

Japan Labor Issues

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KEY TOPIC

How Have Japanese Policies Changed in Accepting Foreign Workers?

Keiichiro Hamaguchi

On December 8, 2018, the Japanese Diet enacted a partial amendment to the Immigration Control and Refugee Recognition Act (Immigration Control Act, ICA), establishing two types of new resident statuses for foreign workers: Specified Skilled Type 1 and Type 2 (*tokutei ginō 1 gō* and *2 gō*). While foreign workers could previously only be accepted in professional or technical fields, this amendment significantly expands the bracket to include semi-skilled workers. This article provides an overview of Japan's policies on accepting foreign workers over the years and some observations on the potential impact of this amendment on Japanese society.

I. The 1989 amendment to the ICA

In the 1960s and 70s, the Japanese Cabinet repeatedly approved policy that was against accepting foreign workers. Debate on pursuing new policy challenge for accepting foreign workers began in the late 1980s, during the period of high economic growth, called Japan's "bubble economy." In 1988, the Ministry of Labour (currently Ministry of Health, Labour and Welfare, MHLW) proposed an employment permit system, under which employers wishing to hire overseas workers would be obliged to obtain an employment permit before hiring. Ultimately, this did not come to fruition, due to fierce objection from the Ministry of Justice (MOJ), which holds jurisdiction over immigration administration.

However, in 1989, the MOJ amended the ICA to provide second and third-generation descendants of Japanese nationals who had emigrated to Brazil, Peru, and other South American countries with status of residence as permanent residents with no restrictions on their right to work. This created a so called "side door" providing companies that had been demanding the opportunity to employ foreign workers with the chance to do so. The same

amendment also included the status of residence entitled "trainee," that is, not workers in name, but enabled employers to engage foreign nationals as workers in all but name.

II. Establishment of the 1993 Technical Intern Training Program and the 2009 amendment to the ICA

The Technical Intern Training Program established in 1993 was a program combining a period spent as a "trainee," where trainees are *not* classed as workers, and a period as a "technical intern," recognized as workers. This was the product of compromise between the MOJ and the Ministry of Labour. The original program covered a two-year period of which the first third was the non-worker "training," and the remaining two thirds were the worker "technical internship." The period was later extended to three years, with the first year spent as a trainee and the remaining two as a technical intern. However, in reality, there was practically no difference between the work conducted by a trainee and that of a technical intern, as those in the program were essentially working while receiving on-the-job training. Eventually, a succession of court judgments saw "trainees" recognized as workers, and calls arose for amendments to the ICA.

With government bodies such as the Council for Regulatory Reform, the Council on Economic and Fiscal Policy (CEFP) and the MHLW also calling for revisions to the program, the 2009 amendment to the ICA established "technical intern" as a status of residence that applies throughout the three-year internship period. It ensured that all activity other than classroom-based learning is regarded as labor under an employment relationship, which calls for full application of labor law. Alongside this, legislation was also introduced the system of

“supervising organizations”¹—organizations that act as brokers matching labor demand with supply—which had been accepted on a de facto basis up until that point.

III. The 2016 Technical Internship Act

Even after the 2009 amendment to the ICA, the Technical Internship Program was continuously wrought with legal violations and fraudulent activity, prompting strong calls for improvements. At the same time, employers were demanding an extension to the length of time for which they were permitted to engage technical interns. The MOJ and the MHLW responded by forming a study group consisting of experts. Based on the group’s report, the Act concerning the Proper Implementation of the Technical Internship of Foreigners and Protection of Technical Interns (Technical Internship Act) was established in 2016. This made it possible for technical interns who had completed the three-year internship and returned to their home country to come back to Japan for a further two years’ technical internship. Therefore, they are able to be engaged as a technical intern for a total of five years. Meanwhile, the numerous problems involving supervising organizations were addressed by requiring such organizations to obtain a license and allowing license to be revoked where necessary. The system was also more strictly regulated by obliging companies, farms, and other such entities implementing internships to be registered and accredited for each technical internship plan.

However, while such interns are legally recognized as workers, their permission to work is limited to their technical internship at a specific company or farm. Consequently, they are generally not permitted to switch to another company. This has resulted in numerous cases of such interns—particularly those at companies and farms that provide low wages—leaving their employers and working illegally for higher-paid companies in urban areas. There is also the ongoing issue of incidents of sexual harassment and other such violation of human rights against technical interns.

IV. Highly-skilled foreign professionals

The policies described in the previous sections relate to non-skilled or semi-skilled workers, as opposed to people in professional or technical roles requiring advanced skills. There was always a contrastingly proactive approach to welcoming workers in advanced professional or technical roles. Particularly from the beginning of the 21st century, the global competition for advanced human resources became fiercer. Taking note from approaches such as the Green Card system in the US, the Japanese government began to pursue policies aimed at welcoming highly-skilled human resources. The year 2012 saw the introduction of a points-based system for highly-skilled foreign professionals, under which people exceeding a certain number of points for academic background, professional experience and other such factors are given preferential status of residence. In 2017, the period of stay required for application for permanent residence was reduced to three years for applicants with 70 points or more and to one year for applicants with 80 points or more. As this means effectively granting people permanent residence from the start, it can be seen as a form of selective immigration policy.

V. The 2018 amendment to the ICA

At the CERP in February 2018, Prime Minister Shinzo Abe proposed a policy for fundamental changes to such measures for accepting foreign workers. With increasingly severe labor shortage in small and medium-sized enterprises (SMEs), the policy is aimed at accepting overseas workers as semi-skilled workers in a range of industries, with upper limitations on status of residence and a general ban on bringing family members. This was deliberated by a Cabinet task force, which proposed a general framework for the system as part of the government’s “Basic Policy on Economic and Fiscal Management and Reform” in June 2018. Followed by review of the MOJ, a bill for amendment to the ICA was submitted to the Diet in November and enacted in December 2018. Here is an outline of that amendment.

One of the newly-established statuses of residence, Type 1 is for people with a level of skills that allows them to engage in a certain level of work straightaway, without receiving special training. The applicant's competency is checked through industry specific examinations prescribed by the ministry with jurisdiction over the industry in question. At the same time, as technical intern—namely, people on technical internships as described above—who have completed the second stage of their internship are exempt from such examinations, for the foreseeable future it is likely that in practice the majority of people receiving Type 1 will be former technical interns. Foreign workers with this status are permitted to stay up to five years and are not allowed to bring family to Japan. Combined with the technical internship period, this means a total of ten years employment in Japan, without being able to bring family.

In contrast, Type 2 is for highly-skilled foreign workers who are able to pursue advanced professional or technical tasks by their own judgement or who are able to oversee and successfully complete tasks as supervisory role. Workers under Type 2 have no limitation on renewing their period of residence and are permitted to bring family. This type therefore has more of the quality of an immigration policy.

In pursuing this policy of accepting foreign workers it is also necessary to dispel the concerns that may arise among Japanese workers about potential negative impacts on the labor market. For that, the amendment applies only to “industrial fields in which it is necessary to employ foreign workers to compensate for labor shortages caused by a difficulty securing human resources.” These sectors are specified by the MOJ upon discussion with the ministry with jurisdiction over the relevant industry. However, while at the CEF in February 2018 just five sectors had been listed, the basic policy approved by the Cabinet following the enactment of the amendment saw this balloon to 14 sectors (see Appendix on pages 6–7), such that, in effect, the various industrial circles complaining of labor shortage had almost all had their pleas answered.

Consideration is also being given to make

ongoing checks on the state of labor shortage in the sectors permitted to accept workers and take measures where there is no longer a labor shortage (in other words, where there is an excess of labor). These include reviewing the policy of accepting foreign workers, putting a stop on granting official approval of status of residence and removing said sectors from the list by ministerial ordinance. At the same time, it is unreasonable for companies to dismiss foreign workers who have been employed for a relatively long period of time and become accustomed to the company's work and employ comparatively unskilled Japanese unemployed people in their stead. It is difficult to predict at this stage, however, what will happen in a labor market that has already accepted large numbers of foreign workers should the current economic prosperity come to an end and the Japanese economy fall into a recession.

Moreover, in response to Japanese workers' fears of a drop in wages in the labor markets of sectors where SMEs incapable of paying high wages employ foreign workers at a minimum wage, ministerial ordinance prohibits “discriminatory treatment” when determining remuneration or other such employment conditions, such that employers are expected to provide foreign workers with wages that are at least equal to those of Japanese workers. However, this does not necessarily guarantee high wages in jobs where the labor shortage is due to the fact that wages are so poor that they do not attract Japanese workers in the first place. Rather, low wage structures dependent on foreign workers may take root in certain jobs in certain sectors.

One issue that was noted after the amendment had been enacted was the impact of the large difference in wages between urban and rural areas. In Japan, each prefectural labor bureau prescribes its own minimum wage, and there is a gap as high as 30% between the highest minimum wage—985 yen (approx. US\$8.76) per hour in the Tokyo Metropolitan area—and the lowest—761 yen (approx. US\$6.77) per hour in Kagoshima Prefecture. Foreign workers on specified skilled working visas who are hired at around the local minimum wage by short-staffed rural SMEs

will not hesitate to switch employers if they discover that they can earn higher wages in urban areas. This is because—unlike the aforementioned technical interns—there is no restriction on them transferring to another employer within the same sector (that has been recognized as having a labor shortage). In response to this problem there has even been a government proposal for a nationwide, uniform minimum wage, but there are as yet no prospects for it being approved.

VI. Measures to adapt and coexist with foreign workers

The acceptance of foreign workers with specified skilled worker status commenced as of April 1, 2019. In December 2018, the government pursued preparations for this by compiling measures focused on supporting non-Japanese residents in their daily lives from a broader perspective. These include measures for providing information on administrative procedures and daily life in a range of languages, developing a consultation framework, developing and maintaining the environment for the provision of medical, health, and welfare services, improving Japanese language education, enhancing education and other such provisions for non-Japanese children, providing job-seeking assistance and other such support for international students, securing suitable working environments and other such provisions, and promoting such workers' social

insurance enrollment.

Significant consideration has also been given to put a stop to the activities of exploitive brokers. The measures to address this include the creation of bilateral intergovernmental agreements (with nine countries) to be used as a basis for sharing information, increased efforts by the Ministry of Foreign Affairs (and its overseas agencies), the National Police Agency, the MOJ, the MHLW, the Organization for Technical Intern Training (OTIT), and other relevant organizations to collaborate to fully eliminate exploitive brokers and introduce stricter immigration screening criteria, and detecting illicit mediation agents and other such intermediaries by increasing the amount of information that applicants need to provide when applying for residence.

Note

1. The system by which “supervising organizations”—namely, business cooperatives, commerce and industrial associations and other such organizations not seeking business profit—accept technical interns and assign them to technical internships at “implementing organizations,” that is, their affiliated companies and other such entities (see the website of the Japan International Training Cooperation Organization, JITCO).

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Appendix. Policies for operating the working visa system for Specified Skill Type 1 (14 sectors)

Competent authority	Sector	State of labor shortage	Human resources criteria		Other key points		
		Estimated maximum number of workers to be accepted in coming five years ¹ (persons)	Skills examination	Japanese language proficiency exam ²	Work engaged in	Form of employment	
			Starting timing of implementation				
Ministry of Health, Labour and Welfare	Nursing Care	60,000	Care work skills evaluation exam (tentative) [newly established], etc.	Japanese language proficiency evaluation exam, etc. (In addition to the above) Exam evaluating proficiency in Japanese language for care work, etc.	Physical care, etc. (bathing, providing meals, or assisting with bathroom visits, etc. as suits the users' physical and mental condition) and related support (providing recreational activities, assisting with function training, etc.) Note: Home help services are excluded	Only directly employed	
			April 2019				(1 exam category)
	Building cleaning	37,000	Building cleaning industry skills evaluation exam for Type 1 [newly established]	Japanese language proficiency evaluation exam, etc.	Cleaning the interior of buildings	Only directly employed	
			From fall 2019 onward		(1 exam category)		
Ministry of Economy, Trade and Industry	Materials processing	21,500	Manufacturing industry skills evaluation exam for Type 1 (tentative) [newly established]	Japanese language proficiency evaluation exam, etc.	<ul style="list-style-type: none"> · Casting · Metal press operation · Finishing · Welding · Forging · Factory sheet metal work · Machine inspection 	<ul style="list-style-type: none"> · Die casting · Plating · Machine maintenance · Machining · Aluminum anodizing · Painting 	Only directly employed
			By March 2020	From fall 2019 onward	(13 exam categories)		
	Industrial machinery	5,250	Manufacturing industry skills evaluation exam for Type 1 (tentative) [newly established]	Japanese language proficiency evaluation exam, etc.	<ul style="list-style-type: none"> · Casting · Painting · Finishing · Electric equipment assembling · Welding · Forging · Ironworking · Machine inspection · Print wiring board manufacturing · Industrial packaging 	<ul style="list-style-type: none"> · Die casting · Factory sheet metal work · Machine maintenance · Plastic molding · Machining · Plating · Electronic equipment assembling · Metal press operation 	Only directly employed
			By March 2020	From fall 2019 onward	(18 exam categories)		
	Electronics and electric machinery	4,700	Manufacturing industry skills evaluation exam for Type 1 (tentative) [newly established]	Japanese language proficiency evaluation exam, etc.	<ul style="list-style-type: none"> · Machining · Finishing · Print wiring board manufacturing · Industrial packaging · Metal press operation · Machine maintenance · Plastic molding 	<ul style="list-style-type: none"> · Factory sheet metal work · Electronic equipment assembling · Painting · Plating · Electric equipment assembling · Welding 	Only directly employed
			By March 2020	From fall 2019 onward	(13 exam categories)		
Ministry of Land, Infrastructure, Transport and Tourism	Construction	40,000	Construction industry skills evaluation exam for Type 1 (tentative) [newly established], etc.	Japanese language proficiency evaluation exam, etc.	<ul style="list-style-type: none"> · Frame working · Earthwork · Interior finishing/paper hanging · Plastering · Roofing · Concrete pressure feeding 	<ul style="list-style-type: none"> · Electrical telegraph work · Tunnel jacking · Reinforcing bar construction · Application of construction equipment · Connecting reinforcing bars 	Only directly employed
			By March 2020	From fall 2019 onward	(11 exam categories)		
	Shipbuilding	13,000	Shipbuilding and marine equipment industry skills evaluation exam for Type 1 (tentative) [newly established], etc.	Japanese language proficiency evaluation exam, etc.	<ul style="list-style-type: none"> · Welding · Finishing · Painting · Machining 	<ul style="list-style-type: none"> · Ironworking · Electric equipment assembling 	Only directly employed
			By March 2020	From fall 2019 onward	(6 exam categories)		

(Continued)

Competent authority	Sector	State of labor shortage	Human resources criteria		Other key points	
		Estimated maximum number of workers to be accepted in coming five years ¹ (persons)	Skills examination	Japanese language proficiency exam ²	Work engaged in	Form of employment
			Starting timing of implementation			
Ministry of Land, Infrastructure, Transport and Tourism	Vehicle maintenance	7,000	Automobile repair and maintenance industry skills evaluation exam for specified skills (tentative) [newly established], etc. By March 2020	Japanese language proficiency evaluation exam, etc. From fall 2019 onward	· Daily inspection and maintenance, regular inspection and maintenance, and disassembly and maintenance of automobiles (1 exam category)	Only directly employed
	Airport ground handling and aircraft maintenance	2,200	Aviation industry (airport ground handling or aircraft maintenance) skills evaluation exam (tentative) [newly established] By March 2020	Japanese language proficiency evaluation exam, etc. From fall 2019 onward		
	Accommodation	22,000	Accommodation industry skills assessment exam (tentative) [newly established] April 2019	Japanese language proficiency evaluation exam, etc.	· Providing accommodation services, such as front desk, planning and promotion, customer service and restaurant services, etc. (1 exam category)	Only directly employed
Ministry of Agriculture, Forestry and Fisheries	Agriculture	36,500	Agriculture (cultivation agriculture all categories or livestock agriculture all categories) industry skills assessment exam (tentative) [newly established] In 2019	Japanese language proficiency evaluation exam, etc. From fall 2019 onward	· Cultivation agriculture all categories (cultivation management, storing, shipping and selection of agricultural produce, etc.) · Livestock agriculture all categories (management of raising, housing, shipping and selection of livestock, etc.) (2 exam categories)	Directly employed or temporary dispatched ³
	Fishery	9,000	Fishing (Fishing or aquaculture) industry skills assessment exam (tentative) [newly established] By March 2020	Japanese language proficiency evaluation exam, etc. From fall 2019 onward	· Fishing (producing and repairing fishing gear, detecting aquatic animals and plants, operating fishing gear or fishing machinery, gathering aquatic animals and plants, processing or preserving fish catches, ensuring safety and hygiene, etc.) · Aquaculture (producing, repairing and managing aquaculture materials, growth management, harvesting and processing of farmed aquatic animals and plants, ensuring safety and hygiene, etc.) (2 exam categories)	Directly employed or temporary dispatched ³
	Manufacture of food products and beverages	34,000	Food products and beverage industry skills assessment exam (tentative) [newly established] October 2019	Japanese language proficiency evaluation exam, etc. From fall 2019 onward	· Food and beverage production all categories (food and beverage [excluding alcohol] production and processing, safety and hygiene) (1 exam category)	Only directly employed
	Restaurant services	53,000	Restaurant service industry skills assessment exam (tentative) [newly established] April 2019	Japanese language proficiency evaluation exam, etc.	· Food service all categories (preparing food and beverages, customer service, restaurant/shop management) (1 exam category)	Only directly employed

Source: JILPT, based on the Ministry of Justice (MOJ) "Policies for the specified skilled working system" (<http://www.moj.go.jp/content/001278435.pdf>) and <http://www.moj.go.jp/content/001279757.pdf>) and "Policies for operating the specified skilled working system" (<http://www.moj.go.jp/content/001279756.pdf>), last accessed April 9, 2019. Translation is tentative by JILPT.

Notes: 1. In total, 345,150 persons (14 sectors).

2. Names of examinations are tentative.

3. As for the form of employment of agriculture and fishery, workers are employed full-time, and, as a general rule, directly by the employer. Where special circumstances warrant, workers may be hired as temporary dispatched employees (*haken*) as an exception.

Article

The Current State of the Japanese-style Employment System for High School Graduates: Based on Case Studies of 1997, 2007, and 2017

Yukie Hori

I. Introduction

This paper elucidates how the “Japanese-style” employment (work-entry) system for high school graduates has changed over twenty years since the 1990s, based on the results of the “Interview Survey on Employment (work-entry) for High School Graduates,” a series of case studies conducted in 1997, 2007, and 2017.

The Japan Institute for Labour Policy and Training (JILPT)—and its predecessor, the Japan Institute of Labour (JIL)—has carried out numerous research projects regarding the employment of high school graduates. In such research, the transition from high school to work in Japan was described as the “Japanese-style employment system for high school graduates,” namely, the unique way in which students secure employment in the context of stable and long-standing relationships between high schools and employers, expressed as “semiformal contracts” (*jisseki kankei*, literally, “relationship based on past results”). The system relies on approaches such as the “preferential school system” by which employers send job openings information only to specific schools and those schools conduct the internal selections of candidates to recommend, and the “one-student-for-one-employer system” where a student can apply to only one employer at a time with the school’s nomination. This interpretation was the commonly adopted framework among research studies in that period. The research survey of high schools posited that focusing on “autonomy” commanded by high schools and providing meritocratic selections (based on academic

achievement at school) for job placement process within high schools enabled schools to send highly-capable graduates into the workplace, and also both schools and employers to maintain the ongoing trust (Kariya 1991). In the 1980s, the institutional framework in Japan supporting the transition from high school to work was internationally acclaimed for the fact that it ensured Japanese high school graduates a smooth transition into the labor market.

However, as the economic environment deteriorated in the 1990s, the employment for high school graduates in Japan went to an unprecedentedly critical state for the system, since the system had first been established during Japan’s postwar period of rapid economic growth. The negative impact on the employment of high school graduates was particularly pronounced. A survey promptly conducted by JIL in 1997 noted that with the sharp shrinking in the labor market for high school graduates, alongside the increasing incidences of work that had previously been assigned to high school graduates being given to those with higher educational backgrounds, and non-regular employees. The survey result pointed out that the employment guidance provided by high schools was unable to adapt to the rapid changes in the labor market for high school graduates and therefore no longer able to function effectively.

In response to this process, the Ministry of Education, Culture, Sports, Science and Technology (MEXT) and the Ministry of Health, Labour and Welfare (MHLW) compiled the “Final Report on ‘Research on the Entry of High School Graduates into Vocational Life’” in 2002 as a step toward a

review of the typical employment practices for high school graduates.

Meanwhile, an economic upturn particularly in the manufacturing industry from the mid-2000s contributed to the considerable improvement of employment of high school graduates. Along with it, the number of high school graduates entering employment increased gradually and that of unemployed high school graduates dropped significantly. A 2007 survey by JILPT which addressed developments in light of the economic turnaround showed a “recovering trend”—namely, a recovering demand for high school graduates for work that had once been taken away from them to assign those with higher academic backgrounds (JILPT 2008).

While the continuity of relationships between high schools and employers was becoming weakened and the use of selections within schools was decreasing, the one-student-for-one-employer system continued to be operated in practice. The financial crisis of 2008 dampened the labor market for high school graduates once again, while the economic upturn in recent years has boosted companies’ enthusiasm for hiring high school graduates to a level that currently exceeds that prior to Japan’s bubble economy. Amid these ups and downs over time, JILPT (and JIL) conducted the case study repeatedly at three points—1997, 2007, and 2017—to observe the developments. This paper draws on the results to shed light on the current state of employment of high school graduates.

Let us now look at the design of the case studies conducted for the “Interview Survey on Employment

for High School Graduates.” As shown in Table 1, regions surveyed were categorized into following three types according to the state of the labor market for high school graduates covering relocation outside of the prefecture, labor supply and demand, and job vacancy fields (industries in which job openings were available). “Workforce-inflow type” refers to regions where more job openings are available to all resident graduates, “Good balance of workforce type” refers to regions where the labor market demand is met with supply of graduates from within the same regions, and “Workforce-outflow type” refers to regions with a shortage of job openings and high percentage of high school graduates who relocate outside of the regions for employment.

II. Macro-level analysis of changes in the high school graduate labor market

This section will provide an overview of a macro level data analysis on the changes in the labor market for high school graduates. At present the availability of job openings for high school graduates is extremely good. The current increase in job openings for high school graduates can be attributed to the increase in demand for workers in the construction and long-term care industries. There has been only a small rise in job openings in the manufacturing industry, the main destination for high school graduates entering employment. Approximately 40% of high school graduates entering employment are graduates from the general education course (*futsū-ka*), namely, those who have studied a comprehensive academic curriculum. With the restructuring of vocational curricula (*senmon gakka*) into combined

Table 1. Types of high school graduate labor market

Type	Region (Prefecture)	Relocation outside of the prefecture	Labor supply and demand	Job vacancy field
Workforce-inflow type	Tokyo, Saitama	Inflow	Good	Service, sales
Good balance of workforce type	Nagano	Equilibrium	Good	Manufacturing
Workforce-outflow type	Akita, Shimane Aomori, Kochi	Outflow Outflow	Shortage of job openings Shortage of job openings	Manufacturing Service, sales

vocational and academic curricula (*sōgō gakka*) due to the declining birth rate, there has been a particular decline in the number of graduates of the commercial course (*shōgyō-ka*) whose curriculum focuses on business and other subjects related to commerce. Looking at the types of jobs that male graduates enter, almost all male graduates from the technical course (*kōgyō-ka*) whose curriculum focuses on industry and manufacturing find employment in production line work, while half of those from the general course find employment in production line work. In the case of female graduates, nearly half of the graduates from the commercial course choose clerical jobs, while graduates of the general course choose jobs in service and production line work.

Though in the past economic turnaround from recession prompted an increase in high school graduates finding employment outside of their home prefecture, the 2017 survey indicated a growing tendency for high school graduates to remain in their home areas. This contrasts with the trend in the period of economic prosperity prior to the 2008 global financial crisis. While in the period prior to 2008, industry generating greater numbers of job openings for high school graduates was the export-oriented manufacturing, in 2017 it was the construction and long-term care industries. Also, there was a difference in labor market demand, that is, a fewer job openings beyond the regions. In Addition, some efforts appeared to have an effect to facilitate employment in the regions with a workforce outflow, such as encouraging local companies to announce their job openings earlier as their announcements have been later than those in the regions with a workforce inflow.

All of the seven regions (see Table 1) surveyed in 2017 had a labor shortage. In the regions with a workforce-outflow, the ratio of job openings to applicants had risen due to the increase in job openings combined with the decrease in high school graduates seeking jobs. Even in regions with a workforce-inflow, there has been a rise in the number of job openings in the construction and long-term care industries, and a relative decline in the proportion of job openings in the manufacturing.

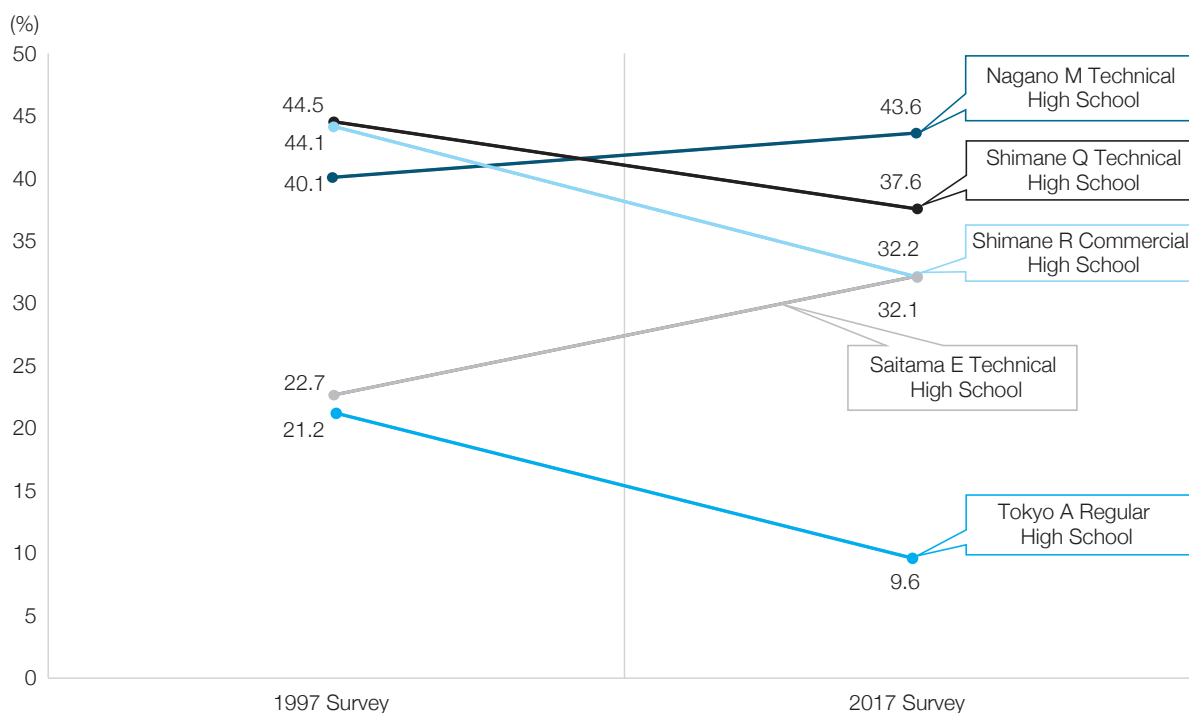
The rise in job openings in construction and long-term care is expected to increase employment opportunities for high school graduates remaining in their home regions.

III. The one-student-for-one-employer system

Here we discuss the one-student-for-one-employer system as well as the important elements supporting the system, namely, the ongoing relationships between high schools and employers, and selections of candidates within schools.

Based on the aforementioned Final Report issued by MEXT and MHLW in 2002, regional meetings to discuss the issues faced in employment of high school graduates have been held by MHLW having attendants including officials from schools, employers' associations, and governments to have mutual understandings regarding approaches to the one-student-for-one employer system. Okinawa Prefecture and Akita Prefecture allow students to apply for multiple companies from the first day of selection, and other prefectures also allow applications to multiple companies at a certain point. However, essentially the fundamental principle at high schools is still that each student is allowed to apply for only one company until graduation, as found in the 2007 survey.

Let us now consider the continuous and stable relationship between high schools and employers. In Figure 1, a higher percentage of “non-one-off hiring companies” (companies that hired a student or students from the specific school on two or more occasions, among the total number of companies that hired students from the school during the observation period) equates to higher continuity in the relationships between the high schools and the employers. The results indicate that general high schools and commercial high schools have seen a decrease in the continuity of their relationships with employers, while technical high schools have seen a consistent level of continuity in such relationships. The school's curriculum is a significant factor in the continuity of its relationships with companies, regardless of the types of the high school graduate labor market. Decreasing in continuity appears to be



Source: JILPT, 2018.

Note: 1997 Survey: Graduates who entered employment from the late 1980s through the late 1990s. 2017 survey: Graduates who entered employment from the late 2000s through the late 2010s. Number of graduates entering employment and observation period of each high school in 2017 survey: Nagano M Technical High School (149 persons, 10 years), Saitama E Technical High School (121, 5), Shimane R Commercial High School (30, 8), Tokyo A General High School (22, 10), and Shimane Q Technical High School (54 persons, 10 years in 1997 survey; 6 years in 2017 survey).

Figure 1. Percentage of “non-one-off-hiring companies” (Percentage of companies that hired a student or students from the school on two or more occasions during the observation period)

coming to an end, nevertheless, to ascertain this, it will be necessary to wait until the developments are reviewed in ten years’ time.

Let us go on to consider the changes in selections within schools which are highly connected with the preferential system and the one-student-for-one-employer system. Table 2 shows a comparison of the items concerning norms related to selections within schools from two surveys, conducted in 1983 and 2010 respectively. The percentage of schools that selected the response “recommend more students to companies than job openings available” rose from 24.9% in 1983 to 31.9% in 2010, and the percentage of schools that selected the response “there are no students who are unable to apply to their first choice of company due to their choice being the same as another student” increased from 39.2% to 59.4%. While it is necessary to take into account

the differences in the wording and subjects of the surveys, the rises for these two items seem to indicate that selections within schools that involve narrowing down candidates prior to allowing students to apply are decreasing in recent years.

Results of the “Interview Survey on Employment for High School Graduates” also indicated that selections within schools are limited. A significant number of high schools attach importance to their accountability to students’ guardians. Where there was no competition for recommendations among students, they allow students to apply for a company even if their grades or other factors did not meet the standard achieved in the previous years. The decline in the importance of grades in selections within schools is likely to continue, regardless of future economic developments.

High schools were making efforts to provide a

Table 2. Current state of selections within high schools

Survey	Response	Respondents (%)
High school survey 1983	Recommend more students to companies than job openings available (Percentage that responded “no” to “Do not recommend more students to companies than job openings available.”)	24.9
High school survey 2010	Recommend more students to companies than job openings available (Sum of the percentage that selected “Significantly applies” and “Applies a little” in response to the statement “There are companies for which we allow more students to apply than requested.”)	31.9
High school survey 1983	There are no students who are unable to apply to their first choice of company due to their choice being the same as another student (Percentage that responded “yes” to “There are no students who are unable to apply to their first choice of company due to the competition with another student.”)	39.2
High school survey 2010	There are no students who are unable to apply to their first choice of company due to their choice being the same as another student (Sum of the percentage that selected “Significantly applies” and “Applies a little” in response to the statement “There are almost no students who are unable to apply to their first choice of company due to the competition with another student or for other such reasons.”)	59.4

Source: Adapted from Hori, 2016.

Note: For the 1983 survey, conducted by the Sociology of Education Research course at the University of Tokyo, subjects were high schools with full-time programs (*zen'ichi sei*) from across Japan with 30 graduates or more entering employment and questions were multiple choice with two options. For the 2010 survey, conducted by JILPT, subjects were high schools with full-time programs from across Japan with 5 graduates or more entering employment and questions were multiple choice with four options.

wide range of information to students while they were selecting companies to apply to (through internships, company information sessions held in school, career connection sessions for students and industry representatives, other such events hosted by business organizations as well as career guidance and education). With the growing influence of the information such as advice from alumni and alumnae network of extracurricular activities via a social networking service or the instant messaging application “LINE” (with free text and free call features), or information available on the internet—there is an increasing tendency for students to take their own initiative in the process of selecting companies to apply.

IV. Conclusion

To conclude, the Japanese-style employment system for high school graduates, as revealed in the interview survey results, has undergone substantial changes. It is now updated to keep up with the

times, supported by *jisseki kankei*, preferential school system and the one-student-for-one-employer system. While approaches such as the preferential school system and the one-student-for-one-employer system are still generally adopted, the focus of the process of matching students with jobs that employers offer has shifted toward students’ satisfaction and thereby keeps high school graduates from giving up employment at an early stage due to the job being unsuited to them.

The Japanese-style employment system for high school graduates is a mechanism to protect high school students by regulations, and there are calls for liberalization. Given the fact that people aged 18, still in high school, will be legally recognized as adults from 2020 onward, these work-entry practices are set to be reviewed in 2019. Surveys on this topic in ten years’ time are likely to focus on the actual impacts of these possibly revised employment practices in Japan.

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Worker Status of the Commercial Agent

The *Bellco Case*

Sapporo District Court (Sept. 28, 2018) 1188 *Rodo Hanrei* 5

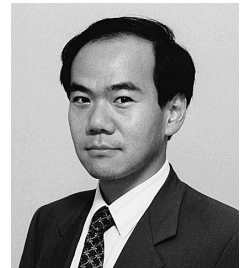
Keiichiro Hamaguchi

Facts

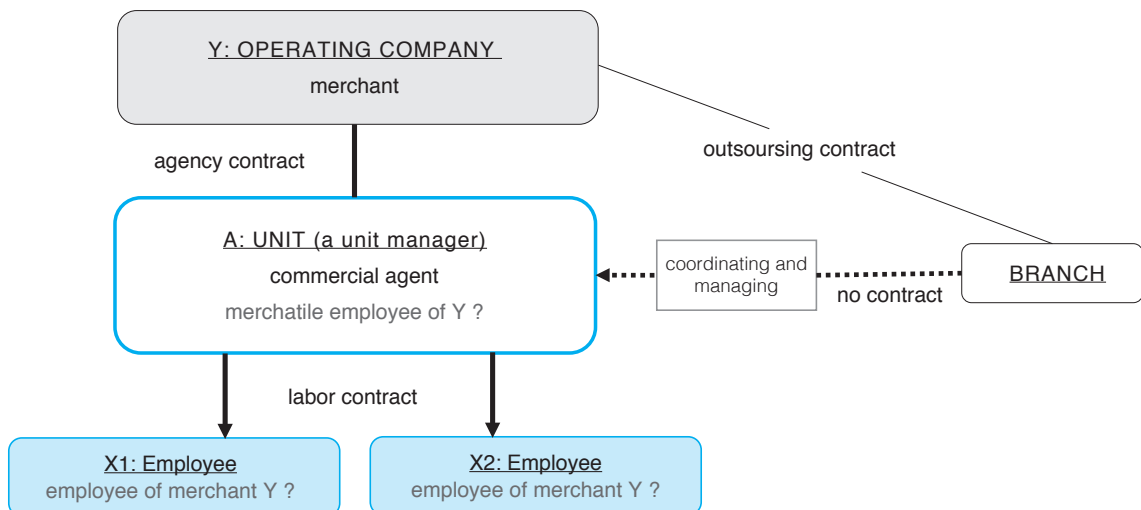
The defendant Y, the operating company of a ceremonial services, has concluded outsourcing contracts with independent proprietors or corporations nationwide to serve as agencies, and operations are carried out within areas known as “branches.” A concluded an agency contract with Y and was in charge of sales activities in T district, with the title of “T unit manager.” The plaintiffs X1 and X2 (hereinafter referred to as “X et al.”) entered into one-year fixed-term labor contracts with A (subject to renewal every year), and were engaged in funerary services and sales activities. Y entrusted work such as coordinating and managing the agencies in each area to a third party with the title of “branch manager” (see the figure below).

On January 29, 2015, A requested the termination of the agency contract with Y, and the contract ended on the 31st of the same month. B,

who had signed an agency contract with Y, took over operations in T district in place of A on February 1 of the same year, and concluded labor contracts with A’s former employees other than X et al., but did not conclude similar contracts with X et al.



X et al. asserted that since Y delegated hiring of Y’s employees to A, a mercantile employee, the labor contracts of X et al. should remain in effect under B which now occupied the former position of A with relation to Y. X et al. requested Y’s confirmation of the employer status on labor contracts, payment of unpaid wages, etc. The Sapporo District Court rejected the request on September 28, 2018, and X et al. appealed to a higher court.



Overview of this case

Judgment

Whether persons qualify as employees of a merchant including a company should be determined by whether or not it can be said that they are substantively employed by the merchant and provide labor, regardless of the contract type. A received detailed instructions from Y on work policies and results, and was in a position where he would have considerable difficulty in refusing to carry them out, but on the other hand, A had a certain degree of discretion with regard to time, place, and specific procedures for performing labor. While there was little scope for substitution, he conducted his operation based on his own account, work and its results corresponding with remuneration. Therefore, A could not be interpreted as employee of Y.

The above judgment is not affected by the facts that Y paid wages to the employees of A through bank transfers, that remuneration for A was paid by Y in the form of “wage” that Y prepared the agency’s bills required for the payment of the remuneration of A, that A’s year-end tax returns and payments were carried out under Y’s instructions, that Y referred to agents including A as “unit managers” of the operating company, and essentially treated them as a lower-level part of its own corporation in a manner demonstrating them as internal organizations to outside.

Commentary

In this case the plaintiffs did not assert their own status as formal employees of the operating company per se, but rather, based on their assertion that the agent acting as the plaintiffs’ (contractual) employer was essentially employed by the operating company, claimed that the plaintiffs were regarded as workers of the operating company. As a matter of form, this is a question of employer status (i.e. who is the employer of X et al.?). However, the essential issue is the nature of worker status of commercial agents, raised in the disputed point (1). This article outlines the circumstances surrounding worker status in Japan, and perspective about this case.

The 1947 Labor Standards Act defines a worker as “one who is employed at an enterprise or place of business and receives wages therefrom,

without regard to the kind of occupation” (Art. 9), and the 2007 Labor Contracts Act as “a person who works by being employed by an employer and to whom wages are paid” (Art. 2), but specific criteria are not given. Japanese labor administration set forth criteria for “a worker” in the Labor Standards Act Study Group Report 1985, with the major criteria of (i) whether the person in question can refuse the orders of the client, (ii) whether the person is bound to the client’s directions in performing his/her work, (iii) whether the person is bound to a given working time and place, (iv) whether the person can hire another person to perform his/her work, and (v) whether the person remuneration is qualified as for his/her work, not for the product, and with the supplement criteria of (vi) whether the person can be qualified as a business trader, (vii) whether the person has only one client or many, and (viii) other circumstances, to be considered comprehensively. These criteria have been applied to many court cases including the Supreme Court rulings.

The judgment under discussion here was decided comprehensively based on these criteria. The criteria most emphasized are (ii) and (iii), which were conceived with traditional factory workers in mind and have little to do with white-collar workers in today’s job market. Indeed, a discretionary work scheme was established under the 1987 amendment to the Labor Standards Act, and has been applied and expanded since then. Under the discretionary work scheme, there is no freedom to accept or reject work duties or targets, though it gives a high degree of discretion about specific procedures, time and place of performing work duties. Even more discretionary high-level professional work scheme was established in 2018. Telework and mobile work, which enable work at home or elsewhere via information technology devices, are also expanding. These workers are of course hired under labor contracts. In other words, insufficiently meeting criteria (ii) and (iii) are no longer sufficient to deny worker status.

In addition, the fact that amount of remuneration depends on performance is not grounds for a contract to be an outsourcing contract, and payment of wage under a piece work payment

system based on a labor contract is assumed in Article 27 of the Labor Standards Act. In recent years, there is an increasing tendency for wage systems to be performance-based, and interpreting criteria (v) too strictly is also not appropriate for contemporary white-collar workers. Thus, the judgment under discussion overly emphasizes worker status criteria assuming traditional factory workers, which are behind the times today, and reveals an inappropriate understanding of remuneration for labor, while underestimating criteria that are still relevant today, such as the freedom to accept or reject work duties or whether workers can be substituted.

These analyses not only reveal the inappropriateness of the judgement but also contains problems of the obsolete nature of the 1985 Report that has been cited for numerous judgments. While it may not be necessary to change the individual criteria themselves, the relative prioritization of their importance will need to be altered in response to changes in the times, such as discretionary work scheme and the growing prevalence of performance-

based wages.

The Labor Union Act of 1945 defined workers somewhat broadly as “those persons who live on their wages, salaries, or other equivalent income, regardless of the kind of occupation” (Art. 3). The Supreme Court’s decisions rely primarily on the basic criteria of the Act: (i) inclusion in a business organization, (ii) unilateral and standardized determination of the content of contracts, and (iii) remuneration for labor, as factors for judgments. (Details omitted.)

The *Belco* case, *Rodo Hanrei (Rohan)*, Sanro Research Institute) 1188, pp.5–22. See also *Journal of Labor Cases* (Rodo Kaihatsu Kenkyukai) no.82, January 2019, pp.1–23.

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▶▶ Human Resource Management

▼ Labor-Management Relations

▼ Labor Market

▼ Labor Administration and Legislation

▼ Social Security System

Combining Work and Family Care in Japan (Part I):

Why do Women Leave Jobs at the Stage of Childbirth?

Shingou Ikeda

This is a series of two articles on the topic of the work-family balance from the viewpoint of working hours in Japan in recent years, providing an outline of the main reasons workers leave jobs due to family responsibilities of childbirth and childrearing (Part I) and elderly care (Part II) based on statistical data and labor policy trends. Childbirth and childrearing are regarded as the most influential factor in women's job leaving. This article introduces the background and reasons why Japanese women leave jobs at the stage of childbirth. It also takes up the matter of Japanese male workers' childrearing and discuss their expanding role in childrearing in recent years.

I. Change in the M-shaped curve of women's employment rates and policy response

In February 2017, much attention was paid to the news that the "M-shaped curve" of Japanese women's employment rates by age had almost vanished after more than three decades since the Equal Employment Opportunity Act¹ was enforced in 1986. Is this the result of governmental measures to support women's job continuation such as childcare leave?

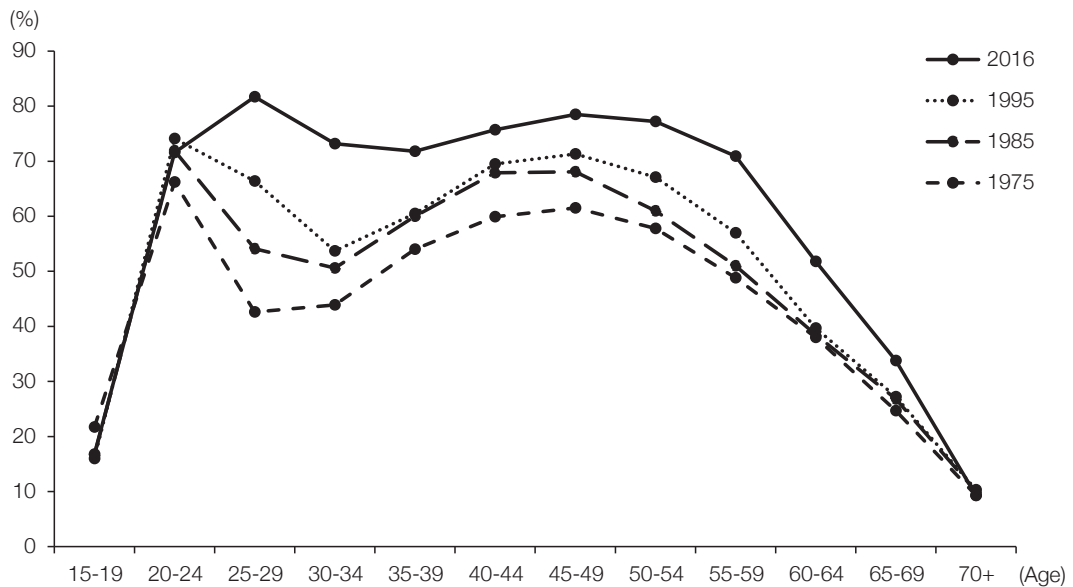
Japanese women's labor participation rate by age plotted as an M-shaped curve for decades, although its bottom has been rising (Figure 1). Let us take a closer look at the bottom curve by women's life events during the age bracket of 25–34 by breaking them up into marriage, childbirth, and childrearing, as they have been long considered to be a chain of life events in Japan and the keys when it comes to examining women's job continuity. The drop in the labor participation rate among women at

this age bracket is due to marriage and childbirth. Leaving jobs for marriage has been decreasing since enforcement of the Equal Employment Opportunity Act, which prohibits the tradition of Japanese



companies' dictating that women resign for marriage and childbirth. Worthy of attention here is that, if we focus on the period after childbirth, the job continuity rate was not increasing. In 1991, the Childcare Leave Act² was established and obligated employers to give employees long-term leave, like parental leave in Europe, to take care of children under one year old upon employees' request. There were many academic papers at that time reporting that the child care leave system had positive impacts on women's job continuation. However, the rate of job continuity after childbirth did not rise after all in the 1990s. It was the period of a long-term depression after the collapse of the economic bubble, in which Japanese employers were not interested in retention of their employees, rather they were considering how they could reduce employees in a managerial crisis. The rise of the bottom of M-shaped curve of Japanese women as a whole through the 1990s was not exactly the effect of governmental measures such as childcare leave but was in consequence of an increase in the number of working women with no children.

Having viewed this situation problematic in terms of the declining birth rate, Japanese government started to emphasize general reforms of



Source: Ministry of Internal Affairs and Communications, *Labour Force Survey*.

Note: Labour force (Employed persons + Unemployed persons) / Population aged 15 and over × 100

Figure 1. Japanese women's labor participation rate by age

working styles including the expansion of working parents' support systems at the beginning of the 21st century as women's crucial reason for avoiding childbirth was regarded as the conflict between work and childcare at that time. The Next Generation Act³ was enforced in 2005, obligating private companies with over 300 employees to formulate action plans to support employees' childbirth and childrearing. This was well timed to coincide with an expansion of women's employment as the economic climate recovered gradually in the mid-2000s. Employers were increasingly interested in retaining female employees so as to economize on human resource costs in downsized organizations. In fact, the rate of women's job continuation after childbirth began to rise gradually after 2000.

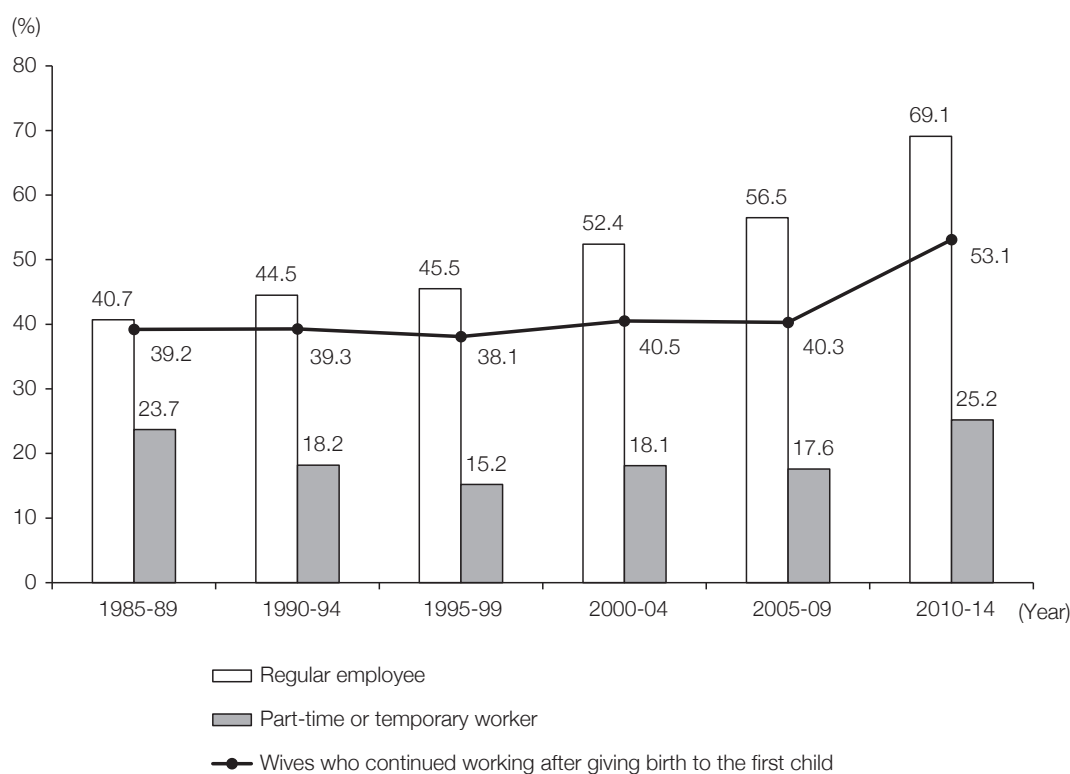
II. Diversification of the female labor force

The legally mandated childcare leave system in Japan is restricted to employees in open-ended employment contracts, as its purpose is to enable employees to continue their jobs at the same companies after childbirth. Fixed-term contract employees such as temporary workers and

dispatched workers are therefore excluded from the legally mandated childcare leave system. Many fixed-term contract employees who are employed continuously through renewal of contracts are eligible for childcare leave, but in reality, few of them take childcare leave. Most of them generally leave their jobs before childbirth.

As for regular employees (full-time workers in open-ended employment contracts), the rate of women's job continuity after childbirth has begun to rise (Figure 2). The large companies to which the Next Generation Act applies took measures to expand support for their employees' childbirth and childrearing as these employees are expected to hold managerial positions in the future. The Act later expanded the range of obligation to formulate action plans to include companies with over 100 employees. As a result, regular employees' rate of returning to jobs after the first childbirth rose to about 70%, while that of non-regular employees is still 25%, according to the latest research by National Institute of Social Security and Population in Japan.

There is the situation where female regular employees are viewed as promising human resources



Source: Author, based on National Institute of Population and Social Security Research (NIPSSR), The 15th Japanese National Fertility Survey in 2015 (http://www.ipss.go.jp/ps-doukou/e/doukou15/Nfs15R_summary_eng.pdf).

Notes: 1. The figures shown are for first-marriage couples with the first child aged 1 or older and below 15.

2. Percentage of wives who continued working shows the percentage of wives who continued working after giving birth (including those who used childcare leave systems) among wives who were already working at the time of marriage or pregnancy.

3. "Regular employee" and "Part-time or temporary worker" expresses that they were working in the employment status before getting pregnant with the first child.

Figure 2. Proportion of wives who continued working after giving birth to the first child and their employment status before getting pregnant with the first child

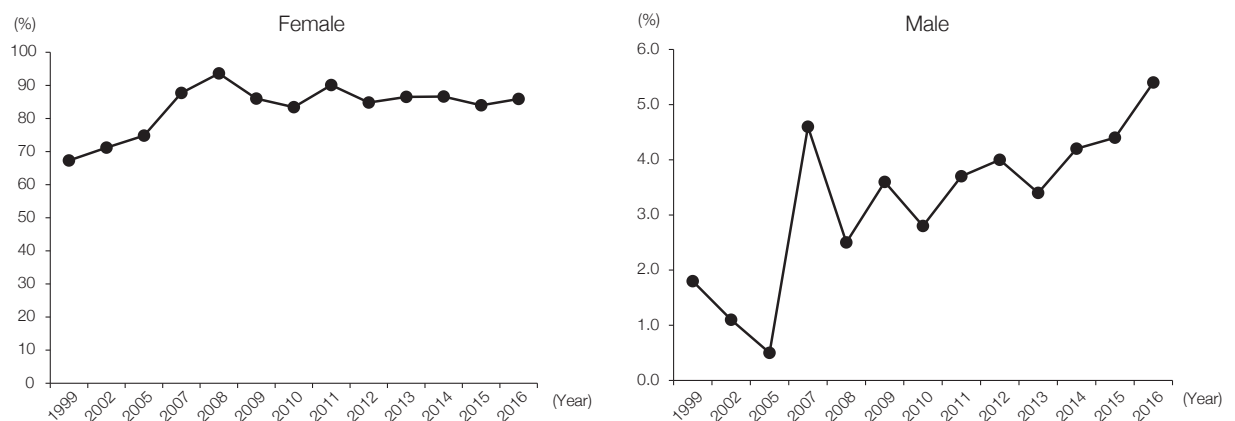
and receive support to combine work and childcare, whereas female non-regular employee face severe instability of employment during pregnancy and childbirth periods. This is an important issue to discuss concerning not only the gender gap but also equality of employment opportunities among women. To address this situation, the 2016 amendment of the Child Care and Family Care Leave Act⁴ broadened the range of application of long-term leave for family responsibility. Furthermore, the government is now attempting to correct pay gap between regular and non-regular employees under the slogan of "equal pay for equal work."

A decrease in labor force population in the world's most aged country has gradually caused

employers to take an interest in diversification of the workforce, making greater use of human resources such as women, older workers, and immigrants. In some industries, retaining non-regular employees and developing their skills are crucial matters for company management. In this sense, career development of all female workers is a vital issue in contemporary Japan.

III. Mothers' dilemmas and fathers' long working hours

Historically, Japanese women have participated in the job market in several ways, including not only full-time employment but also self-employment and as independent contractors. The history of childcare



Source: The Ministry of Health, Labour and Welfare (MHLW), “Basic Survey on Gender Equality in Employment Management.”

Figure 3. Rate of taking childcare leave (by survey year)

leave began in the 1960s, and the first regulation governing it appeared in the Working Women Welfare Act established in 1972. However, women have always faced dilemmas in balancing paid employment and domestic work. Many women bear the entire burden of housework even if they are full-time employees.

Fathers’ commitment to childcare became an issue in the late 1990s in the context of the declining birthrate. In the 2000s, the government began to emphasize the issue of fathers’ taking childcare leave. The Act on Child Care and Family Care Leave was amended in 2009 to expand fathers’ childcare leave, and a government campaign aided the popularization of the word *ikumens*, which means “fathers who play an active role in childcare.” As a consequence of such measures, the rate of men’s taking childcare leave is rising but still low (Figure 3).

The rate of daily commitment to domestic work of fathers with children under six years old is also low. It is often said that long working hours are the most crucial factor preventing fathers from participating in childcare. The working hours of male workers in their 30s are remarkably long, while this corresponds to the period when many fathers have young children. Another problem is that working into the evening, even if not late into the night, is not compatible with taking care of children

as daycare centers generally close before evening. It is therefore important to promote flexible working hours that enable fathers to finish work and pick up their children at daycare centers on time.

IV. Supporting all workers in changing working styles

When measures to combine work and childcare first began in the 1990s, the Japanese government focused on expansion of support systems for working mothers, such as childcare leave. It is now focusing on reforming work styles, including among male workers. It is believed that if the working hours of regular full-time workers become shorter or more flexible, it will benefit working mothers and fathers as well as workers with other private responsibilities. Now that family care of the elderly has become a common concern among all categories of workers — male and female, married and single, older workers and younger ones—reflecting the aging of Japanese society, work-life balance is a universal issue among the government, employers, and employees in Japan.

Notes

1. Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment.
2. Act on Childcare Leave and Other Measures for the Welfare of Workers Caring for Children or Other Family Members.
3. Act on Advancement of Measures to Support Raising Next-

Generation Children.

4. Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members.

Reference

JILPT (Japan Institute for Labour Policy and Training). 2012. *Shussan/ikuji to shugyo keizoku: Rodoryoku no ryudoka to yorugata shakai e no taio o* [Childbirth/childcare and job continuity: Addressing job mobility and 24-hour society]. JILPT Research Report no.150. Tokyo: JILPT. <https://www.jil.go.jp/english/reports/documents/jilpt-research/no.150.pdf>.

There will be five articles to discuss Japanese working hours in this series: Shingou Ikeda argues work-family balance in two (this issue and June issue) focusing on workers' leave from work for childcare and elderly care; and Tomohiro Takami will review Japanese long working hours in a series of three starting from July issue.

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Makoto Fujimoto

Combining Work and Family Care in Japan

(Part I) **Why do Women Leave Jobs at the Stage of Childbirth?**

Vol.3, No.14, May 2019

(Part II) **What is the Challenge after Reforming the Long-term Care Leave System?**

Vol.3, No.15, June 2019 (Next issue)

Shingou Ikeda

Databook of International Labour Statistics 2018



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- Trade Union, Industrial Relations and Occupational Accidents
- Education and Human Resources Development
- Worklife and Welfare

For Japanese <https://www.jil.go.jp/kokunai/statistics/databook/2018/index.html>

Economy

The Japanese economy is recovering at a moderate pace while weakness is seen recently in exports and industrial production in some sectors. Concerning short-term prospects, the economy is expected to continue recovering, supported by the effects of the policies, while employment and income situation is improving. However, attention should be given to the effects of situations of trade issues on the world economy, the prospect of the Chinese economy, the uncertainty of situations and policies in overseas economies and the effects of fluctuations in the financial and capital markets. (*Monthly Economic Report*,¹ March, 2019).

Employment and unemployment (See Figure 1)

The number of employees in February increased by 870 thousand over the previous year. The unemployment rate, seasonally adjusted, was 2.3%.² Active job openings-to-applicants ratio³ in February, seasonally adjusted, was 1.63.⁴

Wages and working hours (See Figure 2)

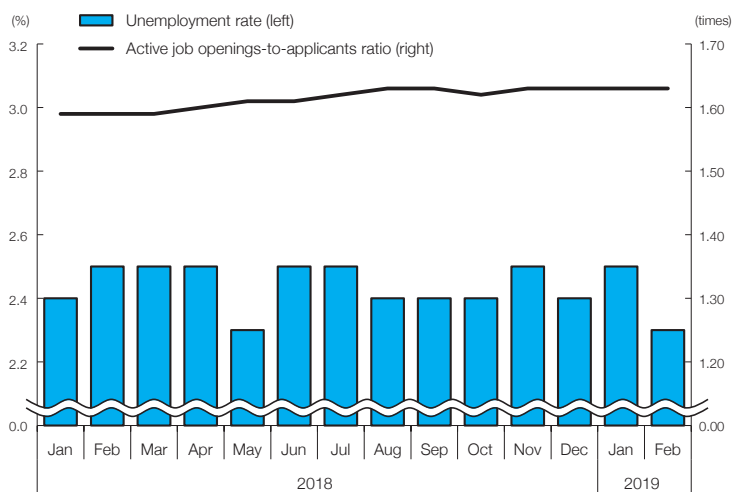
In January, total cash earnings (for establishments with 5 or more employees) decreased by 0.6% and real wages (total cash earnings) decreased by 0.7% year-on-year. Total hours worked decreased by 2.6% year-on-year, while scheduled hours worked decreased by 2.6%.⁵

Consumer price index

In February, the consumer price index for all items increased by 0.2% year-on-year, the consumer price index for all items less fresh food rose by 0.7%, and the consumer price index for all items less fresh food and energy increased by 0.4% year-on-year.⁶

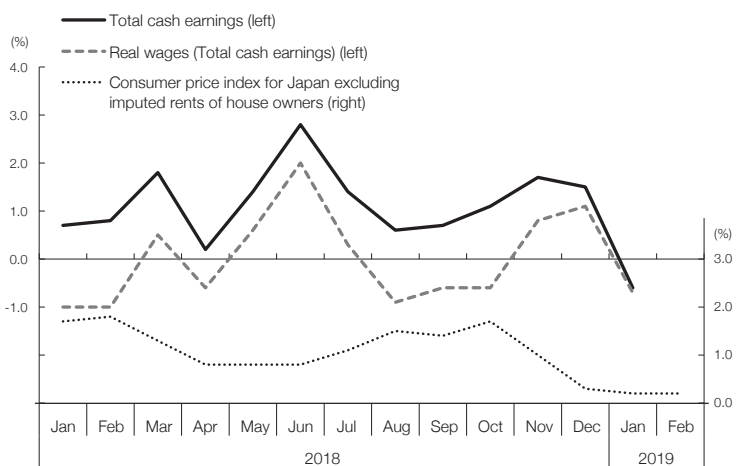
Workers' household economy

In February, consumption expenditure by workers' households increased by 3.6% year-on-year nominally and increased by 3.4% in real terms.⁷



Source: Labour Force Survey²; Employment Referrals for General Workers.⁴

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



Source: Monthly Labour Survey⁵; Consumer Price Index.⁶

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

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

Notes: 1. Cabinet Office, *Monthly Economic Report* analyzes trends in the Japanese and world economics, and indicating the assessment by the Japanese government. Published once a month. <http://www5.cao.go.jp/keizai3/getsurei-e/index-e.html>

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

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

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

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

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

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

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

What's on the Next Issue

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Volume 3, Number 15,

June 2019

tentative

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Care in Japan (Part II):

What is the Challenge after
Reforming the Long-term Care
Leave System?

● Statistical Indicators



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