

# The Labor Policy Council: Functions of the Group Consultation in the Process of Forming Labor Policy in Japan

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The Labor Policy Council (LPC) is a group consultation that enables members representing labor (unions, or worker leaders), management (employers), and the public-interests to equally participate in investigating and deliberating labor laws and regulations and various labor policies. Its investigations and deliberations consider not only existing problems, but also issues that may arise in the near future, and the contents of its proposals and reports are reflected in policies, thereby affecting future labor and industrial relations. It precisely contributes to establishing and developing the very foundations of worker protection. However, the market economy system is the framework that constitutes the basic premise of deliberations, and under this framework, the LPC responds to issues from macro to micro dimensions of labor, such as the improvement of market systems and functions, and deals with various issues that by their nature cannot be adequately addressed by the market alone. Furthermore, the government has the authority and responsibility to make final decisions on policy issues, and the Diet is responsible for investigations, deliberations, and decision-making on bills submitted by the Cabinet, so even agreements reached as a result of painstaking coordination within the LPC may not become the substance of laws and policies without alteration. Recently, there has been a conspicuous trend of both labor and management respectively trying to amend through the Diet discussions that could not be incorporated in a deliberation in the Council. Due to the hierarchical nature of administrative organizations, if the government (Prime Minister's Office) tries to deal with labor policy issues on its own, the political framework and policies would be set in advance at such higher levels. The council as a lower-level body would conduct specialized and technical investigations and deliberations on that basis; this makes difficult for the opinions of labor and management members, which should typically be deliberated and coordinated at a council through consultation between public-interest, labor, and management members, to be reflected in bills or policies. Also, even after the fact, the government can make selections from and amendments to the results of a council's investigations and deliberations, the Diet can make further amendments to the Cabinet's bills, and Diet members can also introduce legislation on their own initiative. These are trends that have been seen in recent years. This tripartite council seems to be at a turning point.

- I. Introduction
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## I. Introduction

The “council”—*shingikai*; more literally, “deliberative council”—format is frequently drawn on by Japan’s administrative bodies. It is prescribed that “an administrative organ of the State may, within the scope of the affairs under jurisdiction as prescribed by law, establish an organ having a consultation system for taking charge of the study and deliberation of important matters, administrative review or other affairs that are considered appropriate to be processed through consultation among persons with relevant expertise, as provided by law or Cabinet Order” (National Government Organization Act, Article 8).

Bureaucrats alone may struggle to sufficiently provide the specialist knowledge and perspective essential for forming policy. Even those engaged in highly specialist occupations such as technical officials from the field of medicine or other such fields, are not constantly fully versed in all aspects of their specialist field—especially when it comes to current affairs, overseas developments, and specific topics. The variety of specialist cases that may see drastic change or involve particularly marked specialization is almost impossible for bureaucrats to handle independently. And that is to say nothing of those bureaucrats responsible for planning and drafting, who develop their careers by engaging as a generalist in various fields in relatively short periods. Regardless of how talented they may be, their knowledge, skills, and experience alone will be insufficient to successfully formulate ideas and make decisions on specific policy fields.

It is therefore necessary to draw on the wealth of theories, technical skills, and knowledge possessed by external specialists and experts, when the circumstances require. If experts with extensive knowledge of the topic in question—covering aspects such as the relevant systems, practices, and developments in the field—are included in the council members, it is possible to gather such knowledge and information in the process of consultation, exchange of opinion, deliberation, and other such approaches, and thereby decrease the risk that the laws and policies that are produced could be simply armchair theories or self-complacency.

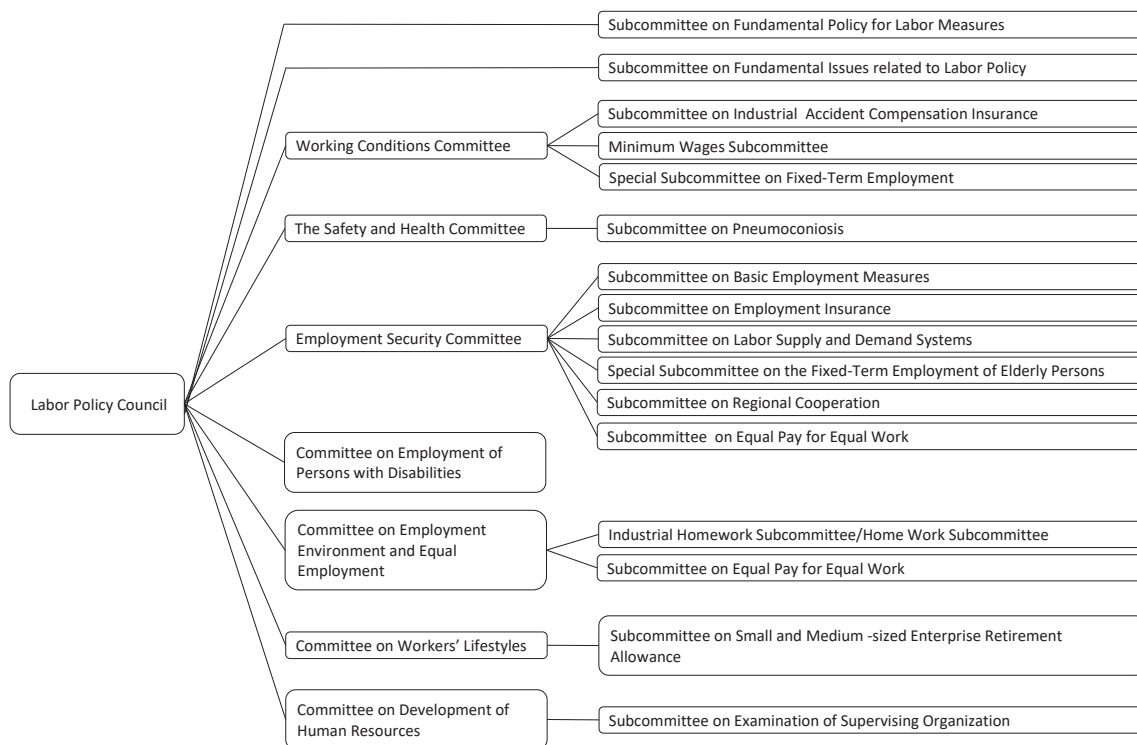
Obviously, there are other methods, aside from deliberative councils, of obtaining external knowledge, information, and opinions. The wide range of such possible sources includes data from various survey types, books and papers, news stories and programs, the internet, audiences with experts and stakeholders, interviews, round-table conferences, review meetings, research study groups and public comments. As one of the particularly institutionalized approaches, the councils are largely permanent administrative bodies, and thereby also have a significant impact on the development and implementation of policy. In some respects, they are comparable with the roles of third-party committees, outside directors, outside auditors and other such independent bodies and figures of corporate organizations.

This paper examines the *Rodo seisaku shingikai* (Labor Policy Council, LPC),<sup>1</sup> which is one of the councils established under the Ministry of Health, Labour and Welfare (MHLW) in accordance with the Act for Establishment of the MHLW (Article 6, Paragraph 1). It plays a significant role in developing policies largely related to labor and employment. However, relatively little is publicly known about its structure, how it is operated, and the role it seeks to fulfill. It also remains relatively unclear what distinctive characteristics it possesses in comparison with other such councils and similar bodies. This paper seeks to broadly explore such aspects.<sup>2</sup>

## II. Structure and roles of the Labor Policy Council

The LPC was first established in 2001 when, following the merger of Japan’s Ministry of Labour and the Ministry of Health and Welfare to form the MHLW, the existing councils for determining labor-related policy, excluding *Chuo saitei chingin shingikai* (Central Minimum Wages Council), were consolidated. The councils that had been established under the bureaus of the Ministry of Labour (former MHLW) were inherited by the

bureaus of the MHLW and each became a committee of the LPC. Namely, the former *Chuo rodo kijun shingikai* (Central Labor Standards Council) became *Rodo joken bunka-kai* (Working Conditions Committee), *Chuo shokugyo antei shingikai* (Central Employment Security Council) became *Shokugyo antei bunka-kai* (Employment Security Committee), and *Chuo shokugyo noryoku kaihatsu shingikai* (Central Vocational Abilities Development Council) became *Shokugyo noryoku kaihatsu bunka-kai* (Committee on Development of Vocational Abilities), and it currently became *Jinzai kaihatsu bunka-kai* (Committee on Development of Human Resources). The *senmon bukai* (expert working groups) and *iinkai* (commissions) that had served under the former councils became subcommittees affiliated with the respective committees (for instance, the former Subcommittee for Private Sector Labor Supply and Demand Systems became affiliated with the Employment Security Committee as the Subcommittee on Labor Supply and Demand Systems). Subcommittees may also be temporarily established and committees and subcommittees titles may be revised as required for addressing specific issues, such as the Subcommittees on Expediting Examinations by Labor Relations Commissions. The Subcommittee on Fundamental Policy for Labor Measures and the Subcommittee on Fundamental Issues relating to Labor Policy do not belong to any committee. Following subsequent changes of name and other such developments, the LPC currently consists of seven committees and 16 subcommittees (See Figure 1).



Source: MHLW website: <https://www.mhlw.go.jp/content/12600000/000485258.pdf> (in Japanese, accessed on May 7, 2021).  
 Note: The MHLW website provides the organizational chart in English including the bureaus and councils at <https://www.mhlw.go.jp/english/org/detail/dl/organigram.pdf> (as of October 1, 2017).

Figure 1. The structure of the Labor Policy Council

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The purpose of the LPC is to investigate and deliberate “important matters concerning labor policy pursuant to consultation from the Minister of Health, Labour and Welfare” and “important matters concerning the prevention of pneumoconiosis, health management and other such areas pursuant to consultation from the Minister of Health, Labour and Welfare and the Minister of Economy, Trade and Industry” as well as to “deliver its opinions concerning important matters to the Minister of Health, Labour and Welfare and related administrative bodies” (Act for Establishment of the MHLW, Article 9 Paragraph 1, Items 1-3). It is also to “handle matters under the scope of its authority granted pursuant to provisions” of legislation such as the Labor Standards Act (LSA) and the Act on Comprehensively Advancing Labor Measures, and Stabilizing the Employment of Workers, and Enriching Workers’ Vocational Lives (Labor Measures Comprehensive Advancement Act) (Act for Establishment of the MHLW, Item 4). These correspond with the MHLW’s “duties to secure working conditions, otherwise maintain the working environments, and secure jobs of workers” (Act for Establishment of the MHLW, Article 3, Paragraph 1. Paragraph 3 of the same article also prescribes “assisting the affairs of the Cabinet with regard to specific important Cabinet policies concerning these duties” as one of the MHLW’s duties).

In responding to a consultation from a Minister on an important matter, the LPC may deliberate on the matter, submit *tōshin* (a report), and offer *kengi* (a proposal) following deliberation by members. The LPC is also entitled to provide its opinion concerning certain matters in accordance with provisions (such as LSA Article 38-4, Paragraph 3, and the Labor Measures Comprehensive Advancement Act Article 30-2, Paragraph 4, etc.) prescribing that the Minister of Health, Labor and Welfare to “hear the opinion of the LPC” when establishing guidelines. In other words, the LPC possesses the qualities of both (i) a “council for basic policy” which deliberates matters concerning fundamental policies such as labor administration-related planning, the drafting of bills, and matters related to the drafting of bills in the process of legislation; and (ii) a “council for the enforcement of the law,” which deliberates matters regarding the development of plans and criteria in the process of implementing administration, administrative review, and administrative disposition if laws or the government ordinances prescribed that a council or other such body decide or provide consent or that the matter must be referred to a council or other such body for discussion. It could be argued that it is a council with an extremely significant role and authority.<sup>3</sup>

Incidentally, the Cabinet’s “Basic Plan concerning the Realignment and Rationalization of the Policy Councils, and other Meetings” (approved by the Cabinet on April 27, 1999) states criticism suggesting that councils were merely a “front” for the administration and were exacerbating *tatewari gyosei* (literally, “vertically compartmentalized administration”) which is one of the bureaucratic jurisdiction problems in administrative bodies in Japan); the Basic Plan in accordance with Article 30 of the Basic Act on Reforming Government Ministries enacted in 1998, also states that the “functions for deliberating policy and formulating criteria” would be “abolished in principle” as a means of realigning and rationalizing the councils and other such bodies to clarify administrative responsibility. Provided, however, that (a) “with regard to the development of plans and criteria in the process of implementing administration, if laws or the government ordinances prescribe that a council or other such bodies decide or provide consent, or if the matter must be referred to a council or other such bodies for discussion, upon the basis of a review of the necessity, the council would work with the minimum necessary function, and be maintained.” Also, (b) “a limited number of councils for deliberating fundamental policy” would be retained. The LPC is one of the councils to which this proviso applies.

*Honshin iin* (regular members) appointed by the Minister of Health, Labour and Welfare to the main body of the LPC consist of a total of 30 persons, with an equal number of each of the three different types of members: 10 public-interest (government academic experts) members, 10 worker leader members, and 10 employer members (the term of appointment is two years, with the possibility of reappointment). In addition to the regular members, a considerable number of *rinji iin* (temporary members) and *senmon iin* (expert members) can be selected as necessary.<sup>4</sup> The council chairperson or committee chairperson, who is selected from the public-

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interest members, assigns the members to their subcommittees. The main body (the LPC), committees, and subcommittees are each made up of an equal number of members from each of the three types, and require the attendance of at least two-thirds of the members and at least one-third of each type of members in order to conference, with resolutions requiring the support of the majority of the members in attendance to be passed (when votes are equally divided, the chairperson has the casting vote). The council sessions are open to the public in principle. The minutes and various reference materials of the council sessions are also generally published on the MHLW website. (The above information is drawn from the “Order on the Labor Policy Council” enacted by the Cabinet in accordance with the provisions of Article 9, Paragraph 2, of the Act for Establishment of the MHLW (Act No. 97 of 1999) and the “Provisions on the Operation of the Labor Policy Council” prescribed by the MHLW.)

### III. Characteristics and operation of the Labor Policy Council

The distinguishing characteristic of the LPC is the “tripartite principle,” by which members consist of an equal number of each of the three different types of representatives: public-interest representatives, worker leader representatives, and employer representatives. The underlying concept for this is the International Labour Organization (ILO)’s concept of tripartite representation by government, employers, and worker leaders, which is one of its fundamental principles.<sup>5</sup>

Both the worker leader and employer members—the stakeholders in labor relations—are generally appointed on the basis of selection on the independent judgment of their respective sides, and state opinions on behalf of an organization. For worker leaders, the Japanese Trade Union Confederation (JTUC-Rengo), and for employers, the Keidanren (Japan Business Federation) coordinate the respective interested parties and compile a list of candidates for members for their sides. Based on said lists, the members are then appointed by the Minister of Health, Labour and Welfare. Meanwhile, the public-interest members—as neutral experts—are appointed by the Minister of Health, Labour and Welfare following selection by the secretariat through.<sup>6</sup>

There are also a number of cases among the councils of other ministries and agencies where members of labor unions and employer associations as experts or stakeholders in the matters to be deliberated serve as the respective worker leader and employer members. However, the LPC is distinctive in three respects: (i) it investigates and deliberates laws, regulations, and measures concerning the broad field of labor policy, (ii) it consists of an equal number of members representing labor and management respectively, and (iii) in addition to the labor and management members, neutral experts are selected as public-interest members (of which there are the same number as the respective number of labor or management members). In all parts of the LPC—that is, in the main body (the LPC), committees, and subcommittees—it is the labor and management members who are most active in making statements. In light of their respective roles, both labor and management offer statements that reflect the intention of the organization they represent. While opinions may differ from organization to organization or from industry to industry, it is common for labor and management to clash swords as they exchange their understandings and opinions, from broad perspectives to workplace-relevant issues.<sup>7</sup>

However, while they are stakeholders, both the labor and management members do not merely argue the standpoint of the labor union or enterprise to which they belong. They appear to be seeking to speak from the broad perspective of workers or business managers as a whole. Deliberations on topics that provoke fierce labor-management confrontation could often therefore be likened to labor and management on either side of a wide river, each attempting to throw stones at the opposing camp, but missing their targets and allowing the stones to fall into the water. This is the case in the initial gatherings at the early stages of discussing critical topics. Typically, as is usual with general negotiations, a number of meetings gradually cover the various aspects of issues over the course; they start handling minimal conflicting issues that could be easy to resolve problematic



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issues. In some cases, however, both labor and management refuse to make any concessions and simply repeat the basic principles, preventing any progress to specific deliberations, or questioning at every turn why a point is being proposed in the first place, such that merely more and more meetings are held and more and more time is fruitlessly spent. In order to avoid councils on issues concerning labor encountering such difficulty, an approach has been devised to shift both labor and management opinions on track by ensuring that gatherings consisting exclusively of public-interest members or public-interest members and others with specialist knowledge and experience come together in advance for study groups or review sessions aimed at identifying the points of discussion and putting together proposals that will serve as a springboard for discussion, and that only then, once such proposals are formed, the relevant issue is placed on the council meeting agenda.<sup>8</sup>

Public-interest members make relatively few statements at council sessions. This is thought to be generally because (i) they are to adopt a neutral standpoint as an expert not representative of an organization (they have no need to make a statement for a particular organization, since there is no organization behind them from which they were selected), (ii) public-interest members rarely negotiate, adjust roles, or otherwise discuss the handling of statements between themselves in advance of meetings (there are no such preparatory meetings, and, perhaps for the respect for such a member's individual expert opinion, no substitute is arranged as is the case when labor or management members are unable to attend a meeting and a substitute is provided from their organization), and (iii) as the council sessions serve as the "peak of negotiations" between labor and management, public-interest members are expected to coordinate and arbitrate to a certain extent when discussion approaches a difficult stage, and therefore tend to carefully ascertain the distribution and conflicting areas of labor-management opinions (chairperson and other members are conscious of their responsibility to ensure that the relevant council project smoothly progresses toward the appropriate conclusion by the suitable timing). It is also likely that (iv) in the case of issues that are deliberated in light of the report of a study groups, those who serve as public-interest members at both the study groups and the council have already had their opinion recorded in the report and therefore, they might seek to avoid repeat statements by entrusting the secretariat to present said opinions and the related practical issues.

The role played by the secretariat in the operation of the LPC is important—as important, if not more important than that played by secretariats in other councils. It has for some time been noted that within the MHLW, the former Ministry of Labour bureaucrats are more strongly aware of the influence of employers' organizations and workers' organizations than the officials of other ministries officials; and the council is frequently named as a counterparty with which it is difficult to coordinate with when formulating and implementing policy.<sup>9</sup> It can be surmised that this also applies to the MHLW officials in charge of labor policy.<sup>10</sup>

The LPC has no full-time members. It consists entirely of part-time members. As each member has a regular occupation outside of the council, when the secretariat is deciding on the itinerary for the council sessions they have a complex balancing act to negotiate, as they seek to ensure a quorum, as well as securing the attendance of members who are especially well versed in the relevant topic or members with a strong interest in the topic. Particularly when deliberations reach their most crucial stage, and meetings must be held in close succession, members face considerably challenging demands, such as reorganizing the schedule for their regular occupation. In contrast, when there is considerable time until the next meeting, (it usually occurs when the deliberations do not call for a tight council meeting schedule), in some cases meetings are delayed because the secretariat has been taking a long time in the various preparations.

In reality, the bureaucrats in charge of the secretariat engage in countless efforts to coordinate opinions up and down the hierarchy and across the various organizations of the interested parties. They negotiate with JTUC-Rengo and the Keidanren within council meetings and at private sessions. They not only coordinate opinions within the ministry, bureaus, and divisions, but also with the Prime Minister's Office, other ministries and agencies, among other bodies, and coordinate opinions with the Cabinet Legislation Bureau regarding draft bills

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and provide explanations to ruling and opposition party Diet members. These are all handled by the secretariat since part-time members (particularly public-interest members) who are not specialists in the administration would struggle in terms of the authority and time required, and in terms of the specific specialist and practical knowledge, skills and experience needed to coordinate such matters.<sup>11</sup>

The secretariat plays a significant role in running the council sessions. This entails handling an extremely great variety of administrative tasks, including preparations such as selecting the public-interest members for the council, exchange of opinions between the different types of members, coordinating the policy issues to be addressed, running the study groups meetings prior to the council sessions, preparing reference materials for the study groups and council sessions, coordinating with the chairperson regarding the proposed order of proceedings for the deliberations, organizing the schedule and adjusting the intervals at which sessions are held as necessary, publishing the council session details and materials, as well as putting together the minutes, sharing information and coordinating opinions in and outside of the ministry, responding to public comments, drafting proposals and reports, and drawing up outlines of draft bills and other such documents and consulting on them with the Cabinet Legislation Bureau.<sup>12</sup>

As the LPC has no full-time members and thereby consists entirely of part-time members, it could not be expected to operate smoothly or achieve results as a council without the secretariat and the behind-the-scenes roles that it plays. The secretariat also has a front-of-house presence, as it carries out the varied tasks to prepare and coordinate meetings and draft proposals as described above. This is why the councils have been described as a “front” for activities by the administration. The councils are also sometimes used when a problem is raised in the Diet, as the government is able to buy time by responding that the problem is under deliberation by the councils.

While the ILO’s tripartite structure consists of government, employers, and worker leaders, Japan’s LPC is distinctive because its “government” component includes two presences: the public-interest members and the administration (secretariat). The public-interest members and the secretariat need to operate together as if they are a team in a three-legged race—if they are unable to keep in step with each other consistently, the council deliberations may become unnecessarily complicated. There is no wonder that the administration (the secretariat), which is accountable for responding to the immediate circumstances and ensuring the progress of discussions of the policy at an issue, will do its utmost to secure a conclusion that has significant potential to be achieved in practice. However, if the three-legged race team appears to have only *two* legs—that is, if the public-interest members present nothing but opinions that coincide with those of the administration—labor and management will become distrustful. Particularly those opposed to the opinion in question will no longer consent. In contrast, if the public-interest members and administration team develop *four* legs, because the public-interest members persist with their own specialist opinions and ignore the secretariat’s intentions and explanations of the state of affairs, the administration may be uncooperative, and both the labor and management members who seek concrete results will feel uneasy about the potential outcome of the policy development process. Given the subtle balance of such a distinctive tripartite structure, both the public-interest members and the secretariat must determine their respective places.

The secretariat is responsible for drafting the reports, proposals and other such accounts of the LPC’s activities based on the members’ statements, the agreements or objections and demands at the council sessions. The administration’s perspective and thoughts naturally become reflected in such reports. And yet it would be rash to brand this as the council being led only by the intentions of the administration. This is because the drafts are constantly checked by each of the three types of members and are only finalized by the secretariat with holding several meetings to deliberate the members’ revisions and making corrections based on exchanges with the members even outside of the meetings. Particularly cases in which a unanimous conclusion is reached at a council session can be seen as the fruits of the advance coordination between the three types of members and the

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administration (the secretariat) as a four-person *five-legged* race team. On the other hand, cases of outstanding disagreement between the members may in extreme circumstances result in the arguments of each of the three types of members (public-interest, worker leader, and employer members) simply being recorded side by side. Alternatively, in the event that circumstances require that a conclusion is reached to some extent, while revisions may be made to reflect the differences in opinion between the members, ultimately a decision is made by majority, in the form of consent between the combination of public-interest and worker leader members or the combination of public-interest members and employer members. Such cases naturally leave an unpleasant aftertaste in the operation of a council.

#### IV. Recent developments

The structure of Japan's councils—following a tripartite principle in which each type of stakeholder is equally represented—makes it difficult to introduce drastic major reforms or entirely new policies, because if either labor or management pushes the accelerator to head in their desired direction, the other party may hit the breaks in opposition. Major reform may in any case be beyond the capabilities of a council of a single ministry, and it is not known for the LPC to hold joint meetings with the councils or other similar bodies of other ministries.

This means that developments tend to be limited to following the existing course and maintaining the status quo, introducing policies where the respective interests of labor and management coincide, or, at the very most, introducing partial, specialist or technical improvements. The secretariat, which coordinates within and outside the council, must be considerably well prepared and resolved on the course of action in order to embark on a bold course. At the same time, even tripartite group consultation bodies may undergo significant movements when there is a surge of significant changes in the major social, economic, or political trends.

One such peak occurred in the 1980s. This consisted of developments such as the introduction of the Equal Employment Opportunity Act, Worker Dispatching Act, and other such legislation in new fields, and the significant amendment to the LSA's scheduled weekly working hours from 48 hours to 40 hours per week. The shift to the 40-hour work week became a positive example for the operation of the council. The distinguishing aspect of this success was the perseverance of the public-interest members and the secretariat in coordinating opinions in the council based on the report of the study group on the LSA. The council successfully pursued its autonomy as a setting for stakeholders to push their negotiations to the very limit, and its decision was respected in determining the development in legal policy.<sup>13</sup>

However, the operation of the councils on labor has been vastly affected by the succession of events such as the collapse of the bubble economy in the 1990s and the prolonged economic stagnation, the progress of globalization, as well as the changes in the political regime (establishment of the Morihiro Hosokawa Cabinet in 1993 and the Liberal Democratic Party (LDP)'s loss of power which spelled the breakdown of the 1955 system (the LDP remaining continuously in power since 1955), the introduction of the single-seat constituency system in 1996, the series of administrative reforms and central government restructuring, the 2001 establishment of the Junichiro Koizumi Cabinet and regulatory reform, the establishment of the Democratic Party of Japan government in 2009 and the formation of the LDP and Komeito coalition government in 2012). This is due to the fact that as the government seeks to feel out its support, the basis of election, as well as securing the support of the political independents, there is an increasing tendency for the Prime Minister's Office to determine its centerpiece policies by a top-down approach, and this has prompted an increasingly marked trend toward expecting the lower levels of the administration to organize the concrete measures based on those fundamental policies. This results in the various councils of the different ministries and agencies being restrained by the fundamental policies spearheaded by the Prime Minister's Office and the policies of the upper group consultation bodies (such as the Council for Regulatory Reform and the Council on Economic and Fiscal Policy) and developing a prominent tendency to



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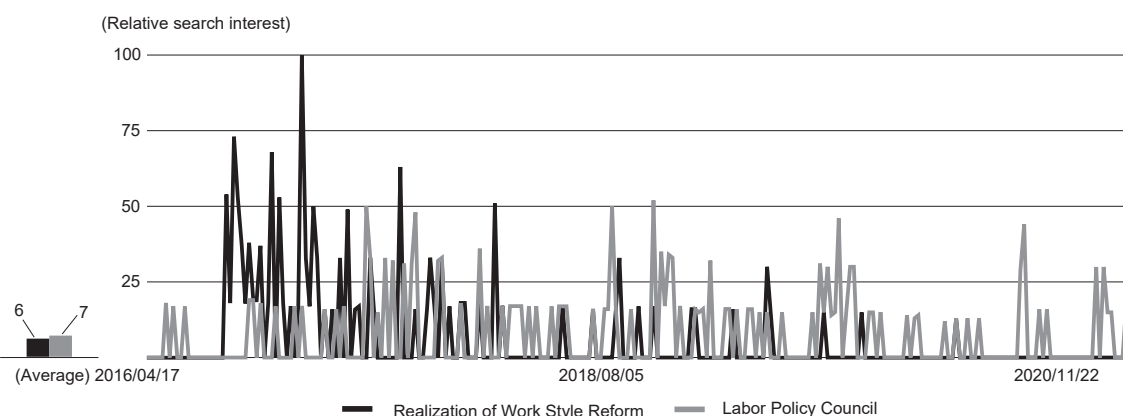
coordinate the process of creating specialist and technical systems within those boundaries.

In the parliamentary cabinet system, the government's responsibility and authority, and the administrative organization's hierarchy are the fundamental principle and rules. Therefore, if the government of the time decides that rather than entrusting labor policy to the MHLW and its council, it will establish labor policy as its own main goal and attempt to change the framework and direction of the conventional bureaucrat-led process by which policy is determined, it can address a considerable amount. The aftereffects of the changes to the policymaking process create ripples that immediately affect the operation of the lower-level organizations. The position of bureaucrats is such that they are unable to oppose the government instructions even in the case of regime changes that entail a shift in the core principles and strategies of labor policy. The directions pursued by the council secretariats, which are made up of bureaucrats, are forced to change. Changes in the policies of the upper level of the government and the mood of the secretariat change could in turn affect the operation of the councils in the lower levels. And if there is another change of the government, there should be a backlash or further changes in policy direction.<sup>14</sup>

If a change of the government that prompts a shift in policy direction is accompanied by a change in the staff who compose the secretariat and the public-interest members of the councils, it is inevitable that the council deliberations may need to return to square one. But what is the case when there is no change in the staff or council members? We must assume that, given their position, bureaucrats could accommodate the policies of the government. On the other hand, what about the public-interest members, whose standpoint is based on their own specialist opinion? If the same person continues to be a public-interest member, the consistency and credibility of the person would immediately be called into question. As there is still scope for such members to provide a specialist or technical approach within the predetermined forum set out by the higher powers, if, when taking into account the stability and continuity of policy, such members are respected for their particular fundamental line of thinking, specialist knowledge, sense of balance, and ability to coordinate, there may be a certain amount of understanding from both labor and management and the public as a whole. Nonetheless, if the two-party system or other such factors lead to frequent changes of the government, there is likely to be turnover among public-interest members—whose appointments tend to be strongly political—except in those subcommittees that rely on the expertise and technical capability in a considerably narrow field. If this is the case, there may be a decline in the public-interest members' capacity to coordinate within the tripartite system of the councils to guide decision-making.<sup>15</sup>

Within the Work Style Reform process, which was the government focus in the late 2010s, the general framework of the tasks was set out before they were assigned to the LPC, such that the LPC became somewhat of a specialist "subcontractor" responsible for giving concrete shape to those predetermined outlines.<sup>16</sup> For instance, looking at the correlation between the online searches in Japanese for the topics, *Hataraki kata kaikaku jitsugen kaigi* ("Council for the Realization of Work Style Reform") and the *Rodo seisaku shingikai* ("Labor Policy Council"), there was first a wave of searches for the former, after which public-interest shifted toward the latter (see Figure 2; The first meeting of the Council for the Realization of Work Style Reform was held on September 27, 2016. It should be noted, however, that the number of searches for the LPC has remained relatively constant).

Looking at such developments over the recent years, the notable trends include: that (i) the government (Prime Minister's Office) has been taking a notable initiative in the labor policy decision-making process, (ii) the intentions of the bureaucrats who serve as close advisors to the Prime Minister's Office and have been entrusted with the will of the government (for instance, in the case of the Work Style Reform, the Cabinet Office Director General for Policy Planning) and the decisions of upper-level consultation bodies like the Council for the Realization of Work Style Reform tend to take precedence, (iii) there were movements within the Prime Minister's Office to coordinate the government, labor and management consensus from the top, and, as a result, (iv) to a



Source: Google Trends (Search conducted on April 12, 2021).

Note: The average for the term “Council for the Realization of Work Style Reform” is 6 (with the peak, 100, occurring in the week from January 29–February 4, 2017) and the average for the term “Labor Policy Council” is 7 (with the peak, 52, occurring in the week from November 11–17, 2018).

Figure 2. Interest over time for the Council for the Realization of Work Style Reform and the LPC (wave of interest in the former, followed by increased interest in the latter)

certain extent solutions were unprecedentedly developed for addressing long-standing issues such as equal pay for equal work and upper limitations on overtime work, and (v) a series of processes appears to have led to the development of a standard formula for the division of roles by which the government and the Diet strive to ensure what can be described as overall optimization and the LPC and relevant divisions of the administration seek to ensure the optimization of particular areas. These phenomena could also be seen as the reflection of political tendencies in periods of change, as opposed to periods of political stability.

In any case, if the position of the councils addressing labor issues in the political and policy processes has shifted in such a way over the years along with the transition from the Showa to the Heisei period (in the late 1980s), and from the Heisei to the Reiwa period (2019–), there will be an increasing demand for the capability of a small number of close administrative advisors who assist the government in the Prime Minister’s Office to propose policies and make decisions.<sup>17</sup> Under the Suga administration, there were five Prime Minister’s secretaries, from the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Defense, the National Police Agency and the Ministry of Economy, Trade and Industry respectively (as of March 7, 2021). The question of whether there is the capability for establishing appropriate outlines for labor policy has become the focus of public given the vast amount of people to whom labor policies apply.

If the frameworks and fundamental policies that form the premise for the LPC’s deliberations are inappropriate, it could be difficult to rectify them at council level, as there is little scope for maneuver regardless of how much effort is made. A backlash from workers on the ground and from the public would surely be developed. This also leads to concerns in the effectiveness of policies. Furthermore, if in the future regime changes become a frequent occurrence, problems will arise with the continuity and consistency of labor policy. If the LPC’s nature as a “subcontractor” becomes more prominent, or, if only the revision to labor policy by the government or the Diet is at the forefront, concerns could naturally arise that the council’s former character—defined by the clashing of swords in the form of fierce labor-management exchanges, and pushing negotiations to the limit—would fade, prompting the council’s involvement—the consultation it receives and reports it issues—to become a matter of formality within the policy decision-making process.

Developing the labor policies is crucial for society and the economy. As we discussed above, it appears to be seeing the development of unprecedented new circumstances and challenges in policy making in the field of

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## Notes

1. For the LPC's overview including the organizational chart and operation rules, see [https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/koyou\\_roudou/roudouzenpan/roudouseisaku/index.html](https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/koyou_roudou/roudouzenpan/roudouseisaku/index.html) (in Japanese).
2. For an overview of the developments in the LPC, it is worth referring to Hamaguchi (2018), which compiles the developments of labor law policy and the various councils and other such bodies over the years. Nishikawa (2007) also outlines the state of the councils as a whole. Adopting a slightly different perspective, this paper records the author's individual and general impressions of the author based on his experience accumulated as a member of several councils and other such bodies (it does not, as a general rule, touch on the cases in which the author was directly involved. The responsibility for possible errors in content lies with the author.)
3. A search of the MHLW's "Database service for laws and regulations, etc." produces 42 hits for texts of laws and regulations, etc. that include the term "Labor Policy Council" in Japanese (including three MHLW public notices), and a search of the Ministry of Internal Affairs and Communications' "e-GOV laws and regulations search" reveals 40 hits (including no public notices). This indicates, the LPC is connected with a number of labor laws and regulations, etc. The URLs used were: <https://www.mhlw.go.jp/hourei/html/hourei/search1.html> for the former (accessed on April 6, 2021) and <https://elaws.e-gov.go.jp/> for the latter (accessed on April 6, 2021).
4. While Kambayashi and Ouchi (2008) quote the total number of members as over 300 people, if we calculate the current (as of May 8, 2020) number of members including the *rinji iin* (temporary members) and *senmon iin* (expert members) of the *bunka kai* (committees) and *bukai* (subcommittees), and overlapping membership by the same person, in addition to the 30 *honshin iin* (regular members of the LPC), there are a total of 418 members of the committees and subcommittees, such that a total of 448 people participate in the various deliberations (one session is typically scheduled to last two hours). <https://www.mhlw.go.jp/content/12600000/000770650.pdf> (Accessed on April 22, 2021).
5. See JILPT (2010). The materials address conventions such as the ILO's Minimum Wage-Fixing Machinery Convention (No. 26), Employment Services Convention (No. 88), and Convention Concerning Tripartite Consultation to Promote the Implementation of International Labour Standards (No. 144), which prescribe the obligation to establish consultative bodies with tripartite structures and to hear opinions from labor and management. It ascertains the state of ratification of these conventions, and the current extent to which the consultative bodies have been established and labor and management opinions are being heard in the countries that have ratified them, and notes that consultative bodies have been established and opinions are being heard from labor and management in some form. Japan's consultative system is unique in the sense that the government side adopts a behind-the-scenes role as the secretariat and organizes separate representatives in the form of "public-interest members" to engage in the deliberations. There were in the past cases of former vice-ministers, former bureau director generals, or other such former administrative officials becoming public-interest members or being appointed chairperson, but this no longer occurs as a general rule (there is an exception by which a person who was temporarily a public servant but switched to an academic career as a university professor became a member). Moreover, the regional labor councils established under the prefectural labor bureaus are also tripartite structures, and there are bodies in which bureau director generals and vice-ministers from the administration participate as expert members and local assembly members who have participated in the prefectural councils regarding labor (such as the Tokyo Regional Labor Council, and the Tokyo Metropolitan Employment and Employment Measures Council, etc.).
6. Article 30, Paragraph 4, of the Basic Act on Central Government Reform set forth that "the composition of the committee members and their qualification requirements shall be properly determined in light of the purpose and objectives of the establishment of the relevant council or other such body." The process of selecting public-interest members through comprehensive judgment by the secretariat is unclear in details. Oki (2008), a former Cabinet Office Director General for Policy Planning, explains the suitable characteristics of members given the nature of the councils as project teams, stating that: "People who insist on their own opinion are not suited to be council members. If, as is sometime seen among university professors, members decide to quit because they are unable to push through their own opinion, no conclusion would be reached. People who have no opinion and accept any kind of proposal are also not suited, because this is not making the optimum use of the members' expertise and insights expected of such members." It can be assumed that when public-interest members are appointed as part of the tripartite structure, aside from the consideration of the aforementioned factors, public-interest members candidate who provoke strong opposition from all types of members in the process of the secretariat's (MHLW bureaucrats') repeated negotiations and coordination with both labor and management will ultimately not be appointed. This is because the LPC frequently sees clashes of opinions between labor and management, and in some cases, when the opinion of the public-interest members coincides with either labor or management but the other side opposes, and issues an objection, proposals or reports may be made (those who oppose or are dissatisfied not only state their opinion at the council meeting, but demand for a supplementary opinion to be recorded in the report or other such documentation, and there are also cases of both labor and management declaring each of the respective points regarding which they are dissatisfied). Both labor and management naturally have great interest in who becomes a public-interest member.

7. Looking, for instance, at the minutes of the 20th Committee on Employment Environments and Equal Employment (October 21, 2019) on topics such as “Guidelines on the Necessary Employment Management Measures regarding Bullying and Harassment in the Workplace,” the worker leader members made statements 26 times, and the employer members, 24 times, while, in contrast, the public-interest members 13 times in the meeting. The minutes of a meeting of the same Committee on topics such as the enforcement of laws to partially amend legislation including the Act on Promotion of Women’s Participation and Advancement in the Workplace (23rd meeting, December 10, 2019) show that worker leader members made statements 8 times and employer members, 7 times, while public-interest members, just once (all numbers exclude statements by the Committee chairperson). It appears that in Japan—where, with negotiation almost always at an individual enterprise level, negotiation at an industry level is the exception and industry-level negotiation of nationwide top-level agreements have needless to say failed to take root—allowing labor and management to engage in the form of “central negotiation,” with public-interest members between the two, has prompted the development of a system by which the administration accepts the opinion coordinated between the public-interest, worker leader, and employer members, composes policies or draft bills for proposal to the government to create something which has the typical regulatory power. This is symbolized by the LPC’s seating layout. At non-remote meetings of the LPC where members sit at a square table, the public-interest members have the employer members sitting to their right, the worker leader members sitting to their left, and the secretariat facing them. Even when the chairperson is left speechless by the developments in a fierce debate, the secretariat members are not sitting beside or behind the chairperson, and therefore unable to quickly whisper or pass them a note. In contrast, in my experience of Council meetings of other ministries and agencies, in most cases the principal secretariat members sit directly to the right and left of the chairperson on the same side of the table and the other members sit at the other places. This seems to indicate that the secretariat (the administration)’s relationship with the members, in particular the chairperson, is subtly different from what is seen in the LPC.

8. For instance, the 1987 LSA amendments that gradually shortened the scheduled weekly working hours from 48 to 40 hours, which are covered in sources such as Shirai (1987), Kume (2000), and Umezaki (2008). The enactment of the Labor Contracts Act, which is addressed by Kambayashi and Ouchi (2008) and Nakamura (2008), among others. It is said that for the former (the shortening of working hours), the study group members were lodged together to focus on the deliberations. The approach of a study group conducting initial discussions and preparing a springboard for further deliberations has been frequently used lately, for instance, when addressing employment security measures for workers up to 65 years of age under the amended Act on Stabilization of Employment of Elderly Persons which became effective on April 1, 2021. The attitude of the bureaucrats involved in planning and running the management of these processes are presented in Umezaki (2008).

9. See Kume (2000).

10. Drawing on his experience as an MHLW fast-track bureaucrat into his early forties, Sensho (2020) gives showcases of the parties to whom management provides explanations in the order of expert members of a council, the Diet members, and the various divisions of the government (Sensho 2020, 33–34). Sensho (2020) also indicates that young bureaucrats invest a considerable amount of time in preparing council meeting materials, as opposed to focusing exclusively on handling replies to the Diet deliberations.

11. The public-interest members, particularly the chairperson, may be requested to provide explanations to the Minister of Health, Labour and Welfare and other ministers, and state their opinions as advisors to the Diet, among other tasks, but this is fairly uncommon. They may have adopted such roles in the past because members included former bureaucrats. It is thought that bureaucrats of the secretariat provide various responses as the circumstances require.

12. Sensho notes that bureaucrats invest even more effort in “coordinating with those involved in the process running up to the decision making,” than in creating policy proposals (Sensho 2020, 94). When it is considered that bureaucrats are responsible for the substantial effort of the work to coordinate the large variety of opinions, which may at times be unexpected, it is possible that bureaucrats perceive the operation of the councils as part of that coordination process.

13. See the various sources listed in Note 7. The August 1984 Study group on the Labor Standards Act published its interim report on the review of legislation regarding working hours, and the October 1985 Study group on the Coordination of Economic Structure for International Cooperation, responding to various deliberation requests from former prime minister Yasuhiro Nakasone, issued a report stating that “shortening working hours will increase free time as well as promoting the concentrated use of paid days off...Efforts should be made to ensure that the total number of annual working hours is at the same level as those in the advanced countries of Europe and the US and to promptly ensure the complete implementation of the five-day working week” (April 1986). See also Inagami et al. (1994) for an examination of the connection between labor-management relations and policy from the perspective of neo-corporatism.

14. This may also prompt situations like the instability of legal policy concerning the Worker Dispatching Act. See Hamaguchi (2018).

15. See Miura (2007) and Yamada (2019).

16. See, Ebisuno (2019) and Yamada (2019). Moreover, Sawaji, Chiba, and Niekawa (2019), which draws on careful newspaper journalistic research, dedicates the majority of its pages to the trends in the Prime Minister’s Office and the developments at the top levels of worker leader representatives. Concerning the LPC it says very little, except to note that “with the key framework already agreed upon by the top labor and management members at the Council for the Realization of Work Style Reform, the opposition is unlikely to be voiced at the LPC, which is attended by those [labor-management members] responsible for practical aspects” (Sawaji, Chiba, and Niekawa 2019, 152). See Kozu (2018), Okazaki (2018) and Mizumachi (2019) for sources by those involved in policies on Work Style Reform.

17. At the implementation stage of the reform, the Office for Promotion of the Realization of Work Style Reform was established under

the Cabinet Secretariat, with the Cabinet Office Director General for Policy Planning and MHLW officials of the rank of deputy director-general serving as deputies and assistants to the office director, such that 15 of the around 40 staff members were from the MHLW. Sawaji, Chiba, and Niekawa (2019) note that it was in practicality led by the Cabinet Office Director General for Policy Planning.

18. Along with factors such as the decline in unionization rates of labor unions in Japan (the arithmetic average annual unionization rate for 2015–2019 was 17.1%, merely a third of that for 1947–49 (51.4%). Moreover, this arithmetic average annual unionization rate was 30.2% in the first half of the 1980s and 27.5% in the latter half of the 1980s), and the receding importance of economic organizations' responding role to workers, the representativeness and legitimacy of interim groups and organizations for both workers and employers are currently being called into question. Potential future developments involve a number of questions to investigate, such as (i) whether the politically-led nature will be strengthened (in the case of labor policy, how does the government make judgments, given that discussions may lack specificity or practical nature unless more labor-related experts and key players participate in meetings or other such bodies at the level of the Prime Minister's Office. And other issues may arise if there are too many investigative meetings across the upper levels of the Prime Minister's Office.), (ii) whether it will be led by the Diet (as it is essential to strengthen the stance of the Diet, the Diet will require councils and other such organizations for research and deliberation), and (iii) whether it will return to its former corporatism-based approach (this will not be entirely unthinkable, should the social changes and turbulence give way to a stable period in which people's attitudes are again shifted in line with such an approach). In recent years, it has become necessary to address employment-like work, or new forms of employment such as those of freelancers and gig workers. Moreover, regardless of the form that political and policy processes take, it is essential to debate the state of policy-formulation skills development for part-time council members and those members' relationship with the secretariat. While it is sincerely hoped that the tripartite structure's significance and specialist expertise will continue to be utilized, this is a topic for discussion at another opportunity.

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