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CONTENTS

Key topic

MHLW's Guidelines for Promoting and Establishing High-quality Telework

On March 25, the Ministry of Health, Labour and Welfare (MHLW) published a guideline titled the "Guideline to promote the appropriate introduction and implementation of telework" (hereinafter referred to as "the Guideline"). It is a revision of the "Guidelines for the appropriate introduction and implementation of off-site work using information and communications technology" developed on February 22, 2018. The Guideline presents policies intended to enable employers to promote and establish "high-quality" telework in ways that allow workers to work with peace of mind while engaging in appropriate labor management. Beginning in August 2020, the Study Meeting on the Future of Working within the Context of Telework (Chair: Motohiro Morishima, Professor of Gakushuin University and Professor Emeritus of Hitotsubashi University) held discussions aimed at achieving further progress in introducing and establishing telework, which spread rapidly amid the COVID-19 pandemic. MHLW revised the guideline based on the meeting's report.

Promoting beneficial telework for both workers and employers

The Guideline states that it will be useful to consider the viewpoint of encouraging work-style reform so that the promotion of high-quality telework that brings benefits for both workers and employers, where employers engage in appropriate labor management and workers work with peace of mind. It also stresses that taking a new look at conventional ways of doing business and approaches to labor management within the context of promoting telework will be advantageous for both workers and companies, as it will contribute to improve productivity. In order to ensure the smooth and appropriate introduction and implementation, the Guideline indicates that it is important for labor and management to establish rules on telework in advance through full discussion on the purpose of introducing it as well as matters such as the jobs and tasks to be covered by it, and the range of workers who are eligible to do it.

Points to bear in mind when selecting jobs, tasks, and workers for telework

Looking at the selection of jobs and tasks for telework, the Guideline points out that telework may be applicable to some jobs and tasks even in industrial categories and occupational classifications in which telework is generally considered difficult to implement. It states that "rather than simply concluding that telework is unsuitable, it would be better to change managers' thinking and to consider conducting reviews on the way jobs and tasks are carried out." It also notes the necessity of being mindful to ensure that jobs and tasks are not unduly skewed only toward workers who commute to the office.

As for the selection of workers to be eligible for telework, the Guideline states that care should be taken to ensure that workers are not excluded from the eligibility for telework solely due to differences of type of employment, such as regular employee or non-regular employee. It indicates that satellite office work or mobile work could be viable approaches for those who do not wish to work from

home, perhaps out of the fear that it will blur the line between work and home life. It adds that special attention should be given to facilitate communication particularly for new graduates, mid-career hires, and those who have just been transferred.

Reassessing existing jobs and tasks and promoting smooth communication

The Guideline presents three desirable approaches to the introduction of telework: (1) review and inspection of existing operations, (2) smooth communication, and (3) study toward implementation at the group company level. Specific measures to be taken for each approach are summarized below.

First, the Guideline points out that reassessing the way jobs and tasks are conducted, including changing workers' way of thinking within the workplace, is desired. The elimination of unnecessary seals and signatures, the dematerialization of documents, the use of electronic approvals, and the introduction of online meetings are effective means of reviewing and inspecting existing jobs and tasks.

Secondly, even as work styles change, steps should be taken to promote communication that is appropriately suited to workers' and companies' situations. Among other methods, the Guideline presents the use of software that enables communication similar to that in the workplace as a way of achieving this.

Thirdly, there is the possibility that the atmosphere in a particular workplace makes implementing telework difficult. For this reason, the top officers and management of companies must fully comprehend the necessity of telework and execute company-wide action toward it by presenting pertinent policies and the like. In some cases, relationships within the workplace or with business partners may make it difficult to promote telework for a single individual or single company. Therefore, the Guideline stresses the need to call for implementation of telework at the group company level or industry level.

Ensuring appropriate personnel evaluation in work styles involving non-face-to-face interaction

The Guideline mentions personnel evaluation systems, the handling of responsibilities for costs, and human resource development as issues to bear in mind in labor management. It identifies the following as specific measures to be taken for each.

Due to telework's nature as a way of working that involves non-face-to-face interaction, it can be difficult to grasp the status of individual workers' work performance as well as the abilities that are demonstrated in the process of producing results. Thus, the fundamental point to bear in mind with respect to personnel evaluations in telework is for companies to devise evaluation methods from the perspectives of how companies require workers in terms of working styles and reflect those requirements in personnel treatment to execute each worker's evaluation appropriately. As concrete examples, giving specifics on the work content and levels that supervisors require of their subordinates in advance, and flexibly providing opportunities for labor and management to have a common understanding of the status of achievement during evaluation periods are necessary. In particular, the Guideline states that when companies evaluate workers' behavior and emotional aspects such as eagerness to work and attitude, they should prepare and visualize the specific contents of behaviors to evaluate and the evaluation methods for them in advance.

The Guideline also points out that various inventive approaches could be applied to the evaluators who conduct personnel evaluations—for example, evaluators could be provided with training that ensures they can conduct proper evaluations. It adds that giving disadvantageous evaluation scores to teleworkers because they did not respond to emails during non-working hours, for example, is inappropriate.

Additionally, the Guideline stresses that, when the evaluation method for teleworkers will be distinguished from that for office workers, measures

must be devised to ensure that no one is prevented from being able to do telework. Evaluating office workers highly for the reason that they work in the office instead of choosing telework is inappropriate, as doing so will create a "barrier for workers to do telework."

Establishment of rules for the expenses necessary for telework

With respect to the handling of expenses necessary for telework that it is not desirable for an excessive burden to be placed on workers because they do telework. The handling of the cost burden varies from company to company depending on the content of jobs and tasks, whether or not articles are lent, and other factors. Thus, the Guideline states that it is desirable for labor and management to fully discuss in advance which side—labor or management—will bear costs and how it will bear those costs, and to establish rules according to each company's circumstances and stipulate them within work regulations, etc. With regard to expenses generated as a result of telework (such as home telephone and electricity charges), the Guideline states that one approach could be to calculate the expenses rationally and objectively based on the actual circumstances of work from home (such as the number of hours worked) and pay for them.

Developing human resources by applying unique online advantages

The Guideline stresses the use of online resources for human resource development in telework situations. It points to the importance of devising ways of using the unique advantages of online resources, stating that "such resources are also effective for in-house education." In particular, the usefulness of providing necessary training in the early stages following telework's introduction or when new equipment is brought into use.

Telework is an effective method in that it allows workers to carry out their jobs and tasks autonomously taking into consideration the times of the day that workers spend for work as well as the full attention that workers give to their own health and work performance. The Guideline stresses this point and goes on to state that companies must develop human resources by devising new ways of doing jobs and providing in-house education so that each worker can carry out his or her jobs and tasks autonomously. It also points out that appropriate supervision by company management is important in allowing workers to work autonomously, and that efforts should be made to improve management's supervisory skills.

Establishing and disseminating telework rules in work regulations

The Guideline notes the necessity of establishing and disseminating rules for telework. It summarizes actions toward achieving this mainly in terms of applying laws and regulations relating to labor standards and developing work regulations. For workers under the Labor Standards Act (LSA), the Guideline confirms that the LSA, the Minimum Wage Act, the Industrial Safety and Health Act, and the Industrial Accident Compensation Insurance Act also apply even when they engage in telework. In addition, employers should establish telework rules that were formulated through labor-management consultations in their work regulations and make them fully known to workers appropriately so that telework can be implemented smoothly. In cases where workers can flexibly choose where they do telework at their convenience, the Guideline suggests that employers could specify "employer's approval criteria" and then establish in regulations that telework is possible at locations that the employer has approved. It also identifies other points that deserve attention, one of which is the need for employers to change the content of labor contracts with workers' consent when they have those workers do telework beyond the scope of the work locations and work methods that were specified in the workers' labor contracts or work regulations.

Handling of telework under various working hours systems

The Guideline summarizes the relationship

between telework and the various working hours systems and indicates ways of handling telework under those systems flexibly. According to the Guideline, telework can be implemented under all of the various working hours systems defined in the LSA. Accordingly, it is possible to engage in telework while keeping a working hours system that was adopted before telework's introduction. If a working hours system will be changed to facilitate the implementation of telework, it can be changed in accordance with the introduction requirements of the relevant system. The Guideline mainly outlines the relationship with telework for the following three working hours systems.

(1) Regular working hours system and hours-averaging system

Under the regular working hours system and variable working hours system, it is necessary to establish work start and end times as well as scheduled working hours in advance. In the case of workers who work from home and do not gather at the office, "a degree of freedom may be allowed for each of them to decide the start and end of daily working hours when they are not necessarily required to work uniform hours."

(2) Flextime system

Under the flextime system, workers can decide when to start and end their work. The Guideline stresses that such a system "fits easily with telework." Because of this characteristic, a flextime system can maximize harmony between work and life for the worker, as, for example, it permits flexible adjustments of start and end times to suit the worker's life patterns when working from home.

(3) Deemed working hours system for work outside the workplace

The deemed working hours system for work outside the workplace is applied when a worker does work outside the workplace and consequently it is difficult to calculate his or her working hours. This system permits flexible work arrangements for workers who work with a certain degree of freedom within the context of telework. The Guideline states that the deemed working hours system for work outside the workplace can be applied to telework where 1) the workers are not required to keep information and communication equipment in a constant state of communication at the direction of the employer, and 2) they are not performing work based on the employer's specific instructions at any time.

Ascertaining working hours using ICT

The Guideline lays out ways of thinking and areas where new approaches can be tried with respect to working hour management in telework as well as points to bear in mind in the handling of specific events. In the case of telework, devising new ways of ascertaining working hours becomes necessary, as work takes place outside of the conventional office environment and the employer is unable to make on-the-spot verifications. On the other hand, the Guideline points out that labor management can be facilitated with the use of information and communication technology (ICT). Moreover, it presents the following two methods that are based on the "Guidelines for Measures to Be Taken by Employers to Properly Monitor Working Hours" (Kihatsu No. 0120-3; January 20, 2017).

(1) Confirming work start and end times based on objective records, such as records of time spent using a personal computer (ascertaining working hours from records of time spent using telecommunications equipment used for telework, etc., and satellite office entry/exit records, etc.)

(2) Ascertaining working hours from workers' self-reporting. The Guideline identifies some important points regarding workers' self-reporting. They include giving sufficient explanation on the self-reporting system's proper operation to those who actually manage working hours, and not taking measures to prevent workers from reporting their working hours properly.

Countermeasures to long working hours by curbing the sending of emails, restricting system access, etc.

The Guideline also covers the handling of events that are specific to telework. Specifically, it provides

examples of measures to be taken in five areas: (1) time away from work during working hours, (2) travel time when doing telework for a portion of working hours, (3) handling of rest periods, (4) working hours management relating to overtime work and work on days off, and (5) measures addressing long working hours.

Regarding (1), which concerns time away from work while doing telework, the Guideline states that one possible method of ascertaining this time is to have workers report it at the end of the workday. It also mentions "treating time away as a rest period and pushing back the end of the workday, or treating it as annual paid leave calculated in hourly units" and "treating the time between the start and end of work as working hours, excluding rest periods" as possibilities.

For (2), travel time when doing telework for a portion of working hours, "treating the time that is guaranteed as available for the worker to use freely as a rest period" is one possibility. However, the Guideline also notes that if "an employer orders a worker to make a move between workplaces that is necessary for the execution of work, and as a result travel time in which free use of time is not guaranteed" occurs, even if it is during telework, this time falls under working hours.

For (3), which concerns the handling of rest periods, Article 34 paragraph 2 of the LSA stipulates that, in principle, rest periods should be granted to all workers at the same time. The Guideline states with regard to teleworkers that "the principle of granting of rest periods at the same time can be exempted based on a labor-management agreement."

The LSA regulates that when employers have workers work overtime or on rest days (namely, have workers work over maximum working hours under the LSA and work on legally required weekly rest days), they are required to conclude a labor-management agreement (called "Article 36 Agreement") with a majority representative of workers in the establishment on overtime and work on days off, file it with the government agency[1] and pay premium wages, and when employers have workers work late at night, they are required to pay premium wages for late-night work. The Guideline states, regarding (4) above, that it is desirable for employers to properly grasp their workers' working hours situations and reassess working hours and work content as necessary when implementing telework.

Looking lastly at (5), which concerns ways of preventing long working hours during telework, the Guideline suggests curbing the sending of emails; restricting access to internal systems; and establishing procedures for overtime work, work on days off, and unscheduled late-night work. It also suggests that employers establish in advance the time periods and number of hours during which overtime work and the like is possible through a labor-management agreement.

Accidents occurring during telework are covered by worker's accident compensation insurance

The Guideline summarizes efforts to ensure health and safety in telework as well as the details of compensation for industrial accidents. First referring to health and safety management, particularly with respect to workers doing telework at home or elsewhere, there are many cases where workers find it difficult to communicate with their supervisors, and where supervisors have difficulty noticing physical or mental changes in workers. It states that employers should develop health consultation systems and take measures to encourage communication by, for example, using the "Checklist for Ensuring the Health and Safety of Teleworkers (For Enterprises)." It also notes the importance of requesting reports on the conditions of work environments by using the "Checklist for Verifying Work Environment when Telework is Done at Home, etc. (For Workers)," and other tools and making improvements through labor-management cooperation when necessary, and of considering the use of satellite offices, etc.

Second, on the topic of worker's industrial accident compensation insurance for telework, the Guideline states that "accidents in telework that are caused as a result of being under the control of an

employer based on a labor contract are covered by industrial accident insurance as work-related accidents." It mentions the appropriate storage of objective records (such as on the use of telecommunications devices) and time records reported by workers as a measure that employers could take. It adds that workers should be made to understand that, if they suffer a workplace accident, they should record as much as possible about the circumstances of the accident to help their employers and medical institutions accurately comprehend the situation.

Responses to harassment and measures for security

The Guideline takes up the matter of dealing with harassment (workplace bullying) and security encountered in telework. Employers are obligated to implement employment management measures to prevent "power harassment" (a phrase used in Japan to refer to harassing behavior by someone in a superior position toward his/her subordinates), sexual harassment, and other forms of harassment (hereinafter referred to collectively as "harassment") in the workplace. It states that with telework, as with work in an office, employers must take sufficient measures to prevent harassment—such as by informing and educating workers that harassment is never acceptable—based on relevant laws, regulations, and guidelines. As for information on security measures during telework, the Guideline asserts that, rather than uniformly determining that all jobs and tasks are uniformly excluded from telework due to information security concerns, it is better to consider solutions and judge each job and task individually based on advancements in related technologies.

1. If an employer has concluded a written agreement with the labor union that has been organized by a majority of the workers at that workplace, if there is one, or with a person representing a majority of the workers at that workplace, if there is no such union, and has filed a notification of this agreement with the relevant government agency pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare, the employer may extend the working hours or have a worker work on a day off, in accordance with the provisions of that agreement (Article 36 of LSA).

Article

Wage Compensation during Leave in the COVID-19 Crisis and Its Impacts on Workers' Careers[1]

TAKAHASHI Koji

I. Background and objectives

The COVID-19 pandemic has prompted a sharp rise in the numbers of workers affected by the temporary closure of their place of work or reduction of their working hours (referred to here as "leave") or both. This paper is an exploratory analysis of how workers' careers differ depending on whether they experienced leave during the period for which a national state of emergency was declared from April to May last year (2020) and what kind of wage compensation they received during that leave.[2] The analysis concludes that while those workers who received no wage compensation whatsoever while on leave do not show a tendency toward changing employers, said workers do show a strong tendency to become unemployed or "unoccupied" (which is used here to refer to those neither working nor looking for work).

One of the mainstays of Japan's measures for addressing unemployment during economic downturn is the Employment Adjustment Subsidy (EAS). The Labor Standards Act obliges employers to pay workers who are sent on leave from work for reasons attributable to the employer an allowance equal to at least 60% of their average wage (*kyūgyō teate*; "leave allowance"). However, it is not feasible for some employers to pay leave allowances without outside assistance. By supplementing the leave allowances that employers pay to workers, the EAS therefore maintains the employment of those workers sent on leave as well as securing their livelihood. On the other hand, there has for some time been criticism regarding misuse of the EAS and the risk that it may be helping to sustain enterprises and industries that should have been eliminated by natural selection.

Said criticism is particularly focused on the idea that workers whose employers are unable to pay them a leave allowance will seek employment in growth industries and at enterprises that have the capacity to compete. Nevertheless, this is not to say that all workers who are unable to receive a leave allowance are able to successfully change employers in practice. There may be workers who leave their employment because they have lost their patience at not receiving leave allowances but are unable to find new employment and simply become unemployed. Some of those workers may even become unoccupied. While this paper does not necessarily seek to debate the pros and cons of revising the EAS, it aims to verify the effects that a shortage or lack of wage compensation during leave in the COVID-19 pandemic may be having on workers' careers, in anticipation that such analysis will provide insights that will serve as reference for such discussions.

The JILPT panel survey, explained in detail in Section II, drawn on in this analysis (see below) gathers detailed information from workers on their experience of leave and the kind of wage compensation they received during said leave in the period for which a national state of emergency was declared from April to May 2020, as well as their subsequent careers. Data from those survey responses is used to reveal whether workers who

were ordered to go on leave and yet received insufficient wage compensation show a tendency to change employers or a tendency to become unemployed or unoccupied.

II. Data and variables

This paper uses data from the first to fourth waves of the "JILPT Panel Survey on the Impact of COVID-19 on Work and Daily Life." Note that the survey has been named the "Survey on the Impact that Spreading Novel Coronavirus Infection Has on Work and Daily Life" until the third wave. The study has built on the Rengo Research Institute for Advancement of Living Standards (RENGO-RIALS)' "39th Short-Term Survey of Workers in Japan" (April 2020), by surveying the same respondents, in the first to fourth waves of JILPT panel surveys conducted in May, August, and December 2020 and March 2021. Although somewhat complex, the sampling method can be broadly described as a stratified sampling of respondents from an online survey company that matches the equal distribution of workers across Japan.[3] The respondents of this analysis were employees of private enterprises as of April 1, 2020, who responded to the RENGO-RIALS survey and all of the four waves of the JILPT panel survey.

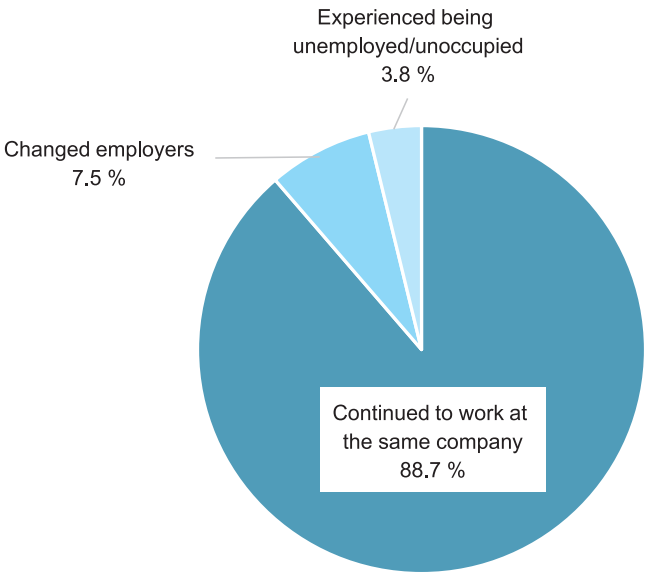
Let us look at the main variables used in this paper. Worker careers—the explained variables—consist of three categories: (1) people who continued to work at the same company from April 2020 to March 2021 ("continued to work at the same company"), (2) people who changed employers without experiencing being unemployed or unoccupied in the period from May 2020 to March 2021 ("changed employers"), and (3) people who experienced being unemployed or unoccupied in or after May 2020 ("experienced being unemployed/unoccupied").[4]

The explanatory variables are whether the respondents experienced leave, and the kind of wage compensation they received during said leave. The survey questionnaire firstly asked respondents whether they had at some point in the period from April to May 2020 been "ordered to take leave (be on standby)," had their "daily working hours reduced to less than half the normal amount," or their "monthly number of working days reduced in comparison with a normal month." Those respondents to whom any of said three applied (i.e., people who experienced leave, categorized as "sent on leave" below) were asked to select from the following six options: "received normal wages," "received at least 60% of normal wages," "received less than 60% of normal wages," "received government leave allowance (*kyūgyō shienkin/kyūfukin*)," "applying or intending to apply for government leave allowance," and "did not receive any such payments (no wage compensation)."[5] These six options were joined by the option "not sent on leave," while the option "applying/intending to apply for government leave allowance," for which responses were low, was incorporated into "received government leave allowance," creating six categories of variable.

It should also be noted that as this article addresses the issue of cases in which workers voluntarily changed employers or became unemployed or unoccupied, those cases where workers clearly left their employment involuntarily —due to dismissal, termination of employment on expiration of the contract term, or other such reasons—are excluded.[6] Moreover, as the focus is placed on the period of April to May—namely, whether workers experienced leave and the wage compensation they received during leave in that particular period—those cases in which workers clearly changed employers in April were also excluded. This led to a total of 2,445 cases that could be used in this analysis.

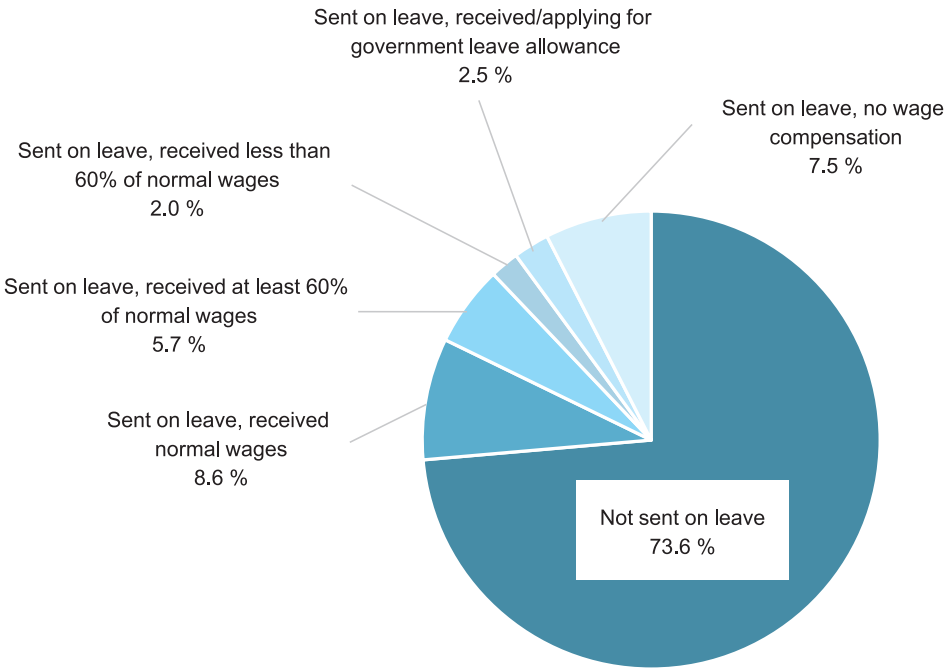
III. Analysis results

Figure 1 presents the careers of analysis subjects in and after May 2020. This shows that the percentage of people who continued to work at the same company is overwhelmingly high, at 88.7%, while the percentages of those who changed employers and those who experienced being unemployed or unoccupied were 7.5% and 3.8%, respectively.



Note: People who left employment involuntarily were excluded from tabulation. Same applies to the following figures and tables.

Figure 1. Career types of workers in and after May 2020 (N=2,445, %)



Note: "Received/applying for government leave allowance" represents the sum of "received government leave allowance" and "applying/intending to apply for the government leave allowance." Same applies to the following figure and tables.

Figure 2. Whether workers experienced leave and the wage compensation received during said leave (N=2,445, %)

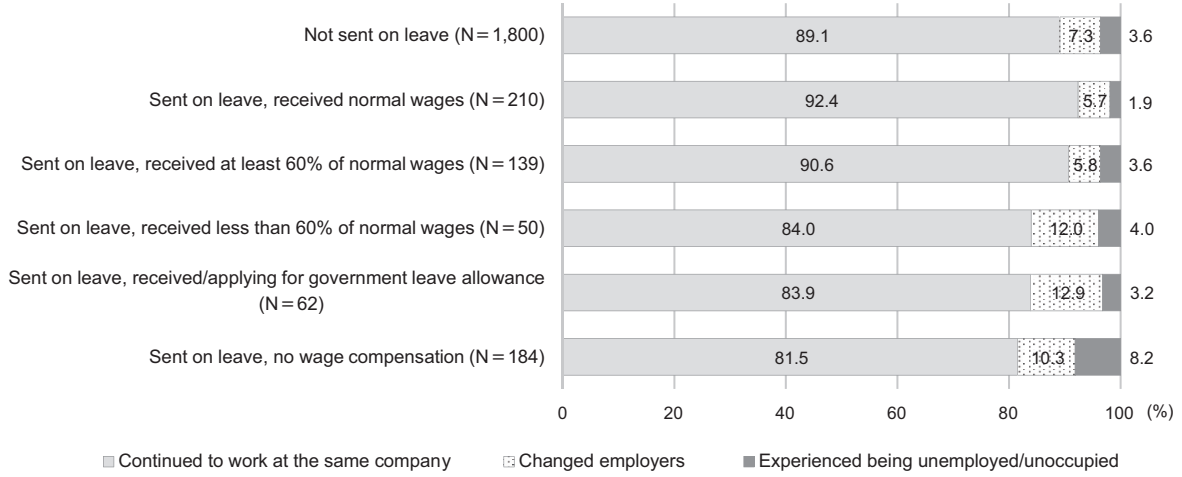


Figure 3. Workers' career types by whether workers experienced leave and the wage compensation they received during said leave

Figure 2 shows whether respondents experienced leave in the period from April to May 2020 and the kind of wage compensation they received during said leave. This shows that 73.6% of all subjects did not experience leave. Looking at those who *did* experience leave, on the other hand, the percentage of those who responded that they had received normal wages was highest, at 8.6%, followed by the percentage of those who responded that they had been sent on leave with no wage compensation, at 7.5%. It can therefore be suggested that wage compensation received by workers during leave in the COVID-19 pandemic is polarized between these two extremes.

Figure 3 shows how workers' subsequent careers differ according to whether they experienced leave and the kind of wage compensation they received during that leave. This reveals that among those who did not experience leave and those who experienced leave but received at least 60% of normal wages, the percentage of those who continued to work at the same company is high, at around 90%. In contrast, in the case of those who received less than 60% of normal wages and those who received/are applying for government leave allowance, the percentage of those who changed employers is relatively high at over 10%, and among those who did not receive any such payments (no wage compensation) both the percentage of those who changed employers and the percentage of those who experienced being unemployed or unoccupied are relatively high.[7]

This brings us to the question of what kind of effects experiencing (or not experiencing) leave and the kind of wage compensation received during leave had on workers' subsequent careers when the attributes of the individual respondents and their workplaces are controlled for. Table 1 presents the results of a multinomial logistic regression analysis, for which the explained variables are workers' career types, the explanatory variables are whether a respondent experienced leave and the kind of wage compensation received during that leave, and the control variables are gender, age, educational attainment, whether the respondent is responsible for earning a livelihood ("breadwinner"), and employment type (Model 1). The base category is people who continued to work at the same company.

From this analysis, it can be inferred that for those not receiving any form of wage compensation despite having been sent on leave there is a tendency toward becoming unemployed or unoccupied which is significant at the 0.05 level. On the other hand, whether workers experienced leave and the kind of wage compensation received during said leave cannot be said to influence the tendency to change employers.

Moreover, the impacts of the control variables

Table 1. Determinants of workers' career types (Model 1) (Multinomial logistic regression analysis)

Model 1 (Individual attributes controlled for)	Changed employers			Experienced being unemployed/unoccupied		
	B	S.E.		B	S.E.	
Sent on leave, received normal wages (ref. not sent on leave)	-0.240	0.314		-0.753	0.525	
Sent on leave, received at least 60% of normal wages	-0.382	0.380		-0.226	0.479	
Sent on leave, received less than 60% of normal wages	0.240	0.455		-0.196	0.744	
Sent on leave, received/applying for government leave allowance	0.467	0.398		-0.422	0.739	
Sent on leave, no wage compensation	0.286	0.265		0.628	0.306	*
Female	-0.109	0.191		0.170	0.266	
Age	-0.017	0.007	*	-0.017	0.010	
University graduate or higher	-0.082	0.167		-0.188	0.237	
Breadwinner	0.445	0.196	*	-0.106	0.256	
Non-regular employee	1.085	0.185	**	1.174	0.257	**
Constant	-2.324	0.389	**	-2.867	0.530	**
N		2,445				
Chi-square		92.286	**			
Nagelkerke R-square		0.065				

Notes: 1. The base category is people who "continued to work at the same company."
2. **p<0.01; *p<0.05; $^{\dagger}p$<0.1. (ref.) denotes the reference group.
3. Employment type (non-regular employee) refers to the employment type as of April 2020.

seem to indicate that the younger a worker the more likely they are to change employers, and that breadwinners are more likely to change employers, while non-regular employees have tendencies both toward changing employers and becoming unemployed or unoccupied.[8]

Table 2 shows the same multinomial logistic regression analysis with industry[9], occupation[10], and size of enterprise included in the control variables in addition to gender, age, educational attainment, whether the respondent is the breadwinner, and employment type (Model 2).

This indicates that, although only significant at the 0.1 level, workers who are on leave but not receiving wage compensation are, as expected, more likely to become unemployed or unoccupied. On the other hand, as seen in Model 1, it cannot be said that whether a worker has experience of leave and the kind of wage compensation received during that leave have an impact on a worker's tendency to change employers.

Looking at the control variables, the age, whether the respondent is the breadwinner, and non-regular employee variables have exactly the same effect as seen in Model 1. In terms of industries, workers in the accommodations, eating and drinking services (hereinafter referred to as "accommodation and food services") and medical, health care and welfare industries tend to change employers, while in terms of occupations, transport and machine operation drivers tend to become unemployed or unoccupied, and in terms of size of enterprise, on the whole workers in large enterprises tend to continue to work at the same company.

The above analysis highlights being on leave but not receiving wage compensation as an issue. Let us therefore, for reference, analyze what types of people tend to find themselves in such a situation. Here we should also note that, accurately speaking, said situation arises due to the overlap of both "experiencing leave" and "not receiving leave compensation," but for simplification, a binomial logistic regression analysis is used to reveal which types of people tend to find themselves "on leave but not receiving wage compensation."

The explained variables are the "sent on leave, no wage compensation" dummy used in Table 1 and Table 2, and the explanatory variables are gender, age, educational attainment, whether the respondent was a breadwinner, employment type, industry,

Table 2. Determinants of workers' career types (Model 2) (Multinomial logistic regression analysis)

Model 2 (Individual attributes and workplace attributes controlled for)	Changed employers			Experienced being unemployed/unoccupied		
	B	S.E.		B	S.E.	
Sent on leave, received normal wages (ref. not sent on leave)	-0.197	0.320		-0.737	0.532	
Sent on leave, received at least 60% of normal wages	-0.446	0.387		-0.304	0.489	
Sent on leave, received less than 60% of normal wages	0.102	0.472		-0.428	0.765	
Sent on leave, received/applying for government leave allowance	0.404	0.408		-0.438	0.750	
Sent on leave, no wage compensation	0.205	0.274		0.551	0.318	†
Female	-0.170	0.209		0.138	0.291	
Age	-0.016	0.008	*	-0.015	0.010	
University graduate or higher	-0.001	0.178		-0.177	0.251	
Breadwinner	0.493	0.200	*	-0.136	0.261	
Non-regular employee	1.005	0.203	**	1.005	0.285	**
Construction (ref. Manufacturing)	-0.065	0.440		-0.265	0.685	
Information and communications	0.083	0.403		0.680	0.525	
Transport	0.087	0.430		-0.163	0.621	
Wholesale and retail trade	-0.111	0.351		-0.265	0.487	
Finance and insurance	0.205	0.422		-0.129	0.624	
Real estate	-0.124	0.643		-0.702	1.083	
Accommodation and food services	0.946	0.458	*	0.221	0.657	
Medical, health care and welfare	0.582	0.325	†	-0.396	0.552	
Education, learning support	0.343	0.443		0.584	0.554	
Services (not elsewhere classified)	0.270	0.321		0.064	0.457	
Other industries	-0.120	0.424		0.088	0.519	
Managerial workers (ref. Clerical workers)	-0.199	0.374		-0.502	0.654	
Professional and engineering workers	0.255	0.263		-0.204	0.405	
Sales workers	0.068	0.299		0.199	0.388	
Service workers	-0.140	0.326		0.159	0.409	
Production/skilled workers	-0.028	0.372		-0.684	0.590	
Transport and machine operation drivers	0.406	0.590		1.186	0.708	†
Carrying, cleaning and packaging workers	0.568	0.369		0.647	0.458	
Other occupations	0.052	0.363		-0.232	0.526	
99 or fewer employees (ref. 1,000 or more employees)	0.437	0.216	*	0.569	0.328	†
100–999 employees	-0.010	0.237		0.567	0.344	†
Do not know	0.395	0.296		0.731	0.389	†
Constant	-2.817	0.510	**	-3.288	0.701	**
N		2,445				
Chi-square		137.443	**			
Nagelkerke R-square		0.095				

Notes: 1. The base category is people who "continued to work at the same company."
2. $^{**}p<0.01$; $^{*}p<0.05$; $^{\dagger}p<0.1$. (ref.) denotes the reference group.
3. Employment type (non-regular employee), industry, occupation, and size of enterprise refer to those as of April 2020.

occupation, and size of enterprise. The results are presented in Table 3.

This shows that non-regular employees and workers in the accommodation and food services industry are more likely to be on leave but not receiving wage compensation. The effect of the accommodation and food services industry is particularly significant. While the various adverse conditions suffered by workers in the accommodation and food services industry in their working lives during the COVID-19 pandemic have already been addressed in Takahashi (2021b), it can be suggested that this research has succeeded in uncovering another source of disadvantage.

Table 3. Determinants of being "on leave but not receiving wage compensation" (Binomial logistic regression analysis)

	B	S.E.	
Female	0.124	0.210	
Age	0.002	0.008	
University graduate or higher	0.060	0.177	
Breadwinner	-0.081	0.192	
Non-regular employee	0.440	0.199	*
Construction (ref. Manufacturing)	-0.388	0.480	
Information and communications	-0.213	0.447	
Transport	-0.327	0.473	
Wholesale and retail trade	0.079	0.333	
Finance and insurance	0.451	0.375	
Real estate	0.199	0.568	
Accommodation and food services	1.146	0.416	**
Medical, health care and welfare	-0.756	0.431	†
Education, learning support	0.298	0.421	
Services (not elsewhere classified)	0.430	0.302	
Other industries	-0.062	0.403	
Managerial workers (ref. Clerical workers)	-0.347	0.372	
Professional and engineering workers	0.063	0.289	
Sales workers	-0.282	0.300	
Service workers	0.128	0.305	
Production/skilled workers	0.540	0.331	
Transport and machine operation drivers	0.513	0.633	
Carrying, cleaning and packaging workers	0.444	0.380	
Other occupations	0.255	0.361	
99 or fewer employees (ref. 1,000 or more employees)	0.148	0.211	
100–999 employees	-0.010	0.228	
Do not know	0.144	0.296	
Constant	-3.023	0.501	**
N		2,445	
Chi-square		59.198	**
Nagelkerke R-square		0.058	

Notes: 1. **p<0.01; *p<0.05; †p<0.1. (ref.) denotes the reference group.
2. Employment type (non-regular employee), industry, occupation, and size of enterprise refer to those as of April 2020.

IV. Key insights

The analysis in this paper revealed that workers who are on leave but not receiving wage compensation tend to voluntarily become unemployed or unoccupied. It is conceivable that workers may leave their employment with a company without having secured new employment if they are feeling impatient about not receiving their wages or distrusting of a company that would treat them in such a way. It must, however, be noted that this effect was significant to only a 0.05 or 0.1 level and therefore, statistically speaking, cannot necessarily be described as a robust result. Nevertheless, this analysis result can be described as robust in the sense that it is consistent with previous research, which suggests that the tendency for workers to become unemployed or unoccupied is not prompted by leave itself but by decline in monthly income (Takahashi 2021a: Table 2 (3)).

To summarize the conclusion of this analysis, it was revealed that workers who received no wage compensation whatsoever during their leave do not show a tendency to change employers but show a

strong tendency to become unemployed or unoccupied. Looking at this analysis result from a different angle, it can be suggested that providing workers with some form of wage compensation while they are on leave may not prevent them from changing employers but help to prevent them from voluntarily becoming unemployed or unoccupied. It is therefore thought that at least to that extent, in cases where enterprises are unable to pay workers their normal wages or a leave allowance during leave it is advisable to endeavor to compensate workers for their wages as far as possible using every available means—such as the EAS and the "emergency subsidy for job security" (*kinkyū koyō antei joseikin*, the corresponding system for students in side jobs and other such workers not insured under the unemployment insurance program), or the government leave allowance.

It is also necessary to note that this paper has focused on the short-term careers of individual workers, as opposed to the trends in labor turnover on a macro level or long-term scale. Cases of workers who left employment involuntarily were likewise excluded from this analysis. And yet, while this paper's findings are therefore not intended to directly sway the course of deliberations on revising the EAS,[11] the discovery that wage compensation during leave in the COVID-19 pandemic may not have prevented workers from changing employers but has prevented them from becoming unemployed or unoccupied as a result of voluntarily leaving their employment is unquestionably a point that should be referenced in such discussions.

1. There are various types of wage compensation that have been provided while workplaces have been temporarily closed or working hours have been reduced due to the COVID-19 pandemic. These include: (1) Workers receive their normal wages, (2) Workers receive a leave allowance, and (3) Workers receive the government leave allowance, among others. These are collectively referred to here as "wage compensation during leave in the COVID-19 crisis."
2. While it may not necessarily be referring to the same type of leave as addressed here, data from the Ministry of Internal Affairs and Communications' *Labour Force Survey* reveal that the numbers of workers who did not work even one day in the final week of the month totaled 5.97 million persons in April 2020 and 4.23 million persons in May 2020. See Takahashi (2020).
3. See JILPT (2021) for a detailed survey implementation.
4. Specifically, firstly, people whose response to the question on employment status for each month from May 2020 onward indicated that they had at any point been unemployed or unoccupied were classified as "people with experience of being unemployed or unoccupied." Secondly, of those who did not experience being unemployed or unoccupied, those who "did not experience job separation or resignation at all" during the period from April to March the following year were classified as people who "continued to work at the same company." Thirdly, of those who did not experience being unemployed or unoccupied, people who "were separated or resigned from their previous job and subsequently entered employment with a new employer" during the period from April to March the following year were classified as "people who changed employers." When doing so, those who were clearly known to have changed employers in April were excluded from analysis.
5. Government leave allowance refers here to the government's support fund and allowance for the leave forced to be taken under the COVID-19 pandemic. Under the government leave allowance system, the government directly pays the equivalent of the leave allowance for workers who have been confronted with the temporary closure of their place of work and/or reduction of their working hours but have not received the legally prescribed allowance for leave in the pandemic.
6. In concrete terms, those who experienced either "dismissal from company," "termination of employment on expiration of the contract term," or "unemployment as a result of employer's business suspension/discontinuation or bankruptcy" due to impacts related to the COVID-19 pandemic, were excluded from analysis.
7. The trend that among those who did not receive any such payments there was a high percentage of those who experienced being unemployed/unoccupied is also apparent if regular workers and non-regular workers are aggregated separately. Among regular workers, the percentage points of those who experienced being unemployed/unoccupied was 2.2% overall, while the percentage points among those who did not receive any such payments was 4.2%, and among non-regular workers was 7.3% overall, and 12.5% among those who did not receive any such payments.
8. The effects of the control variables are as revealed in Takahashi (2021a).
9. Industry categories with less than 50 cases ("electricity, gas, heat supply and water," and "postal services, cooperative associations," and "do not know") were incorporated into the "other industries" category.
10. Occupations with less than 50 cases ("security workers," "construction and mining workers," "do not know") were incorporated into the "other occupations" category.
11. For reference, see Kobayashi (2021) and Sakamitsu (2021), which draw on data from the questionnaire survey of enterprises to address the characteristics of enterprises using the EAS and the impacts of the EAS.

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Illegality of the Disparity in Working Conditions between Hourly Paid Fixed-term Contract Employees and Monthly Paid Regular Employees

The *Osaka Medical and Pharmaceutical University (former Osaka Medical University)* Case
The Supreme Court (Oct. 13, 2020) 1229 *Rodo Hanrei* 77

ZHONG Qi

I. Facts

On January 29, 2013, X signed a fixed-term labor contract with Y for a contract period until March 31 of the same year, and worked as an *arubaito* employee.[1] Thereafter, X renewed the contract for a period of one year three times, and resigned on March 31, 2016. X was diagnosed with adjustment disorder in March 2015 and did not come to work from the 9th of the same month until the above resignation date, and was treated as having taken annual paid leave for about one month from April to May of the same year, after which she was treated as being absent from work.

At the time of X's employment, Y had regular, contract, *arubaito*, and entrusted (*shokutaku*)[2] employees for clerical tasks, but only regular employees had indefinite-term labor contracts. Regular employees and contract employees were paid on a monthly basis, and entrusted employees were paid on a monthly or annual basis. In contrast, *arubaito* employees were paid on an hourly basis. While about 40% of them had the same scheduled working hours as regular employees, working hours of the rest were shorter than those of regular employees.

At the time of X's employment, in accordance with the rules of employment, etc., regular employees were entitled to basic pay, bonus, wages during the year-end and New Year holidays and the anniversary of the founding of the university, annual paid leave, special paid leave during the summer, wages during absences due to personal injury or illness, and grants for medical expenses at the affiliated hospital. According to the salary regulations for regular employees, the basic pay is determined by taking into consideration the kind of job, age, educational background, and work history of the regular employees at the time the regular employee is hired, and the salary is to be increased according to years of service taking their work performance into consideration. Regarding bonuses, it was only stipulated that temporary or regular wages would be paid when Y deemed it necessary.

On the other hand, based on the bylaws for *arubaito* employees, *arubaito* employees were paid hourly wages and granted annual paid leave as prescribed by the Labor Standards Act, but bonuses, wages during the year-end and New Year holidays and the anniversary of the founding of the university, other annual paid leave, special paid leave during the summer, wages during absences due to personal injury or illness, and grants for medical expenses at the affiliated hospital were not paid or granted. Under the bylaws for *arubaito* employees, the hourly wage rate was to be changed when there was a change in the kind of job, etc. There was no provision for wage increases.

Regular employees were engaged in all kinds of work at the university and the affiliated hospital, and their duties varied depending on where they were assigned, including general affairs, academic

affairs, and hospital administration. In the departments where regular employees were assigned, most of the tasks were not routine or simple, and some of the tasks included crucial measures that affected the entire corporation, and the responsibilities associated with the work were considerable. In addition, the rules of employment for regular employees stipulate that regular employees may be ordered transfers within or beyond the boundary of the university, and personnel transfers are conducted for the purpose of developing and utilizing human resources.

On the other hand, under the bylaws for *arubaito* employees, the employment period for *arubaito* employees is limited to one year. Although their contract may be renewed, the upper limit is set at five years, and their duties are mainly routine and simple. The bylaws for *arubaito* employees stipulate that *arubaito* employees may be ordered transfers to other departments, but since they are hired with a clear description of their jobs, in principle they are not reassigned to other departments by job-related orders, and personnel transfers are limited to exceptional and individual circumstances.

At Y, there was a system of promotion by examination from *arubaito* employees to contract employees and from contract employees to regular employees.

The university in question has a total of eight laboratories for basic courses that do not have medical departments, each with one or two laboratory clerks, and in 1999, there were nine laboratory clerks as regular employees. Regarding the laboratory clerks, since more than half of their work was routine and simple, Y started to replace them with *arubaito* employees since around 2001 by transferring out regular employees, and from April 2013 to March 2015, there were left only four regular employees. Three of these regular employees had never engaged in any work other than laboratory clerical work. In the laboratories where regular employees remained, there were duties such as editing of the university's English-language journals, public relations work, dealing with bereaved families regarding pathological autopsies and other matters requiring inter-departmental cooperation, and management of reagents such as poisonous and deleterious substances, etc., for which Y judged that it was necessary to assign regular employees instead of *arubaito* employees.

In the fixed-term labor contract that X concluded in January 2013, the place of work was the pharmacology laboratory at the university, the main duties were secretarial work in the pharmacology laboratory, and the wage was 950 yen per hour. The contract was renewed three times from April of each year, and the hourly wage rate was sometimes slightly increased. However, there was no particular change in her job content, which included schedule management and adjustment for professors, teaching staff and research assistants, handling of telephone calls and visitors, preparation of materials for professors' research presentations, accompanying professors when they went out, various office work in the laboratory, laboratory accounting, equipment management, cleaning and waste disposal, and management of receipts and payments. In addition, X's scheduled working hours were full-time.

The average monthly wage of X from April 2013 to March 2014 was 149,170 yen, and assuming that she worked full-time for the entire period, her monthly wage would have been approximately 150,000 to 160,000 yen. On the other hand, the starting salary of a regular employee newly hired in April 2013 was 192,570 yen, and there was a difference of about 20% in wages (basic pay) between X and the regular employee.

At Y, bonuses were paid to regular employees twice a year. In fiscal year 2014, the bonus was equivalent to 2.1 months of basic pay plus 23,000 yen in the summer, 2.5 months of basic pay plus 24,000 yen in the winter, and in fiscal years 2010, 2011, and 2013, the bonus was equivalent to 4.6 months of basic pay for the entire year, so the standard amount was equivalent to 4.6 months of basic pay for the entire year. Additionally, contract employees were paid a bonus that was approximately 80% of the bonus paid to regular employees. In contrast, bonuses were not paid to *arubaito* employees. The annual amount of wages paid to X

was about 55% of the total amount of basic pay and bonus paid to the regular employee who was newly hired in April 2013.

At Y, when a regular employee was absent from work due to personal injury or illness, the full monthly salary was paid for six months, after which the employee was ordered to take a leave of absence and 20% of the standard salary was paid as leave pay. In contrast, there was no compensation or leave system for *arubaito* employees during absences.

X filed a lawsuit on the grounds that the difference in bonuses, wages during absences due to personal injury or illness, etc. between X and regular employees with indefinite-term labor contracts violated Article 20 of the Labor Contracts Act. The main issue in this case is whether or not the difference in working conditions between regular and *arubaito* employees at Y can be deemed unreasonable.

II. Judgment

High court judgment was partially reversed and partially modified.

(1) Regarding bonuses

In light of the fact that the disparity in working conditions between employees with fixed-term labor contracts and those with indefinite-term labor contracts has been a problem, Article 20 of the Labor Contracts Act prohibits making working conditions unreasonable due to the existence of a fixed term in order to ensure fair treatment of employees with fixed-term labor contracts. Even if the difference in working conditions relates to the payment of bonuses, it may be considered unreasonable under the Article. However, in making such judgements, as with any other differences in working conditions, it should be examined whether or not the difference in working conditions can be evaluated as unreasonable by taking into account the various circumstances prescribed in the Article, considering the nature of the bonus and the purpose for which it is paid by the employer.

Y's bonus for regular employees is only stipulated in the salary regulations for regular employees to be paid when deemed necessary, and as a lump-sum payment to be paid separately from the basic pay, whether it is paid or not and the criteria for payment are determined by Y on a case-by-case basis, taking into account the financial situation during the calculation period. In addition, the said bonus is based on 4.6 months of basic pay for the whole year, and in light of the actual payment, it is not linked to Y's business performance, but is recognized to include the purposes of deferred payment of compensation for labor during the calculation period, uniform reward for meritorious service, and improvement of future work motivation. It can be said that the basic pay of regular employees is raised in accordance with the number of years of service taking their work performance into account, and has the character of an ability-based wage corresponding to the improvement of their ability to perform their job duties in accordance with the number of years of service; in general, the level of difficulty and responsibility of the work is high, and personnel transfers are conducted for the purpose of developing and utilizing human resources. In light of the salary system of regular employees and the required level of ability to perform their duties and their responsibilities, etc., it can be said that Y decided to pay bonuses to regular employees for the purpose of securing and retaining personnel who can perform their duties as regular employees.

When we look at "the substance of the duties and the level of responsibility associated with those duties (hereinafter referred to as the "content of duties")" prescribed in Article 20 concerning X and the regular employee as a laboratory clerk who has been designated the subject of comparison by X, there were some similarities in the substance of the duties between the both employees. However, while X's duties were considered to be fairly light, the regular employee as a laboratory clerk had to engage in other duties such as editing the university's English-language academic journals, dealing with bereaved families regarding pathological autopsies, and other duties requiring inter-departmental cooperation, as well as managing reagents such as poisonous and deleterious substances. It cannot be

denied that there were certain differences in the content of duties of the two. In addition, while the regular-employee laboratory clerks could be ordered to change their assignments under the rules of employment, the *arubaito* employees were not, in principle, reassigned by job-related orders, and personnel transfers were made on an exceptional and individual basis. It cannot be denied that there was a certain difference in the scope of changes in the content of duties and assignment (hereinafter referred to as the "scope of changes") between the two.

Furthermore, at Y, all regular employees are subject to the same employment management category and are subject to the same rule of employment, etc., and their working conditions are set based on their content of duties and the scope of changes, etc. Y has been replacing laboratory clerks with *arubaito* employees since around 2001, except for laboratories with certain duties, etc., because more than half of the laboratory clerks' substance of the duties was routine and simple. As a result, at the time when X was working, the number of regular employees as laboratory clerks had been reduced to only four, which was a very small number compared to the majority of other regular employees whose work was more difficult and had a higher level of responsibility, and who were also subject to personnel transfers. Thus, it can be said that the fact that the regular employees who are laboratory clerks differed from the majority of other regular employees in terms of their content of duties and the scope of changes was related to the circumstances concerning the substance of duties of laboratory clerks and the review of staffing that Y had conducted. For *arubaito* employees, there was a system of step-by-step promotion through examination in order to be contract and regular employees. It is appropriate to consider these circumstances as "other circumstances" prescribed in Article 20 of the Labor Contracts Act in determining whether the difference in working conditions between the regular-employee laboratory clerk and X is deemed unreasonable.

Based on the nature of Y's bonus for regular employees and the purposes of providing the bonuses, and considering the content of duties and the scope of changes of regular laboratory clerks and those of *arubaito* employees, therefore, it cannot be said that the difference in working conditions regarding bonuses between regular employees as laboratory clerks and X can be evaluated as unreasonable.

(2) Wages during absence due to personal injury or illness

It is understood that the reason why Y decided to pay salaries and leave pay to regular employees who are unable to provide services due to personal injury or illness is to ensure the livelihood of regular employees and to maintain and secure their employment, in light of the fact that regular employees are expected to work continuously for a long period of time or to work continuously in the future. Given the nature of such wages during absence due to personal injury or illness and the purpose of providing such wages at Y, it can be said that the said wage system is based on the premise of maintaining and securing the employment of such employees.

Looking at the content of duties and the scope of changes of the regular employee as laboratory clerks and the *arubaito* employees, it cannot be denied that there were certain differences between them in terms of their content of duties and the scope of changes. In addition, the fact that only a very small number of regular employees remained as laboratory clerks and that their content of duties and scope of changes differed from those of the majority of regular employees was related to the circumstances concerning the substance of duties of laboratory clerks and the review of staffing, etc., as well as the fact that there was a system of promotion through examination for changing job titles.

In addition to the circumstances related to the content of duties and the scope of changes, the contract period of *arubaito* employees is limited to one year, though it may be renewed, and it is difficult to say that they are scheduled to work on the premise of long-term employment. Given these

facts, the purposes of the system to maintain and secure employment as described above cannot be said to apply immediately to *arubaito* employees. Furthermore, X was treated as being absent from work after more than two years of service, and her period of employment, including the period of absence, was only more than three years, and it is difficult to say that her period of service was for a considerable length of time. There are no circumstances that suggest that X's fixed-term labor contract would be naturally renewed and the contract period continued. Therefore, the difference in working conditions regarding wages during absence due to personal injury or illness between X and regular employees as laboratory clerks cannot be evaluated as unreasonable.

III. Commentary

(1) Significance of this judgment

Article 20 of the Labor Contracts Act stipulates that in the event that the working conditions of an employee under a fixed-term contract differ from those of an employee under an indefinite-term contract, such difference "shall not be deemed unreasonable in light of the substance of the employee's duties and the level of responsibility associated with those duties (hereinafter referred to as the "content of duties" in this Article), the scope of changes in the content of duties and assignment, and other circumstances." This provision prohibits unreasonable differences in working conditions due to the existence of a fixed term. It should be noted that this provision does not uniformly prohibit differences in working conditions due to the existence of a fixed term, but only prohibits "unreasonable differences." It should be also emphasized that the provision does not require that indefinite-term contract employees and fixed-term contract employees be engaged in equal job.

With regard to Article 20 of the Labor Contracts Act introduced in 2012, the Japanese Supreme Court clarified its interpretation of some issues in the 2018 judgments in the *Hamakyorex* case (Supreme Court (Jun. 1, 2018) 72–2 *Minshu* 88) and the *Nagasawa Un-yu* case (Supreme Court (Jun. 1, 2018) 72–2 *Minshu* 202), but there has been no judgment on bonuses. Bonuses account for a large portion of the annual income of regular employees in Japan. In this case, the amount of bonus was equivalent to 4.6 months of monthly salary per year (amounting to about 28% of annual income). This judgment is important because it is the first time that the Supreme Court has ruled on whether or not the difference between bonuses paid to indefinite-term contract employees (regular employees) and not paid to fixed-term contract employees is considered unreasonable. The Labor Contracts Act was amended by the Laws on Work Style Reform passed on June 29, 2018, and Article 20 was deleted and incorporated into Article 8 of the Part-Time and Fixed-term Workers Act. Although this judgment was made in a case before the 2018 amendments were made, it is generally understood that the Supreme Court's interpretation of Article 20 of the Labor Contracts Act should, in principle, also be referred to when interpreting the amended law.

(2) The nature of the ability-based grade system and Article 20 of the Labor Contracts Act as "regulation of balanced treatment"

In the case of "job-based wage," where a person is hired for a specific job and the wage is determined by the difficulty and value of the job, the employee should be paid the equal amount of wage for equal job, regardless of whether or not the labor contract has a fixed term. Under such a job-based wage system commonly found in European countries, when determining whether a fixed-term contract employee is being treated disadvantageously, it is necessary to select an indefinite-term contract employee engaged in the same job as a comparator (if such a comparator does not exist, wage tables applicable to indefinite-term contract employees, etc., are referenced). In contrast, many Japanese companies have adopted a personnel management system called the "ability-based grade system" (ability-based wage system). Under this system, the job grades of employees are first rated according to their ability or potential to perform their job duties, and then their basic pay is determined according to

the rating. In other words, in the case of indefinite-term contract employees in Japan, their wages are not determined by the value of the job they are actually engaged in, but by the "value as a human resource" or their potential to perform their duties.

On the other hand, for fixed-term contract employees, the job-based wage system is also applied in Japan, and wages are often determined according to the difficulty of the job and the level of responsibility. While indefinite-term contract employees are paid on a monthly or annual salary basis, fixed-term contract employees are often paid on an hourly basis. In other words, in Japan, indefinite-term contract employees and fixed-term contract employees are employed under different wage determination systems, and thus even if they are engaged in the same job, their wages differ due to differences in the wage determinants in the respective wage systems, namely the potential to perform their duties or the job values.

Thus, in the case of Japan, since the method of determining wages differs between fixed-term contract employees and indefinite-term contract employees, Article 20 of the Labor Contracts Act have not adopted such regulatory method that prohibits different treatment of employees engaged in the same job as illegal discrimination as in the case of Europe, where fixed-term contract employees and indefinite-term contract employees work under the same job-based wage system. Initially, in order to improve the working conditions of part-time employees, Article 8 of the revised Part-Time Workers Act of 2007 prohibited the discriminatory treatment of part-time employees whose (1) content of duties, (2) scope of changes in the content of duties and assignment, and (3) contract periods are all the same as those of full-time employees. However, only 1.3% of all part-time employees[3] met all these three requirements and could be considered the same as regular employees. Since the number of part-timers protected by such regulations was extremely limited, it was ineffective in correcting the disparity between non-regular and regular employees. The major complaints of non-regular employees in Japan were that, even if the content of duties and the scope of changes were not identical between regular and non-regular employees, the disparity in treatment and remuneration between them was unreasonably too large compared to those differences. Therefore, Article 20 of the Labor Contracts Act of 2012, which regulates fixed-term contract employees, has changed its regulatory approach. It does not require that fixed-term contract employees and regular employees be the same in matters (1) and (2) ((3) contract period is naturally different, since Article 20 deals with disparity between fixed-term and indefinite-term contract employees). Under Article 20, (1) and (2) are only factors for judging the unreasonableness of the difference, and if the difference is deemed unreasonable, it is illegal (later, the Part-Time Workers Act was amended in 2014 to adopt the same regulation). Thus, Japan has adopted a unique regulation of "balanced treatment" that does not presuppose equal work, but makes it illegal if there is an *unreasonable* disparity in the treatment of employees, even if they are engaged in different work. Under such a regulation, there is no need for the court to identify comparators engaged in the same work as non-regular employees. It is up to the plaintiff employee to choose which regular employee to compare with to claim that the disparity in working conditions is unreasonable. The greater the disparity in working conditions between the plaintiff employee and the plaintiff's own chosen comparator, the easier it is to prove unreasonableness, but the greater the difference in the content of duties and the scope of changes, the more difficult it is to prove unreasonableness. This is a matter of the plaintiff's litigation strategy.

Given the difference between the above-mentioned regulation under Article 20 of the Labor Contracts Act and the general anti-discrimination regulations that presuppose the existence of employees engaged in the same work, it is understandable that the Supreme Court has endorsed the position of leaving the selection of comparators to the plaintiff's choice. As for the choice of the comparator, the lower courts were divided into two positions. One is the position that the comparator is

objectively determined. For example, the judgment of the High Court in this case (Osaka High Court (Feb. 15, 2019) 1199 *Rohan* 5) rejected X's argument that person A, an indefinite-term contract employee who is also assigned as a laboratory clerk, should be a comparator. The court ruled that the comparator should be objectively determined, and is not something that can be chosen by a plaintiff. The other position is that the comparator is determined by the plaintiff's designation. For example, the Tokyo High Court judgment in the *Metro Commerce* case (Tokyo High Court (February 20, 2019) 1198 *Rohan* 5) rejected the employer's argument that the entire employees with indefinite-term contracts should be the comparator, and made the regular employee engaged in the station stall work designated by the plaintiff employee the comparator. In the midst of such conflicts among the lower courts, the Supreme Court endorsed the latter position and settled the issue. This is a major feature of the Japanese unique regulation that makes it illegal if the disparity in treatment between regular and non-regular employees is unreasonable even if their engaged works are different, whereas under the European regulations, the inferior working conditions of non-regular employees cannot be redressed unless a comparator engaged in the same work can be identified.

(3) The nature and purpose of the working conditions being compared

According to the judgment, when examining whether the difference in the treatment of bonuses between X and the comparator is unreasonable, the unreasonableness of the difference is evaluated based on the nature of the bonus and the purpose of its payment. In addition, the "intent" of paying the bonus is also taken into consideration in the specific examination. The Supreme Court judgment in the *Metro Commerce* case, as well as three Supreme Court judgments in the *Japan Post* case, which were handed down at about the same time as this judgment, also examined the "nature," "purpose," and "intent" of the working conditions that are subject to the judgement of unreasonable differences. With regard to these three terms, one commentator argues that they are used differently, saying that "nature" should be objectively clarified by the court through a comprehensive judgement of the requirements for payment, calculation method, etc., while "purpose" is determined by the subjective will of the employer.[4] However, a straightforward reading of the judgment in this case does not necessarily mean that the two are used separately under a different standard. Article 8 of the Part-time and Fixed-term Workers Act,[5] which incorporated Article 20 of the Labor Contracts Act, added the phrase " that are found to be appropriate in light of the nature of the treatment and the purpose of treating workers in that way" in determining the unreasonableness of differences in working conditions. The five Supreme Court judgments handed down in October 2020, including this case, are presumed to have used the aforementioned terminology in order to make judgments applicable under Article 8 of the revised Act.

(4) "Securing capable human resources" and judgment on unreasonableness of non-payment of bonus to *arubaito* employees

Before this judgment was issued, there were a number of lower court judgments that denied the unreasonableness of differences in working conditions, such as bonuses, on the ground that the purpose of such differences was to "provide incentives for long-term employment and to secure and retain capable human resources" of indefinite-term contract employees, which became a topic of discussion as the "securing capable human resources" argument. Based on such a logic, the mere fact that an indefinite-term contract does not have a fixed-term, and thus, long-term employment is expected, may lead to allow preferential treatment for indefinite-term contract employees,[6] which may become "a universal justification for the disparity in working conditions between regular and non-regular employees," and the purpose of Article 20 of the Labor Contracts Act may be subverted.

This judgment stated that "bonuses are paid to regular employees for the purpose of securing and

retaining personnel who can perform their duties as regular employees," so at first glance, it could be read as a judgment in line with the argument of "securing capable human resources." However, if we analyze the logical structure of the Supreme Court's judgment, we can see that it does not recognize the reasonableness of the difference in working conditions only because "there is no fixed-term."

First of all, it is recognized that the bonus in question is calculated based on the basic pay of the indefinite-term contract employees. It is also emphasized that the basic pay of indefinite-term contract employees is supposed to be raised in accordance with the number of years of service, and has the character of ability-based wage in accordance with the improvement in ability to perform their duties accompanying years of service. Therefore, the bonus, which is calculated based on the basic pay, also has the character of ability-based wage. In contrast, since X and other *arubaito* employees are not employed under the ability-based wage system, the non-payment of bonuses, which is characterized as ability-based wage, was not deemed unreasonable.

Some may criticize that even if bonuses can be characterized as part of the ability-based wage, what is justified by this is that bonuses are increased in accordance with years of service, but this does not immediately justify not paying bonuses to *arubaito* employees such as X. Looking at the overall structure of the court's judgment, what justifies the non-payment of bonus to X is the differences in the personnel management between *arubaito* employees and regular employees, namely, regular employees' duties are "of a higher level of difficulty and responsibility" and they are subject to "personnel transfers conducted for the purpose of developing and utilizing human resources." All the following facts are also factors to be considered to justify not paying bonuses to X and other *arubaito* employees: the fact that, compared to the comparator, there were certain differences in the content of duties, and in the scope of changes in the content of duties and assignment, as well as facts mentioned in "other circumstances," including the fact that regular-employees laboratory clerks designated as comparator have difference from other regular employees in the content of duties and the scope of changes, and that there is a system to promote *arubaito* employees to regular employees. Therefore, it can be said that the court in this case came to the conclusion that the non-payment of bonuses to X was not unreasonable after considering all the factors stipulated in Article 20 of the Labor Contracts Act.

(5) Existence of a promotion system to regular employees and its impact on determination of unreasonable differences in working conditions

In this case, the fact that there is a system to promote fixed-term contract employees to regular employees was considered as a factor to deny the unreasonableness of the difference in working conditions between fixed-term contract employees and regular employees. If such a judgment is made from the perspective of labor policy, with the aim of encouraging employers to introduce such a promotion system as one of the measures to convert non-regular employees into regular ones, it cannot be said to be inappropriate. However, Article 20 of the Labor Contracts Act is a regulation to redress unreasonable disparities in working conditions between fixed-term and indefinite-term contract employees while fixed-term contract employees are still fixed-term contract employees, rather than to convert them into indefinite-term contract employees. It is one thing for fixed-term contract employees to be able to improve their working conditions through the promotion system for regular employees, and for fixed-term contract employees to have their unreasonable disparity in working conditions corrected through Article 20 of the Labor Contracts Act rather than through promotion to regular employees is another. Therefore, the promotion system should not be regarded as a factor that affects the judgment of unreasonableness of the difference in working conditions between fixed-term contract employees and regular employees.

1. The term "*arubaito*" is commonly used in Japan when

students or other casual workers are employed in casual work as non-regular employees, and does not necessarily refer to part-time work. This word originally comes from the German word *Arbeit*, which was used in Japan by college students engaging in paid work while pursuing their studies.

2. *Shokutaku* usually refers to former employees who are rehired under fixed-term or part-time contracts after reaching their mandatory retirement age.

3. https://www.mhlw.go.jp/stf/shingi/2r985200000204n5-att/2r985200000204ql.pdf.

4. See Yuichiro Mizumachi, "Fugori-sei o dou handan suruka ? *Osaka ika yakka daigaku* jiken, *Metoro komasu* jiken, *Nippon yubin* (Tokyo, Osaka, Saga) jiken, Saiko sai 5 hanketsu kaisetsu" [How to judge unreasonableness? Commentary on the Supreme Court's 5 Judgments in the *Osaka Medical and Pharmaceutical University* case, the *Metro Commerce* case, and the *Japan Post (Tokyo, Osaka, Saga)* case] *Rodo Hanrei*, no.1228, (November 2020): 5–32.

5. Article 8. An employer must not create differences between the basic pay, bonuses, and other treatment of the part-time/fixed-term employees it employs and its corresponding treatment of its employees with standard employment statuses that are found to be unreasonable in consideration of the substance of the duties of those part-time/fixed-term employees and employees with standard employment statuses and the level of responsibility associated with those duties (hereinafter referred to as the "content of duties"), the scope of changes in the content of duties and assignment, and other circumstances, that are found to be appropriate in light of the nature of the treatment and the purpose of treating employees in that way.

6. See Takahito Ohtake, "Metoro comasu jiken saikosai hanketsu no kaisetsu" [Commentary on the Supreme Court judgment in the *Metro Commerce* case], *Monthly Jurist,* no. 1555 (March 2021): 57.

The *Osaka Medical and Pharmaceutical University (former Osaka Medical University)* case, Judgements of the Supreme Court of Japan, https://www.courts.go.jp/app/hanrei_jp/detail2?id=89767. See also *Rodo Hanrei* (*Rohan*, Sanro Research Institute) 1229, pp. 77–89, and *Journal of Labor Cases* (Rodo Kaihatsu Kenkyukai) no.104, November 2020, pp. 6–7 and pp. 21–26. (only available in Japansese).

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Labor Unions in Japan

OH, Hak-Soo

I. The structure of Japan's labor unions

The principal elements of Japanese-style labor-management relations, or what is known as Japanese-style management, are lifetime employment, seniority-based wages, and enterprise unions. In Japan, enterprise unions have the monopoly on exercising the three primary rights of labor: the right to organize, the right to bargain, and the right to act collectively. There are also industrial unions and national centers, but these essentially lack the three labor rights and ultimately rely on enterprise unions for both human and financial resources required for their activities. Enterprise unions are the fundamental form of union organizations in Japan.

Almost all—that is, 93.4% of—enterprise unions have concluded a collective agreement with their enterprise in order to exercise the three primary rights of labor.[1] Of these, as many as 70.2% of unions have concluded agreements regarding matters related to the union organization. Looking at the content of these agreements regarding union organizations, 80.0% of unions have concluded union shop agreements. This means that workers who enter employment at an enterprise with an enterprise union automatically become union members in accordance with the union shop agreement. As a result, unions generally have no need to pursue activities to organize new employees.

44.9% of enterprise unions secure their right to bargain by concluding agreements with their enterprise recognizing them as the sole collective bargaining organization (*yuiitsu kōshō dantai*)—that is, ensuring that the enterprise negotiates only with that union although it has no legal effect to exclude other unions' right to bargain. Enterprise unions also conclude agreements to ensure the smooth running of organization activities. More specifically, of those unions that have concluded agreements with their enterprise regarding matters related to organization activities, 82.9% of unions have concluded agreements regarding "union activities during working hours." Moreover, as many as 68.6% have concluded agreements regarding "union use of the enterprise's facilities (excluding cases related to union offices)," 66.3% have signed agreements regarding "the provision of union offices," 60.3% have made agreements on "the treatment of full-time union officers," and 71.3% have concluded checkoff agreements. Checkoff is an arrangement by which the employer withholds dues of labor-union members from their wages and transfers them to the union. As many as 65.5% of unions have concluded collective agreements regarding collective bargaining, of which 91.4% prescribe "matters regarding collective bargaining," 81.9% prescribe matters regarding "procedure for and operation of collective bargaining," and 27.2% include provisions "prohibiting the delegation of bargaining."

Enterprise unions maintain their monopoly on exercising the right to bargain. Of the 67.6% of enterprise unions that engaged in collective bargaining with their enterprise in the three years from July 2014 to June 2017, 84.1% "pursued bargaining alone" and 12.0% "pursued bargaining

alongside higher or lower entities within the enterprise union"—that is, a combined total of 96.1%. The percentages that engaged in bargaining "alongside an industrial union" or "alongside a regional union" were as low as 4.3% and 1.3%, respectively.[2]

Turning to another of the three principal rights of labor, the right to act, 54.5% of enterprise unions have concluded agreements with enterprises regarding matters related to labor disputes. Of these, 88.1% have concluded agreements regarding "advance notice of labor disputes," 67.5% regarding "adjustment of disputes," 58.6% regarding "non-participants in dispute acts," and 57.7% regarding "matters to be complied with during dispute acts."

Now that we have looked at the content of the collective agreements that enterprise unions have concluded with enterprises to exercise the three primary rights of labor, let us turn to union membership dues, which are essential for allowing unions to pursue their activities. As of 2018, the average monthly union dues per capita are 5,161 yen (USD 47.37), accounting for 1.65% of a worker's wages.[3] 40.2% of unions collect union dues from bonuses and other such lump sum payments, in which case the average annual union dues per capita are 6,845 yen. Looking at the breakdown of union expenditure, labor costs, at 35.1%, account for the highest percentage of expenditure, followed by activity costs at 23.4%, dues paid to the industrial union the union belongs to at 9.8%, and dues paid to the union federation for the corporate group the union's enterprise belongs to at 3.3%, while grants account for 15.2% and others account for 11.9%. Furthermore, in Japan, the wages of full-time union officers are paid entirely from union dues. The average number of labor union members to each full-time union officer is 615.

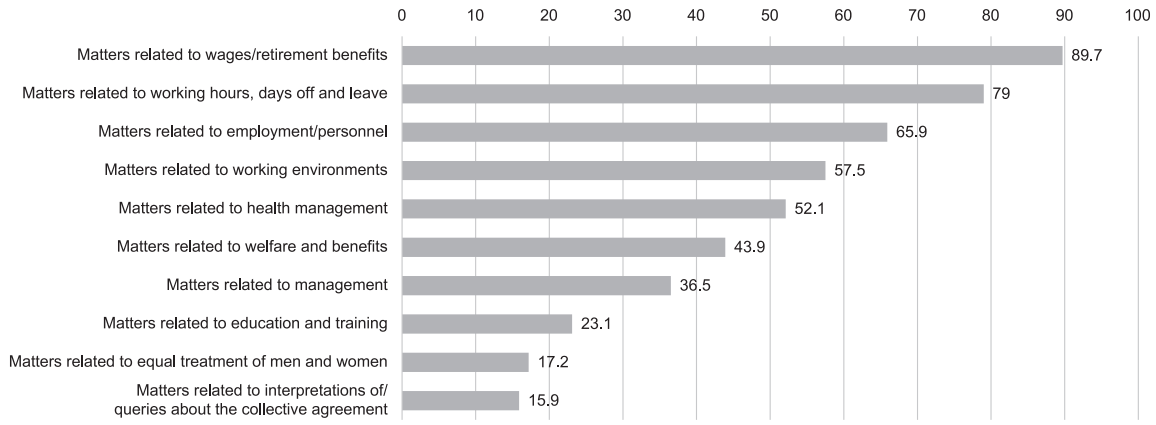
It is also interesting to note that for industrial unions, the average monthly union dues per capita are 576 yen. In the breakdown of expenditure for such unions, labor costs, at 24.5%, account for the highest percentage of expenditure, followed by dues paid to RENGO (the Japanese Trade Union Confederation—Japan's largest national center) headquarters at 20.7%, activity costs at 20.4%, and organization strategy costs at 6.9%, with others occupying 12.0%, dues paid to RENGO locals (RENGO's regional organizations) occupying 3.6% and other related organization fees/grants accounting for 11.6%, etc.

The average monthly union dues per capita are 5,161 yen for enterprise unions, 576 yen for industrial unions, and 95 yen for RENGO. The union dues are collected from enterprise unions and paid to industrial unions, and then collected from industrial unions and paid to RENGO. Enterprise unions therefore form the main source of union dues.

While the percentage of those who believe that labor unions are necessary is extremely high at 92.3% among union members, it is low at 34.3% among non-union members (employees of enterprises without labor unions).[4] Labor unions have ensured that there is significant confidence in their necessity among those workers who are already members. The major challenge is whether labor unions will be able to make their activities more visible, thereby prompting non-union members to develop a higher regard for the necessity of labor unions and in turn translating this into the organization of such workers.

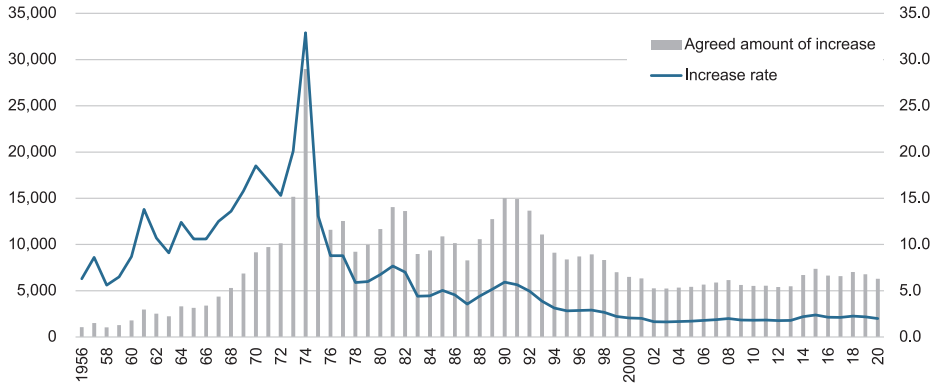
II. The functions of labor unions: With a focus on wage increases

Let us look at the functions of labor unions, primarily on the basis of the matters that unions pursued in bargaining with enterprises in the three years from July 2014 to June 2017. When unions were asked which matters they pursued in labor-management bargaining during that period (see Figure 1), the item selected by the highest percentage of unions was "matters related to wages/retirement benefits" at 89.7%, followed by, in descending order, "matters related to working hours, days off and leave" (79.0%), "matters related to employment/personnel" (65.9%), "matters related to working environments" (57.5%), "matters related to health management" (52.1%), "matters related to welfare



Source: MHLW (2018), "Overview of the Survey on Status of Collective Bargaining and Agreements in 2017."

Figure 1. The percentages of matters regarding which some form of labor-management bargaining took place in the three years from July 2014 to June 2017 (Multiple answers; %)



Source: MHLW, "Spring wage increase demands/settlements at major private enterprises."

Figure 2. Trends in the amount/rate of the spring wage increases of major private enterprises (Units: Yen, %)

and benefits" (43.9%), "matters related to management" (36.5%), "matters related to education and training" (23.1%), "matters related to equal treatment of men and women" (17.2%), and "matters related to interpretations of/queries about the collective agreement" (15.9%). While, as to be expected, wages and working hours were the most common matters for negotiation, it is observed that many unions are also bargaining with enterprises about a wide range of matters, such as employment and personnel or working environments.

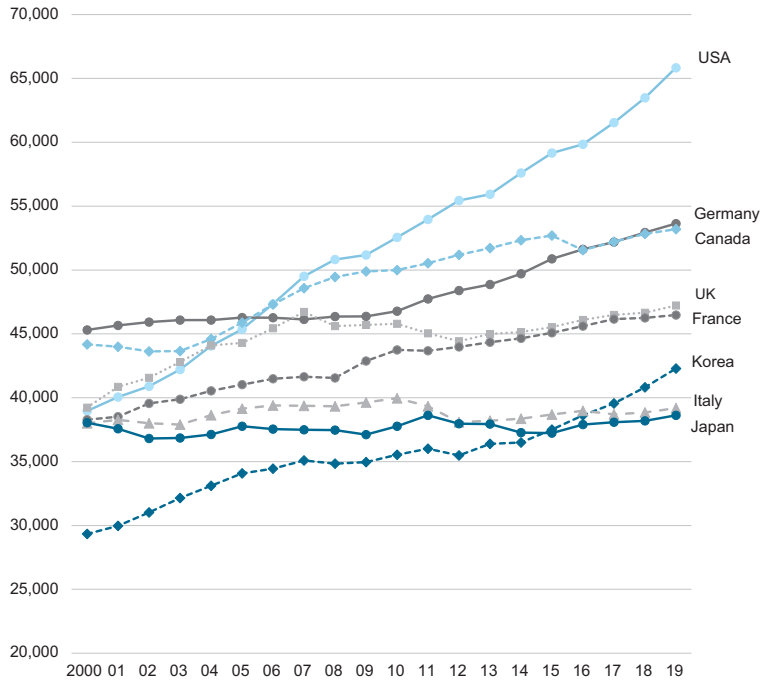
Looking at wages, the most common topic of labor-management bargaining, Figure 2 shows the results of *shuntō*, the spring wage offensive, over the years. According to a survey of enterprises that have a labor union, at least one billion yen in capital, and at least 1,000 employees, the average amount of wage increase in the past decade was 6,383 yen, with an increase rate of 2.7%. This amount and rate also include the annual wage increment. Excluding the annual wage increment, the wage increase rate is thought to be around 1%. Given that wages are the topic about which labor unions most commonly engage in bargaining with enterprises, it must be said that it is questionable to what extent labor unions are in fact effective.

As seen, the wage increase rates are low, and yet labor unions do not generally pursue labor disputes

seeking higher wage increases. In the three years from July 2014 to June 2017, the percentage of labor unions that responded that they "had no labor disputes" was as high as 98.1%. Looking at the reasons behind this lack of labor disputes[5], the most selected reason was "there were no cases involving conflict" at 53.6%, while the second most selected reason was "there were cases that involved conflict, but these were solved through talks," at 38.5%. While it is thought that the cases involving conflict also included those regarding wage increases, essentially no conflict arose between labor and management regarding said topic, or, even if conflict did arise, it was resolved through talks. The reasons selected also included "there was concern that labor-management relations would deteriorate as a result" and "it was determined that nothing could be achieved by escalating the issue into a labor dispute," at 8.4% and 9.0% respectively. Although the percentages for these responses are low, they appear to indicate a tendency to regard pursuing wage increases as futile.

III. New possibilities for Japanese labor unions explored through an international comparison of wages

As noted above, even at Japan's major enterprises that have labor unions, the rate of wage increase has been at around just 1–2% since 2000, and that wage increase is even lower when annual wage increment is excluded. Comparing wages in Japan to those in other major advanced nations and neighboring South Korea, it must be said that Japan alone is being left behind. According to the OECD, Japan's average annual income for an individual worker (USD conversion) was, in 2019, the lowest among the G7 nations. It is, moreover, around 10% lower than that of neighboring South Korea (see Figure 3). Although in all other countries excluding Italy wages are generally on an ongoing rise, in Japan they are not increasing. While there are many factors that impact on wage increases or wage levels, the capacity of labor unions to negotiate is undeniably one of them. Why does Japan have the lowest wages among the G7 nations, and why has it



Source: Prepared by the author based on the data of OECD.

Figure 3. Trends in worker wages (annual income) in the G7 nations and South Korea (USD conversion)

also been overtaken by South Korea? What kinds of changes do Japanese labor unions need to make to their approaches to the spring wage offensive in order to increase their capacity to negotiate wage increases? To what extent are enterprise unions as an organizational form effective in raising the capacity to negotiate? Surely the time has come for labor unions themselves to explore new possibilities. It should also be noted that, in 2020, the unionization rate was 17.1%, such that the overwhelming proportion—over 80%—of workers were not union members. At enterprises that do not have labor unions, wages are unlikely to rise, as workers essentially lack the capacity to negotiate wage increases. As if held back by that trend, unions are also unable to exert their full potential to negotiate. It is surely time to actively explore alternative means of ensuring that workers in enterprises without unions are better equipped to negotiate by allowing them to bargain with management on an equal footing, such as developing legislation on employee (worker) representation systems similar to the works councils (*Betriebsrat*) in Germany, or the Korean labor-management councils. There is surely also value in considering increasing the application ratio of collective agreements (the percentage of workers to whom collective agreements apply). International comparisons such as these can help labor unions in Japan to uncover new possibilities and ensure that they occupy a more meaningful role, which will in turn contribute to overcoming the longtime issue of deflation, promoting high economic growth through the expansion of domestic demand, and even achieving sound business management that aspires to higher added value.

1. Ministry of Health, Labour and Welfare (MHLW) (2016), "Overview of the Survey on Status of Collective Bargaining and Agreements in 2015."
2. MHLW (2018), "Overview of the Survey on Status of Collective Bargaining and Agreements in 2017."
3. Japan Trade Union Confederation (RENGO)/RENGO Research Institute for Advancement of Living Standards (RENGO-RIALS) (2020) "Report on the 19th Survey on Labor Union Dues." According to a survey by the MHLW, the average monthly membership dues per capita are 3,707 yen (MHLW (2019) "Overview of the Survey on Status of Labor Union Activities, etc. in 2018"). It should be noted that the larger the enterprise, the higher the union membership dues, and the unions surveyed in the RENGO/RENGO RIALS survey are labor unions of relatively major enterprises.
4. MHLW (2020), "Overview of the Survey on Labor-Management Communication in 2019."
5. This was a multiple answer question where respondents were asked to select "up to three main reasons." MHLW (2018), "Overview of the Survey on Status of Collective Bargaining and Agreements in 2017."

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I. Main Labor Economic Indicators

1. Economy

The Japanese economy shows weakness in some components further, although it remains in picking up in a severe situation due to the Novel Coronavirus. Concerning short-term prospects, the economy is expected to show movements of picking up, supported by the effects of the policies and improvement in overseas economies while the socio-economic activities will be resumed with taking measures to prevent the spread of infectious diseases, and accelerating vaccinations. However, full attention should be given to the movement of infections that would affect the domestic and foreign economy. Also attention should be given to the effects of fluctuations in the financial and capital markets. (*Monthly Economic Report*,[1] July 2021).

2. Employment and unemployment

The number of employees in June increased by 510 thousand over the previous year. The unemployment rate, seasonally adjusted, was 2.9%.[2] Active job openings-to-applicants ratio in June, seasonally adjusted, was 1.13.[3] (Figure 1)

3. Wages and working hours

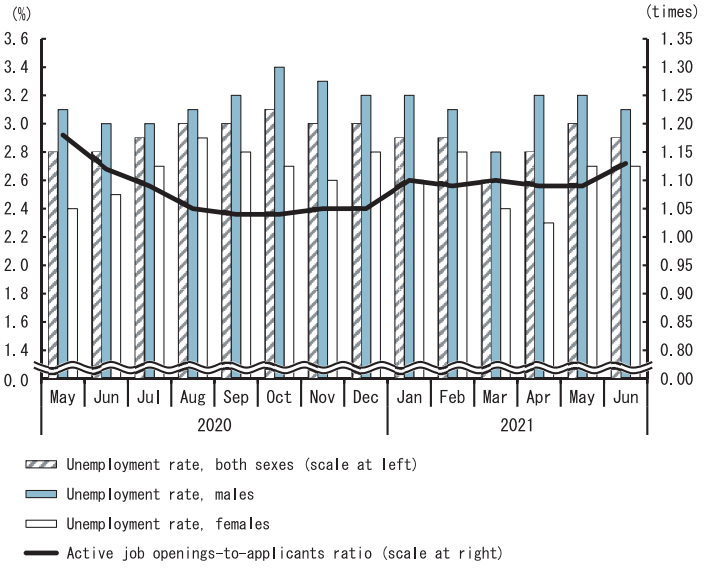
In June, total cash earnings increased by 0.1% year-on-year and real wages (total cash earnings) decreased by 0.1%. Total hours worked increased by 2.7% year-on-year, while scheduled hours worked increased by 1.8%.[4] (Figure 2 and 6)

4. Consumer price index

In June, the consumer price index for all items increased by 0.2% year-on-year, the consumer price index for all items less fresh food increased by 0.2%, and the consumer price index for all items less fresh food and energy declined by 0.2%.[5]

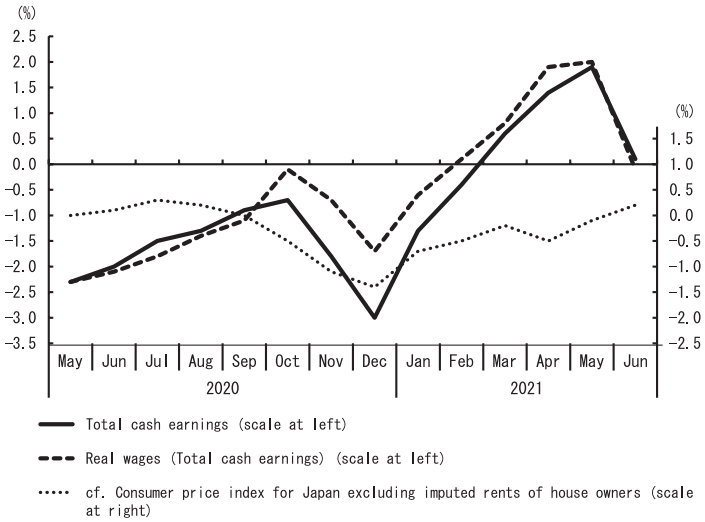
5. Workers' household economy

In June, consumption expenditures by workers' households decreased by 5.8% year-on-year nominally and decreased by 6.0% in real terms.[6]



Source: Ministry of Internal Affairs and Communications (MIC), *Labour Force Survey*; Ministry of Health, Labour and Welfare (MHLW), *Employment Referrals for General Workers*.
Note: Active job openings-to-applicants ratio indicates the number of job openings per job applicant at public employment security. It shows the tightness of labor supply and demand.

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



Source: MHLW, *Monthly Labour Survey*; MIC, *Consumer Price Index*.

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

For details for the above, see JILPT *Main Labor Economic Indicators* at https://www.jil.go.jp/english/estatis/eshuyo/index.html

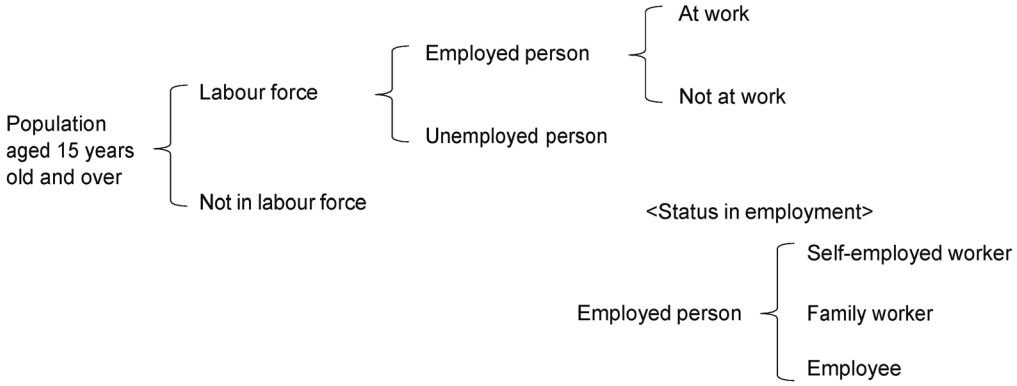
1. Cabinet Office, *Monthly Economic Report* analyzes trends in the Japanese and world economies and indicates the assessment by the Japanese government. Published once a month. https://www5.cao.go.jp/keizai3/getsurei-e/index-e.html
2. https://www.stat.go.jp/english/data/roudou/results/month/index.html
3. https://www.mhlw.go.jp/english/database/db-l/general_workers.html
4. For establishments with 5 or more employees. https://www.mhlw.go.jp/english/database/db-l/monthly-labour.html
5. https://www.stat.go.jp/english/data/cpi/index.html
6. MIC, *Family Income and Expenditure Survey*. https://www.stat.go.jp/english/data/kakei/index.html

II. Impacts of the COVID-19 pandemic on employment and unemployment

There are growing concerns that COVID-19's spread will have a significant impact on employment by retarding economic activity in Japan. The following outlines the recent trends shown in statistical indicators relating to employment. See JILPT website *Novel Coronavirus* (*COVID-19*) for the latest information (https://www.jil.go.jp/english/special/covid-19/index.html).

1. Employment and unemployment

(1) Definitions of *Labour Force Survey*



Source: Ministry of Internal Affairs and Communications (MIC), *Labour Force Survey*, Concepts and Definitions. https://www.stat.go.jp/english/data/roudou/pdf/definite.pdf

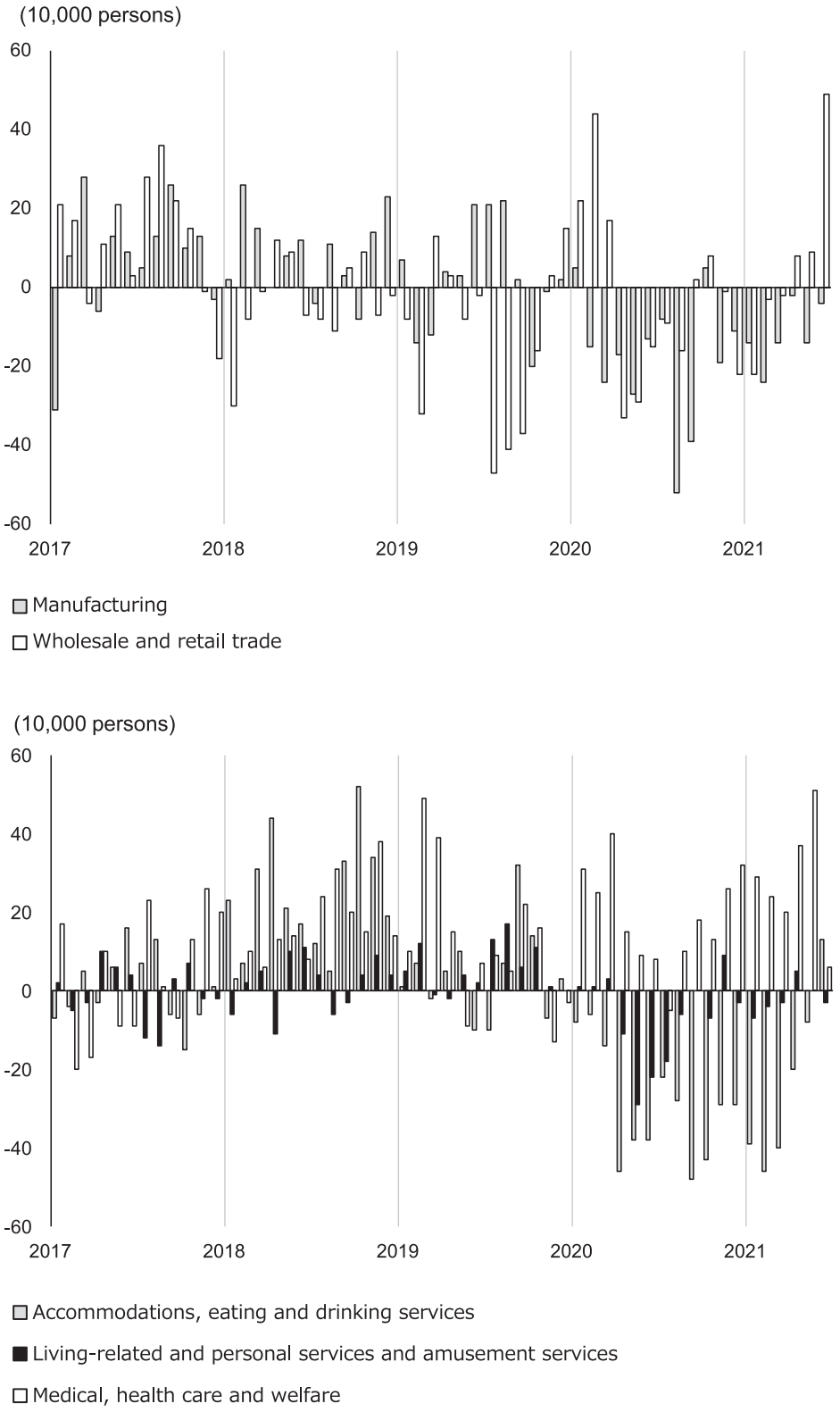
(2) Labor force

Table 1. Labor force

(10,000 persons)

		Labor force			
		Total	Employed person		Unemployed person
				Not at work	
2017		6,720	6,530	151	190
2018		6,830	6,664	169	166
2019		6,886	6,724	176	162
2020		6,868	6,676	256	191
	July	6,852	6,655	220	197
	August	6,882	6,676	216	206
	September	6,899	6,689	197	210
	October	6,910	6,694	170	215
	November	6,902	6,707	176	195
	December	6,860	6,666	202	194
2021	January	6,834	6,637	244	197
	February	6,840	6,646	228	194
	March	6,837	6,649	220	188
	April	6,866	6,657	199	209
	May	6,879	6,667	212	211
	June	6,898	6,692	182	206

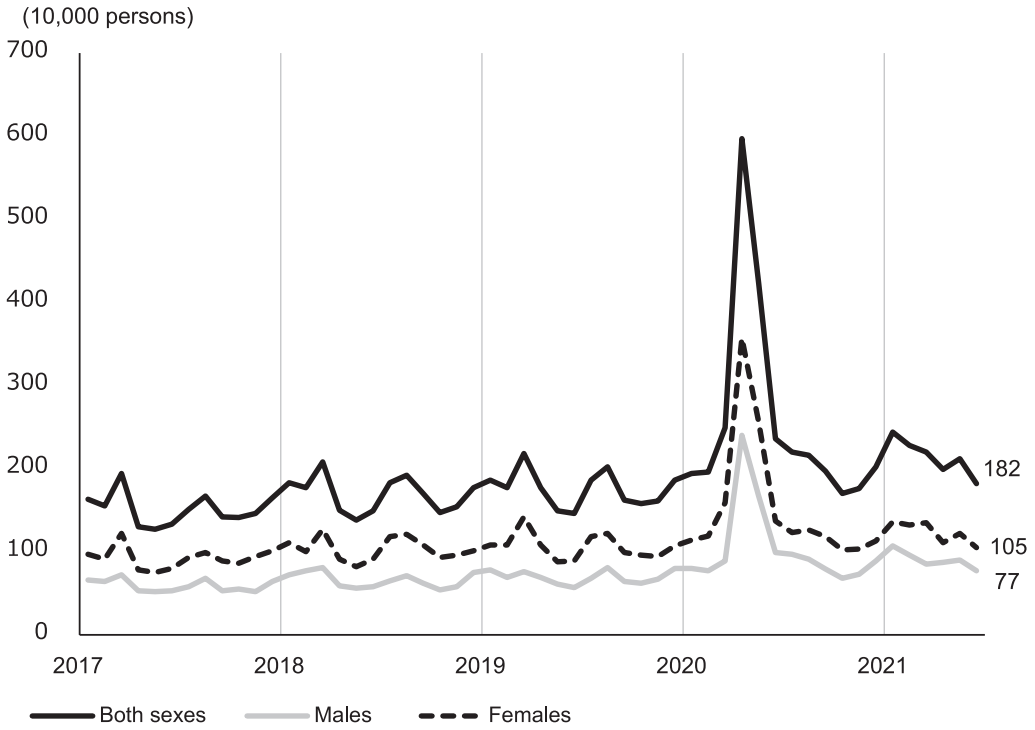
Source: Compiled by JILPT based on Ministry of Internal Affairs and Communications (MIC), *Labour Force Survey* (Basic Tabulation) (unadjusted values).



Source: Ministry of Internal Affairs and Communications (MIC), *Labour Force Survey* (Basic Tabulation).[7]

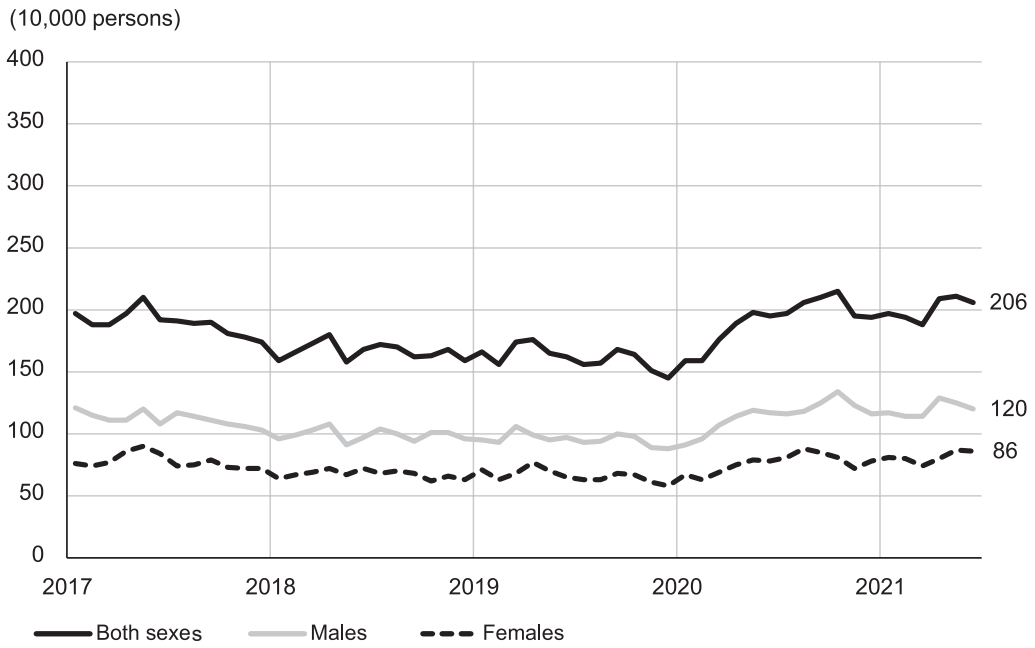
Figure 3. Number of employed persons by main industry (unadjusted values, year-on-year change) (January 2017 to June 2021)

7. For up-to-date information and further details, see https://www.jil.go.jp/kokunai/statistics/covid-19/c01.html#c01-7 (in Japanese).



Source: MIC, *Labour Force Survey* (Basic Tabulation).[8]

Figure 4. Number of employed persons not at work (unadjusted values, by sex) (January 2017 to June 2021)

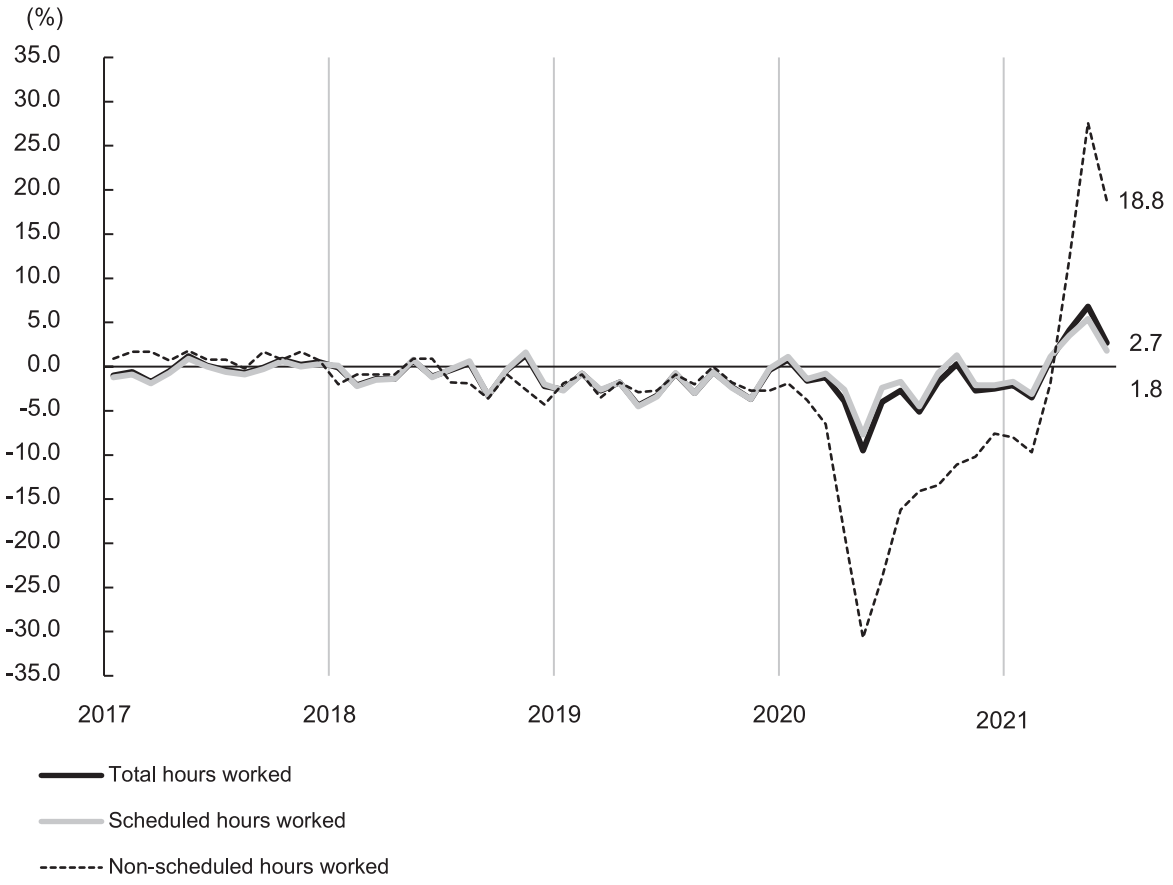


Source: MIC, *Labour Force Survey* (Basic Tabulation).[9]

Figure 5. Number of unemployed persons (unadjusted values, by sex) (January 2017 to June 2021)

8. For up-to-date information and further details, see https://www.jil.go.jp/kokunai/statistics/covid-19/c23.html (in Japanese).
9. For up-to-date information and further details, see https://www.jil.go.jp/kokunai/statistics/covid-19/c03.html#c03-1 (in Japanese).

2. Working hours



Source: Compiled by JILPT based on MHLW, "Monthly Labour Survey."[10]
Notes: 1. Beginning in June 2019, values are based on a complete survey of "business establishments with 500 or more employees."
2. "Business establishments with 500 or more employees" for the Tokyo metropolitan area are re-aggregated beginning in 2012.

Figure 6. Total hours worked, scheduled hours worked, and non-scheduled hours worked (year-on-year change, total of full-time employees and part-time workers) (January 2017 to June 2021)

For the up-to-date information, see JILPT *Main Labor Economic Indicators* at https://www.jil.go.jp/english/estatis/eshuyo/index.html

10. MHLW, *Monthly Labour Survey.* https://www.mhlw.go.jp/english/database/db-l/monthly-labour.html. For up-to-date information and further details, see https://www.jil.go.jp/kokunai/statistics/covid-19/c11.html#c11-1 (in Japanese).

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