.0035 1.57
4 persons	-0.0263 *** -3.19	0.0153 * 1.81	0.0073 *** 2.87	0.0005 0.35	0.0023 1.35	0.0010 0.46
5 persons	-0.0775 *** -7.11	0.0685 *** 6.10	0.0070 ** 2.00	0.0008 0.38	0.0024 1.03	-0.0012 -0.42
6 persons	0.0116 0.63	-0.0219 -1.18	0.0000 -0.01	0.0009 0.31	0.0081 1.59	0.0013 0.26
Overtime work? (No)						
Yes, often	-0.0031 -0.47	0.0248 *** 3.78	-0.0071 *** -4.33	-0.0007 -0.70	-0.0025 * -1.87	-0.0116 *** -6.28
Yes, occasionally	-0.0548 *** -8.40	0.0627 *** 9.51	-0.0033 ** -1.99	0.0001 0.12	-0.0010 -0.77	-0.0038 * -1.95
Marital status [Unmarried]						
Married (unemployed spouse)	-0.0096 -1.11	0.0315 *** 3.60	-0.0074 *** -3.52	-0.0036 *** -3.34	-0.0045 *** -2.85	-0.0064 *** -3.13
Married (employed spouse)	-0.0071 -0.91	0.0206 *** 2.61	-0.0048 ** -2.48	-0.0014 -1.23	-0.0033 ** -2.36	-0.0040 ** -2.12
Bereaved or divorced	-0.0150 * -1.72	-0.0003 -0.03	0.0038 1.48	0.0023 1.26	0.0045 ** 2.00	0.0047 * 1.79
Contents of main jobs [specialized or technical work]						
Administrative work	0.0656 *** 9.86	-0.0636 *** -9.57	-0.0013 -0.86	0.0014 1.09	-0.0016 -1.15	-0.0004 -0.22
Clerical work	-0.0190 *** -3.10	0.0265 *** 4.28	0.0024 * 1.72	-0.0012 -1.46	-0.0030 *** -2.82	-0.0057 *** -4.05
Sales work	-0.0226 ** -2.51	0.0177 * 1.95	0.0028 1.31	0.0010 0.65	0.0000 -0.02	0.0011 0.43
Manufacturing work	0.1026 *** 9.18	-0.1289 *** -11.95	0.0107 *** 3.13	0.0026 1.16	0.0039 1.47	0.0091 ** 2.19
Service work	-0.1617 *** -13.33	0.1500 *** 11.65	0.0107 *** 2.96	-0.0006 -0.31	0.0029 1.00	-0.0013 -0.46
Others	-0.0903 *** -7.96	0.0861 *** 7.35	0.0069 ** 2.30	-0.0001 -0.07	-0.0005 -0.21	-0.0021 -0.74
Primary employer prohibits additional jobs? [Not prohibited]						
Prohibited	0.1920 *** 35.94	-0.1351 *** -24.84	-0.0164 *** -11.56	-0.0101 *** -9.85	-0.0091 *** -8.10	-0.0214 *** -13.95
Not sure	0.0260 *** 4.31	0.0028 0.45	-0.0053 *** -2.85	-0.0061 *** -4.94	-0.0046 *** -3.31	-0.0129 *** -6.88
Sample size	54140					
Chi2 value	6896.871					
Prob>chi2	0.000					
Log likelihood	-44420.000					

Note: Modeling was carried out with a multinomial probit model, with explained variables of "multiple job non-seekers" assigned a value of 0, "multiple job seekers" 1, "multiple job holders with mercenary motives" 2, "multiple job holders with non-mercenary motives" 3, "multiple job holders with compound motives" 4, and "multiple job holders with other motives" 5. For more information, see the note for Table 3.

In terms of multiple job holding for purely non-mercenary motives, the attributes of the main job are a focus of attention, but do not influence any of the variables. Only for marital status, added as a control variable, there is a tendency not to hold multiple jobs when the spouse is unemployed. This result seems to indicate that the decision to use time outside the main job for leisure time, or for additional jobs with non-mercenary motives, does not depend on work at main job or on household circumstances, but it is determined by individual choice.

Regardless of motivation for multiple job holding, a prohibition on multiple job holding at the main job has an observed negative effect across the board. Even when respondents are “not sure” about whether there is a prohibition provision, it has the effect of curtailing multiple job holding, about half that of cases where it is “prohibited.” At the same time, “prohibited” status also curtails the hope for holding multiple jobs.

Analysis of multiple job holding factors by multiple job holding attributes, using a multinomial probit model, showed that multiple job holding due to mercenary motives can be correlated to the factors of constraints on hours at the main job, low unearned income, and low wage rates. On the other hand, multiple job holding due to compound motives showed a tendency to be correlated with individuals with high unearned income, while the effect of constraints on working hours was small. With regard to purely non-mercenary motives, neither income factors nor working hours had an impact on multiple job holding. The above results show that there are major differences in job holder attributes depending on the reasons for multiple job holding.²¹

Table 5 shows the working styles of multiple job holders, by reason for holding. Multiple job holders with mercenary or compound motives tend to work a large number of days per month, although the difference in working hours per day is small compared to other motives. This tendency appears clearly in the frequency with which additional jobs are worked. Those with mercenary motives work additional jobs “almost every day” or “half of the week,” in contrast to those with non-mercenary motives. Individuals working additional jobs “almost every day” are seen as working them after (or before) their main jobs. This is consistent with the result in Table 4 for workers with mercenary motives who do not work overtime of their main jobs. By contrast, those with non-mercenary motives tend to work additional jobs irregularly

Multiple job holders with mercenary motives tend to be employed part-time more frequently than those with other motives. The types of their work are more often related to “clerical,” “sales,” or “manufacturing.” This suggests that for those holding multiple jobs with mercenary motives, there tends to be time required to relocate from the main job to the additional job, and the number of hours worked at main job and additional jobs tend to be close. Meanwhile, with regard to the relationship between main job and additional jobs, multiple job holders with mercenary motives tended to respond that they were “totally unrelated” and additional job(s) were “not at all useful (in terms of the main job),” their length of experience was also short compared to those with non-mercenary motives, suggesting that working multiple jobs did not contribute to formation of skills for main jobs among this population.

In contrast to workers with mercenary motives, those with compound motives and non-mercenary motives tended to work in formats with more discretion, such as self-employed or freelance, and their work content was more specialized. They tended to prepare their own workplaces, and could flexibly allocate time between leisure and main job. Their duration of experience at additional jobs was often one year or more, and they tended to respond that the additional job was useful for the main job more often than those with mercenary motives, although there was only a small degree of complementarity of content between main and additional job.

Among multiple job holders with mercenary motives, constraints on working hours were observed, as was a tendency toward substitution of additional jobs for overtime. The aggregated values in Table 5 show that this group tend to take time to travel between the main job and other jobs, and work at two jobs over the course of a day. Additional jobs are carried out in places unrelated to the main job, and not useful for the main job.

21. Here we are unable to analyze the opposite causal relationship, i.e. that those who do not consider holding additional job(s) in the first place tend to work for companies that prohibit them from doing so.

Table 5. Comparison of attributes by reason for holding multiple jobs

	Multiple job holders						② – ① Average of the difference	③ – ① Average of the difference
	(① mercenary motives) (n=718)		(② non-mercenary motives) (n=281)		(③ combined motives) (n=419)			
	Average	Standard deviation	Average	Standard deviation	Average	Standard deviation		
Working days at multiple jobs (per month)	11.106	7.857	9.199	7.294	11.415	8.037	-1.907 ***	0.309
Working hours at multiple jobs (per day)	4.868	2.733	4.936	3.040	4.575	2.616	0.068	-0.293 *
Working hours at multiple jobs (per month)	47.909	43.212	42.726	43.301	48.527	47.368	-5.183 *	0.618
Frequency								
Almost everyday	0.170	0.376	0.107	0.309	0.167	0.373	-0.063 **	-0.003
Half of the week	0.223	0.416	0.160	0.367	0.208	0.406	-0.063 **	-0.015
One or two days of the week	0.263	0.441	0.278	0.449	0.236	0.425	0.014	-0.027
On days off from main job, such as weekends	0.127	0.333	0.146	0.354	0.162	0.369	0.019	0.036 *
Several days a month	0.132	0.339	0.157	0.364	0.119	0.325	0.024	-0.013
Indefinite (seasonal, when employees are especially needed, etc.)	0.085	0.279	0.153	0.361	0.107	0.310	0.068 ***	0.022
Monthly income at multiple jobs (Estimated record)	6.512	4.141	6.745	4.867	7.073	4.476	0.234	0.561 **
Employment status of multiple jobs								
Regular employees	0.015	0.123	0.018	0.132	0.014	0.119	0.002	-0.001
Contract and temporary employees	0.049	0.215	0.078	0.269	0.074	0.262	0.030 *	0.025 *
Part-time workers	0.602	0.490	0.214	0.411	0.296	0.457	-0.388 ***	-0.306 ***
Dispatched-type temporary workers	0.008	0.091	0.011	0.103	0.002	0.049	0.002	-0.006
Registered temporary staff	0.056	0.230	0.025	0.156	0.036	0.186	-0.031 **	-0.020
Limited-term, seasonal, or day laborers	0.013	0.111	0.011	0.103	0.005	0.069	-0.002	-0.008
Company officials	0.007	0.083	0.046	0.210	0.014	0.119	0.039 ***	0.007
Self-employed	0.046	0.210	0.149	0.357	0.146	0.353	0.104 ***	0.100 ***
Employee of or participant in family business	0.015	0.123	0.011	0.103	0.010	0.097	-0.005	-0.006
Freelance or independent contractor (including at-home work)	0.185	0.389	0.420	0.494	0.387	0.488	0.235 ***	0.201 ***
Others	0.004	0.065	0.018	0.132	0.017	0.128	0.014 **	0.013 **
Contents of multiple jobs								
Specialized or technical work	0.136	0.344	0.384	0.487	0.351	0.478	0.248 ***	0.214 ***
Administrative work	0.022	0.148	0.093	0.290	0.033	0.180	0.070 ***	0.011
Clerical work	0.169	0.375	0.103	0.305	0.079	0.270	-0.065 ***	-0.090 ***
Sales work	0.130	0.336	0.060	0.239	0.136	0.343	-0.069 ***	0.007
Manufacturing work	0.086	0.281	0.025	0.156	0.045	0.208	-0.061 ***	-0.041 ***
Transport and communications work	0.067	0.250	0.007	0.084	0.021	0.145	-0.060 ***	-0.045 ***
Security work	0.003	0.053	0.004	0.060	0.005	0.069	0.001	0.002
Work related to agriculture, forestry, or fisheries	0.001	0.037	0.000	0.000	0.000	0.000	-0.001	-0.001
Service work	0.248	0.432	0.117	0.323	0.136	0.343	-0.130 ***	-0.112 ***
Others	0.138	0.345	0.206	0.405	0.193	0.395	0.069 ***	0.055 **
Relationship with main job								
Totally related	0.014	0.117	0.028	0.167	0.029	0.167	0.015	0.015 *
Somewhat related	0.178	0.383	0.171	0.377	0.224	0.418	-0.007	0.046 *
Quite different	0.262	0.440	0.288	0.454	0.289	0.454	0.026	0.027
Totally different	0.546	0.498	0.512	0.501	0.458	0.499	-0.034	-0.088 ***
Useful for main job?								
Very useful	0.093	0.291	0.235	0.425	0.227	0.419	0.142 ***	0.133 ***
Somewhat useful	0.301	0.459	0.345	0.476	0.365	0.482	0.044	0.064 **
Not very useful	0.294	0.456	0.235	0.425	0.255	0.437	-0.059 *	-0.039
Not useful at all	0.312	0.464	0.185	0.389	0.153	0.360	-0.127 ***	-0.159 ***
Work format								
Work at a company, factory, office, etc.	0.631	0.483	0.352	0.479	0.372	0.484	-0.279 ***	-0.259 ***
Work in own workplace prepared outside my house	0.046	0.210	0.096	0.295	0.050	0.218	0.050 ***	0.004
Work in a room dedicated to work at home	0.058	0.235	0.125	0.331	0.117	0.322	0.066 ***	0.058 ***
Work in a residential room at home	0.149	0.356	0.320	0.467	0.325	0.469	0.171 ***	0.176 ***
Others	0.116	0.320	0.107	0.309	0.136	0.343	-0.009	0.020
Length of experience								
Over one year	0.606	0.489	0.762	0.427	0.671	0.471	0.156 ***	0.065 **
Over six months less than one year	0.185	0.389	0.121	0.327	0.184	0.388	-0.064 **	-0.001
Over one months less than six month	0.153	0.360	0.093	0.290	0.107	0.310	-0.061 **	-0.046 **
Over one week less than one month	0.028	0.165	0.018	0.132	0.026	0.160	-0.010	-0.002
Started very recently (just a few days ago)	0.028	0.165	0.007	0.084	0.012	0.109	-0.021 **	-0.016 *

Note: See Table 1. Note that the sample sizes for multiple job monthly salary estimates are 687 for mercenary motives, 261 for non-mercenary motives, and 379 for compound motives.

Multiple job holding with non-mercenary motives tends not to be correlated with constraints on working hours at the main job. Underlying this is the frequency among this group of self-employed multiple job holding, which allows flexible choice of working hours, and which effectively utilizes unoccupied time. Although the contents of main job and additional jobs tend to differ, respondents often said the additional job contributed positively to their main job, and while this observation is based on subjective answers, multiple jobs appear to have benefits in terms of self-development.

V. Conclusion and issues

This article has generalized the multiple-job labor supply model of Casacuberta and Gandelman (2012), and hypothesized about how the influence of main jobs' working hours, wage rates, and unearned income on the multiple-job labor supply ought to differ depending on motives for holding multiple jobs. The article verified these hypotheses with a multinomial probit model using data from the *Survey on Multiple Job Holding* and compared the contents of side jobs among multiple job holders with different motivations. The following points became clear.

Multiple job holders with mercenary motives tend to have low household incomes, and short working hours and low wage rates at the main job are factors that encourage these employees to work additional jobs. Examining the detailed attribute of working hours, we see that fewer monthly working hours, and short working hours manifested as a difference in number of overtime hours, are positively correlated with multiple job holding. We can interpret these workers as holding part-time jobs that tend to have short working hours. In addition, the fact that employees who work overtime do not have multiple jobs suggests that additional jobs held with mercenary motives are substitutions for overtime work at main jobs. A high percentage of those holding multiple jobs due to mercenary motives are employed as part-time workers, and a high percentage work at factories or business establishments, doing work with content that differs from that of their main job and tends not to contribute usefully to the main job.

Multiple job holders with non-mercenary motives can be divided into those with compound motives (where mercenary motives are also present) and those with purely non-mercenary motives, and the two groups showed different tendencies. With compound motives, workers tend to hold multiple jobs if the number of working days per month and the wage rate are low at their main jobs, and low income from the main job is interpreted as encouraging multiple job holding. However, higher unearned income is also correlated with holding multiple jobs. This supports the hypothesis that when unearned income is high, additional jobs play a partly leisure-oriented role entailing reduced working hours at main jobs. The data suggests that multiple job holding in such cases is not greatly linked with constraints on working hours. The negative effect of overtime on multiple job holding was small in comparison with the mercenary motives group.

For those with purely non-mercenary motives, the influence of attributes used in the analysis in this article could hardly be observed in terms of personal attributes or main job contents, and multiple job holding appeared to depend on differences in individual preferences. However, examination of the content of multiple jobs shows a strong tendency for additional jobs to have a self-employed or freelance format, and the duration of experience tends to be long. While their contents may not relate to those of the main job, additional jobs were viewed as being useful for main jobs, suggesting a self-development effect contribution to the main job.

It appears valid to say that multiple job holding with mercenary motives is detrimental to the holder. Because time at the main job is constrained, multiple job holders take time to commute and relocate from their main jobs and engage in another job. This means sacrificing free time, which is seen as a significant burden especially for the child-rearing generation.²² In addition, skills obtained at each job are independent of one another, and holding additional jobs does not lead to productivity improvements for the business owners

22. Oishi (2015) shows that there is a tendency toward multiple job holding among single mothers who hope to see their children receive higher education.

that are either primary or additional employers. In that respect, to ensure these workers secure the necessary income only at their main jobs, employers must bring overtime and working hours closer to the standards of regular employees. For example, even if wages rise along with a hike in the minimum wage, it is also necessary to ensure sufficient working hours in order to reduce the undesirable state of multiple job holding.²³

Meanwhile, multiple jobs held with non-mercenary motives tend to be substituted for leisure time rather than for insufficient working hours at main jobs. One reason for this is that among self-employed additional job holders, working hours can be flexibly chosen. Meanwhile, multiple job holders with non-mercenary motives tended to respond that their additional jobs made useful contributions to their main jobs, suggesting that multiple jobs may entail a self-development effect. In contrast to multiple job holding with mercenary motives, non-mercenary motives could encourage workers to control the workload at their additional jobs so as not to interfere with their main jobs, which may lead to improvements in employees' productivity.

That being said, the results outlined in this article leave many issues unresolved. In seeking to analyze multiple jobs as a whole, this article was not able to analyze detailed reasons for holding them, because it employed the generalized framework of mercenary, non-mercenary, and compound motives. Especially with regard to the self-development effect that appeared present for multiple job holders with non-mercenary motives, there is a need to clarify conditions for obtaining this effect, including its measurement. These measurement results could be utilized as one index when evaluating provisions prohibiting multiple job holding. Meanwhile, with regard to the effect of avoidance of unemployment risk, it is necessary to trace the survey subjects using panel data and to observe unemployment trends among multiple job holders. This point is especially significant with regard to multiple job holding based on mercenary motives, and further attempts at verification are needed.

Regarding the data from the *Survey on Multiple Job Holding* used in the analysis, shown in Figure 3-1 and 3-2, biases in terms of respondents' age and the industries of main jobs must be noted, and more detailed investigation and analysis are required.²⁴

* This paper is based on an article published in *The Japanese Journal of Labour Studies* for in its Feb.–Mar. 2017 issue (vol.59, No. 680) with additions and amendments in line with the gist of this journal. I would like to thank attendees of the report at the Tokyo Labor Economics Workshop for their insightful advice, which helped me write this article. I would also like to thank two referees and the *The Japanese Journal of Labour Studies* editorial committee for comments that deepened the content of this article. The Survey on Multiple Job Holding used in this article was provided by the JILPT Data Archive. All errors in the article are the responsibility of the author.

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23. Neumark, Schweitzer and Wascher (2004) analyzed data from the US and demonstrated that raising the minimum wage encourages adjustment not only of the number of employees but also their working hours.

24. There are already many statistics and questionnaire surveys that give a picture of multiple job holding. Governmental statistics include the MIC *Employment Status Survey*, and questionnaire surveys include the JGSS Research Center *Japanese General Social Surveys*, the Panel Data Research Center at Keio University *Japan Household Panel Survey*, and the Recruit Works Institute *Survey on Employment of Experienced Workers*. Further analysis using this relatively unbiased data to explore multiple job holding factors could be carried out. However, such an analysis could not include classification of multiple job holders or seekers as in this article because they do not cover reasons for multiple job holding.

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March-April 2019

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