Japan's Labor Law,Full-time and Temp workers

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Foreword

Trade Union Organization Rate 20.7%

Japan's full-time (regular) workers decreased since the economic breaking in about the early 1990's.

According to the Public Management ministry "Special Research of Labor Force" December, 2001, the 1.02 million persons of regular workers over 35 hours a week decreased.

As the full-time workers were union members, the ratio of labor union members dipped to a record low of 20.7 percent (The Health, Labor and Welfare Ministry Survey, December 18, 2001)

The part-time workers increased, but they were not necessarily unionized. While the numbers of unionized part-time workers rose to a record of 2.8 billion, the ratio of union members to the entire part-time workers was 2.7 percent. Besides the dispatch workers suddendly increased and were not almost unionized. Speaking generally, temp worker (temporary worker) may be divided into two broad classes, part-time worker and dispatch worker. Contract worker and arbeit are included in the former, dispatch is included in the latter and freeter is included in both the former and the latter.

Unemployment Rate 5.5%

The unemployment rate steadly increased since Heisei Recession. According to the Public Management Announcement in December, 2001, the unem-

ployment rate soared up 0.1 percentage point from the preceeding month to a record 5.5 percent. The unemployment reached 3.5 million persons including 1.23 million persons of forced unemployment exceeding voluntory ones. Jobless householders were for first time since 1953 over one million persons. It was the worst (the evening edition of Asahi Newspaper 28, December, 2001).

Japanese enjoyed low unemployment for most of postwar years. Between 1953 and 1995, jobless rate never exceeded 3 percent. Meanwhile during the 1980s and 1990s, many European countries suffered unemployment rates of around 10 percent.

But when Japan was damaged by the economic bubble, the jobless rate hit 4 percent in the mid-1990s, reaching a record high of 4.9 percent in February. 4.9 percent is still lower than many European countries.

Though ages ago Japan's booming economy was praised especially by an American academic's book "Japan as Number One," Japan's economy has been stagnant for a decade, and the jobless rate has reached the heighest record.

The Way to treat this Theme

Why did Japan's jobless rate reach such high record for a decade?

Why did Japan's full-time workers decrease for a decade?

Why did Japan's temp workers increase for a decade?

It is necessary for the answers to these questions to follow the histories of Japan's labor laws and labor-management relations.

Thinking about them I should like to study and state the historical characteristics of Japan's full-time and temp workers in connection with labor law.

I Full-time Worker and Law

In Japan from meiji age full-time work system was principal and male workers predominated at the system.

But full-time and male workers recently decreased gradually, and temp and female workers increased step by step.

1 Various Discriminations before the World War II

In Meiji age bofore the World WarII though the full-time (regular) workers were the leading part in workers, the social status of the workeres was discriminately low. Their freedom of thought, speech and their human rights were restrained. Without the trade union law the unions, especially strikes were oppressed by the Law of Peace Police or the Law of Maintenance of the Public Peace etc.

Though the factory law or the shop law was made, its application was very limited and its content was very poor without the provisions of pension or furlough.

Here I hope to pick up the two facts which show Japanese charakter.

Government official and private worker

The one is the relation between Emperor and governmnet officials including soldiers and sailors.

Emperor at that time held the sovereignty and was regarded as living god until the end of the World War II. The governmnet officials were not the servants of the whole community, but those of Emperor.

Emperor guaranteed their employment and gave them the high salary, pension or furlough which the ordinary workers could not get and they pledged loyalty to Emperor and was wounded or sometimes died under the

absolute order for the sake of Emperor or the Empire.

In a civil worker case the employers of enterprises were generally dictators. Wages and working hours were decided by an employer. They were not right but favor.

Female Worker

The other fact which I should pick up is as following; the full-time female wokers were few and limited to school teachers, doctors, department store shop girls and spinners etc.

The full-time female workers were discriminated for wages and other conditions.

Moreover there was age limit for female worker because young female worker was regarded as the flower of the work place. She was healthy pretty and her wage was cheap.

2 Birth of the Labor Law and the Japan Constitution

After the defeat of the World War II Japan surrendered and pledged the rebirth as a peaceful and democratic country to the allied Powers.

First Japan repealed various restraining laws in the past.

And Japan made for the first time Trade Union Law in 1945, Constitution of Japan which gave the people sovereign power, Labor Standards Law and Labor Relations Adjustment Law in 1946.

Article 14, 27 II of the Constitution

Article 14 of Japan Constitution stipulates "All of the people are equal under the law and there shall be no discrimination in political, economic or social relation because of race, creed, sex, social satus or family origin."

According to the Supreme Grand Court the article 14 does not stipulate the relation between private individuals, but the relation between the state

and the private individuals (Mitsubishi Jushi Case Showa 48, 12, 12).

Therefore unless a law is made in conformity with article 14 of the Constitution, legal protection is not given.

The Japan Constitution provides "Standards for wages, hours, rest and other working conditions shall be fixed by law" (article 27 II).

Labor Standards Law

Under the provision of the Constitution article 27 II. Labor Standards Law was established. There were a large number of judicial decisions about the articles of the law. Article 3 of the law stipulates "No employer shall discriminate against or for any worker by reason of nationality, creed or social status in wages, working hours and other working conditions." And article 4 of the law stipulates "The employer shall not discriminate women against men concerning wages by reason of the worker being women."

Among them for instance I take up the decisions, on the creed deiscrimination. The five decisions of creed wage discrimination were given in favor of the plaintiff (worker) in July, 1994 by five disrict courts of Maebashi, Kōfu, Nagano, Chiba and Yokohama. (Tokyo Denryoku Case)

The management and labor accepted Tokyo High Court's compromise recommendation and reached the following agreement ①wage revisions, promotion ②money of settlement, about ¥two billion (Showa 7, 12, 25).

And the Supreme court regarded employer's inspect and shadow as illegal act (Kansai Denryoku Case, Showa 7, 9, 5)

Temp Workers and Labor Standards Law

These decisions of creed are applied also to temp workers.

But there are no prohibition of discrimination in recruitment or hiring because of race, creed or social status except Equal Employment Opportunity Law, Article 5 et cetera. There is lack of employment.

And the social status stipulations of the Constituion, article 14 and Labor Standards Law, article 3 are not applied to temp workers because according to the decision they are not the social status, but only the position in the firm as sated later.

Also there are generally no prohibition of discrimination about the treatment in the firm.

Trade Union Law

Article 28 of Japan's Constituion stipulates "The right of workers to organize and to bargain and act collectively is guaranteed."

According to the Supreme Grand Court, the article stipulates the relation between the private individuals (Mitsui Bibai Case, Showa 43, 12, 14) This case differs from Mitsubishi case.

The Trade Union Law established the Labor Relations Commissions consisting of equal members of persons representing employers, workers and public interst. Only the public members shall participate in the unfare labor practices etc. provided, however, that this shall not preclude labor members and employer members from participating in hearings held prior to a decision (article 24 of this law).

The Labor Relations Commissions consist of the Central Labor Relations Commissions and Local Labor Relations Commissions.

In settling labor disputes, special intelligence, early settlement and chiep expense are expected and ncessary. We expected them to the Labor Relations Commissions. They discharged severally their duties. But the result fell short of our expectation. It took long years for settling a case in the supreme court because the case should pass two commissions, local and central and three courts, distric court, high court and supreme court, though the distric court might issue an emergency ordinance in answer to Labor Relations Commissions for an employear to observe the order of the

commission till the irrevocable judgement (article 27 VIII of the law)

Nevertheless the judicial decisions regarding the trade unions reached a large numbers .

Temp Worker and Trade Union Law

Temp workers themselves are free to organize or join a trade union. When they don't join the trade union of the full-time workers in a factory or other place, they are applied to the agreement of the full-time worker's union on condition of article 17 of the Trade Union Law.

The article 17 stipulates as following, "When three- fourths or more of the workers of similar kind normally employed in a factory or other working place come under application of one trade agreement, the remaining workers of similar kind in the factory or other working place shall ipso facto be bound by the same agreement."

So if temp workers of similar kind exceed one-fourths, the agreement of the full-time workers of similar kind shall not be applied. At present many department store employers hire temp (part-time) workers over one-fourth of similar kind workers in a working place. Therefore the temp workers are discriminated from full-time workers for wages, pensions and other working conditions.

3 Company Trade Union

Immediately after the defeat of the world War II, the Commander in Chief of the allied powers, Marshal Douglas Mcarthur met Japan's Prime Minister Shidehara on 11, October, 1945 and requested promoting trade union.

At that time in Japan the trade union were disestablished and the associations for service to the state through in every factory or other working place.

When Japan's full-time workers rose to organize trade unions as proof of

democracy, they made a trade union in a factory or a company in place of the association for service to the state.

In the foreign countries the trade unions were organized outside the companies, but in Japan the trade unions were in the companies. Therefore the trade union in a factory or a company is called "company trade union."

The organizers were the executives of a company and some employers led organization of trade union. The trade unions which were formed autonomously and substantially by the workers were very few (December 28, 1945 Mainichi Newspaper).

Then almost employears lost self-confidence and were distrait. Some employears did not manage production, but waited for the rise of the prises of their lands and facilities.

At first the company trade unions developed their extremely strong movement along the democratic passage of time, and started a dispute "production management by workers."

The upper trade union, Sanbetsu Kaigi (the Congress of Industrial Organization) is a federation of company trade unions, and led affiliated unions about the tactics of production management.

Such dispute tactics of workers were regarded as crimes if they violated the employers' properties (Yamada Ko-gyo Case, Supreme Grand Court, Showa 25, 11, 15)

Just after the decision of the supreme grand court, Japan's company trade unions changed the tactics, and took the workers' participation in management by an collective agreement.

But thereafter they became gradually moderate. The upper trade unions also repeated divergence. Sodōmei (the Japanese Federation) or Sohyo (the general council of Japanese Labor union) took the place of Sanbetsu.

According to "2001 Trade Union Fundamental Research" december 18, 2001, all trade union members are 11,218 million, the Japanese Trade Union

Confederation (Rengo) has 7,120 million members, the national Confederation of Trade Union (Zenroren) has 1,012 million members and the National Trade Union Council (Zenrokyo) has 0.250 million members, Part-time workers are 2.8 billion members and the ratio of union members to the part time workers was 2.7 percent.

The greatest subject for these upper unions is the organization of the ununionised temp workers. In this spring struggle for the first time Rengo and Zenroren took up the wage rise of the part-time workers.

4 Lifetime Employment

First Economy Boom after the End of the War.

In the years of the rapid economic growth since 1960, Japanese employers magnified companies on a large scale and introduced dangerous machines and harmful materials. They were short-handed.

The full-time workers worked violently and more violently, were called "Moretsu Shain, Mō, Moretsu Shain." They worked overtime without payment.

Also old men and home wives were called out to work, They were as temp workers employed to supply a lack of man power.

Labor accidents "because of duty" increased and the word of death from overwork began to appear.

The Employment Policy Law was in 1966 enacted for the lack of men power. The Labor Safety and Hygien was in 1973 made for prevention of safety and sanitation. The workmens' Accident Compensation Insurance Law was in 1966 revised for the increasing death, disease or accidents because of duty.

Three Pillars

Three pillars of lifetime employment system, seniority rule and labor-

management relations in company are the Japan's features.

Japanese lifetime employment continues until a specific age (60 or 65 at present) in case of full-time (regular) worker. It existed in Japan before the World War II.

Under the lifetime employment sysytem wage was paid and promotion was obtained on the basis of school career, age, familiy or service term without regard to ability.

The labor-menagement relations in company have expatiated with Japanese company trade unions after the World War II.

These three pillars worked when the economy was growing steadily in 1960s. Employers requested workers to extend the working hours. Employers also requested workers to make a team with group labor and to work hard faithfully to the companies because the improvement of the employees' living depended upon the prosperity of the company.

Some unions and workers were against this way of thinking. But many workers cooperated with the companies. Some employees loved the companies and pledged loyalty to them.

Oil Shock-Full-time and Temp Worker since 1973

Since the first Oil Shock 1973 and the second oil shock 1980, Japan met the low economic grouth. In this recession the employears took measures of wage cut, suspence of promotion and decrease of suspervisors or managers.

The firms discharged temp workers in place of full-time workers.

Government subsidize a part of wage for employers to close the firms, transfer or train on account of recession if they come under article 62 of Employment Insurance Law, article 102 III of enforcement Ordinance of Employment Insurance Law.

Heisei Economic Growth since 1885

In the Heisei prosperity lifetime employment was maintained in economic growth, though it was changed in somewhat contents.

Since 1885 Japanese companies were faced to the dizzy changes of industrial structure and international competition. They ordered to transfer forty or figty years old persons without new skill or ability to a subsidiary company. On the otherhand the company employed the persons with new skill or ability from other companies.

According to Moroi, company person or group labor is available only in the period of Japanese highly economic growth, but the company person without individuality is not useful in the rapidly developing soft new field (January 15, 1988 Asahi Newspaper)

On the point of achievements, ability is more seriously considered than company loyalty or company love.

5 Bubble Collapse Recession since 1991.5

Severe Pains

The bubble recession gave various and much severe pains to many persons, especially to small business men and workers.

Big manufactures began to escape from Japan to east South asia, China and Malaysia etc. and enployed the cheap workers there. On the other hand the big ones decreased the personnel in Japan. Their subcontractors lost works.

In this reccession, many companies stopped to promote workers to supervisons and sent them to subsidiaries or related companies. Such transfers are allowed to be permament if the affected workers agree. They expected to reduce the number of elderly "white collar" in high paying middle management positions and for elderly white collar to resign, and discharged

workers.

On the other hand in the case of temp workers, when the term expires, an employer may not renew the contract. But many employears continue to renew the short term contract for a long time.

Bureaucrat and Lifetime Employment System

Japan's bureucrats had many powers toward the companies by laws or discretionary administrations. The companies had awe and respect for the bureuerats and depended on them.

Under the protection of the bucreauts, the Japan's Lifetime Employment System including the Seniority Rule, the Convoy System and the labor-management relations in the company were maintained, though they are today criticized in recession. Japan's workers worked away loyally for their companies, though they worked away for their promotion and family at heart. They were called "Company Person." Consequently Japan's economy surprisingly developed.

But the regulations and protection by by the bereaucrats produced the bribes and secret confererence of the companies. Some of bucreaucrats were indicted (Meiji LAW Jurnal vol.6 p.6-11). In the recession many firms discharged workers and advised managing staffs to resign. The workers or managing staffs have realized that they could not depend for everything on the company, and they thought that they were betrayed by their employers.

Japan's regulations and protections of the bureaucrats in the past have been criticized because their weak points have stood out.

The government can not help inducing the international trend and shall take constantly care to lighten the social frictions.

Government's Deregulation

After the recommendation of OECD in 1979 and the Plaza accord in 1985,

Hosokawa ministry announced in Japan for the first time 94 items of deregulation in 1993. Murayama and Hashimoto ministry continued to announce the paper every year.

In Japan too many regulations gave the people much traouble. So some deregulations already let the people lead a comfortable life.

But the weak may become the victim of the strong as result of free competition. The small business shops have no freedom, and intensification of competition by deregulation may bring bankruptey and unemployment. Those became more and more conspicuous for ten years, especial from 2000.

Suicide from Over Work

The evil of competition came out in the field of Labour Law. For instance if an employer leaves working hours to employees without the watch of the inspection office, trade union or workder's group, an employee will work overtime and midnight to finish his task which his supervisor odered.

I supposed that the working hours would be short and decrease. My suppositon wasr in the wrong. Japan's many workers cooperated with employers to get over the recession and daringly worked overtime and midnight without increased wages (service work).

The decisions regarding suicides as the employears' legal responsibility came out in this recession.

Repeating only Dentsu case Ichiro Oshima hanged himself on Aug. 27, 1991. The district court (1996), the Tokyo High Court (1997) and also the Supreme court (March 24, 2000) have for the first time ruled that the company had a legal responsibility for employee's suicede caused by depression from overwork in a civil court action. The same decissions with the supreme court decision about the employee's suicides have reachead a large number for ten years (Meiji Law Journal vol. 8, 2001 P.67-69)

In case of temp worker such suicides from overwork have no been found because their working hours have comparatively been short.

Service Overwork

Labor Law and Overwork Japan's long working hours were criticized internationally and Japan started for forty-hours a week system in 1988 and realized its system in 1997.

The cases of suicides from overwork happened at the process of the working hours revisions for forty-hours a week. For instance, the suicide of Dentsu neglected the working hours law and worked overtime and midnight against the law to carry out his task. His health became very bad. In spite of health, his supervisors only led him to finish his task by the definite time and did not regulate the quantity of his task.

He did not request in accordance with law the wages for overtime, work on rest days and midnight (article 37 of Labor Standards Law) and did not exercise his right to use paid vacation (article 39 of the same Law).

The other suicides are on the whole the same with Dentsu.

Japanese employees have sometimes or frequently done so-called "service overtime work" which was not recorded and unpaid.

Such suicide from overwork is found in regular (full-time) worker because he is faithful to his duties, loves his company, and wants on ther hand also promomotion.

He likes to work at discretion.

Two Stipulations of Discretion The Labor Standards Law provides just only two stipulations.

One is Paraph 3 of Article 38. It designates work by order. An employer and worker's representative by a written agreement select their discretion works from designated works.

The other is stipulated and enforced on April 1, 2000. The newly estab-

lished Paragraph 4 of article 38 is establishing Labor Management Commission in order to enlarge discretion system to the work of planning, drafting and analysis concerning about operation of undertaking.

The commission must unanimously resolve the seven items.

In this case I want to cite two points.

First an employear must get worker's consent when an employer assigns a worker to the work which is regarded as the working hours which were set forth in the resolution.

Second He must take a step to secure the health and welfare for worker. The labor authorities request a time book. Its object is not the examination of employee's working hours, but the investigation of his health conditions.

These two discreation stipulations shall be strictly applied and also in the other field the working hours shall be limited.

Notice for Employer The working hours stipulations of Labour Standards Law are except the stated two discretion stipulations, generally applied to the workers of the Law.

But Japan's employees didn't use the the stipulations. Practically even if the workers worked overtime, they didn't necessarily request the increased rate wages and the employers didn't pay the rate wages. They are called service over time works. They widely spreaded in Japan. Severe service works led to Dead from overwork.

Therefore the Health, Labor and Welfare minstry issued a circular notice for employers to take measures to grasp employees' working hours (Heisei 13, 4, 6 the Health, Labor and Welfare, Notice number 339)

An employer himself shall manage his workers' working hours. In case of workers' discretion an employer must explain for workers that a worker shall rightly submit his overtime and shall not be discriminated. An employer shall regularly or by the request of a worker or trade union investigate overtime. And an employer shall repeal the causes to check the submission

of overtime work.

I expect for an employear and a worker to regrad and obey the notice. A worker shall rightly submit his overtime.

A worker and an employear shall switch off an electric light or order a sweeper to clean the working room at the time end the work.

Women's Protetion Cut

The Equal Employment Opportunity Law, 1885 only required employears to make efforts regarding discrimination against women. Japan's employears have not abided by the law without punitive penalties.

The revision of the law was enacted in June, 1997 and abolished the effort obligation. The Labor Minister had the power to make public the name of company as a punitive measure in case of an offence against the law.

At the same time women's protections of working overtime, rest day and midnight labor were eliminated, though some considerations were prepared for a sudden change (article 17 of Infant Rearing and Family Nursing Rest Day Law).

Those provisions have two objects. One is to realize the equality of the sexes. The other is to increase the womens' employment.

But Japan's women generally have charge of home duties. If they work overtime at company and do home-work, the may be tired, lose health, and retire. In that case an employment decreases.

But if they want to get a job for the sake of subsistance, they may be a part-timer. A part-worker is now mostly female and discriminated from regular workers. Therefore female is now in Japan discriminated from male.

Male (husband) works outside and female (wife) workes at home. This view has still remained.

6 Unemployment

In Japan's lifetime employment system, the unemployment was comparatively few and also the system for preventing unemployment was very inferior.

But owing to restructure or bankruptcy, jobless people including older workers increased and reached the highest.

Japan goverment revised the Employment Insurance Law in April, 2001 (enforcement), and concerning employment insurance money government reduced for spontaneous unemployed persons, but inceased for forced unemployed persons.

But the Japan's grant terms of insurance allwance is shoter than those of European contries.

In Japan unemployed, especially older persons are difficult to find new jobs because company has some wrong impressions for them and especially don't want to employ older persons.

Therefore Japan's government stipulated the effort obligation to prohibit age discrimination in recruitment and hiring (article 7, 12 of the Employment Poliy Law). This stipulation is criticized as only effort obligation and its government's notification decides ten excptions. But employers shall effort all possible efforts to find the faculties in older persons.

Japan's government made another law. According to the law, the public employment agency, for the employer reducing over thirty persons a month, imposed obligation to make the help plan of employment after asking the opinion of the trade union etc. before one month of unemployed day. The employers under such thirty persons have no such obligation and take steps at his option (article 24 I, III, 25 I of the Employment Policy Law). They get helps from the state, but the trade union etc. and the public employment agency get a chance to supervise and correct the reducement.

After the next Diet and the new administration, unemployment may increase and various counterplans will be considered and taken. we must watch these unemployment and social policies as one person of people.

II Temp Worker and Law

What is Temp worker

After the war II the recessions were repeated and full-times workers were dischanrged. The employers hired temp workers step by step in place of full-time workers. Temp workers were mainly women in the early stages.

Temp workers are divided in two kinds. One is a part-time worker including contract worker. The other is a dispatch worker.

A part-time worker and dispatcn worker are same in temp worker.

But an employer of a part-time worker is one, but a dispatch worker has two employers. One is an employer A who contracts employment with a dispatch worker. The other is an employer B who under the provisions of the contract with A practicaslly employ the dispatch worker. The former's work is a hiring arrangement while the latter's one is a practical employment relationship.

1 Part-time Worker

(1) Part-time Worker and Laws and Decisions

Part-time worker is used in contrast to full-time worker, generally works for short time for a day and a week and the term is limited.

There is no generally legal definition of part-time worker, but the worker is cited as a short time worker in labor laws, and its contents are dicided by the rules in the firms.

Labor Standerds Law

In case of the worker in article 9 of the law, part time (temp) woker is portected, but the articles of the law, for instances article 14 (limitation of employment term period), article 34 (recess), 39 (annual vacation with pay), 66 (nursing period) and 89 (responsibilty of Drawing up and Submitting rule of Employment) are not applied to the part-time (temp) worker completely according to counditions.

I show here annual vacation with pay (article 39 III) for part-time (temp) worker by illustraiting as follwing.

week working days	4 days	3 days	2 days	1 day
year working days	169-216 days	121-168 days	73-120 days	68-72 days
6 months	7 days	5 days	3 days	1 day
1 year 6 months	8 days	6 days	4 days	2 days
2 years 6 months	9 days	6 days	4 days	2 days
3 years 6 months	10 days	8 days	5 days	2 days
4 years 6 months	12 days	9 days	6 days	3 days
5 years 6 months	13 days	10 days	6 days	3 days
6 years 6 months	15 days	11 days	7 days	3 days

Safety Hygine Education and Health Examination

Safety Hygine Education shall be held to every part-time (temp) worker, but heath examination shall be held to the part-time (temp) worker who is employed continuously.

The Law concerning rest day of infant rearing and family dicease care

The rest day of the law shall not be granted to the part-time (temp) workers of the definite term (article 2 of the law). But when the term is renewed and cotinuously beyond one year, the application is discussed.

Employment Insurance Law

The law is applied to the part-time (temp) worker who works for more

than twenty hours a week and is intended to be employed continuously beyoned one year.

Health Insurance Law and Welfare Pension Insurance Law

In order to apply the laws to the part-time (temp) worker the follwing three points shall be noticed.

1) First noticeable point

These laws are not applied to the part-time (temp) workers, as following. ①persons employed on a daily basis ②Persons employed for not more than a contract period of two months ③persons engayed in seasonal work ④ persons employed at the working place of a temporary undertakings.

But these laws are applied to the folling the part-time (temp) workers ①persons employed continuously beyond one month ②persons employed continuously beyoned the designated time ③persons who are intended to be employed contiunously beyond four months ④persons who are intended to be employed continuously beyond six months (paragarph 2 article 13 of Health Insurance Law, atticle 12 of Welfare Pension Insurance Law)

2) Second noticeable point

Secound, more than 75 percent of the designated woking hours and designated working day of the ordinary worker is requested. 75 percent is not absolute, but only formal. Goverment authorities shall judge the concrete cases of the work form (Showa 55.6.6 Welfare Insurance Bureau chief etc., notice)

3) Third notinceable Point

Third, when the welfare Ministry recognizes the person who is supported, he is not permitted to join the insurances of these laws. The ministry shows

the standards including ¥1.30 million a year (Showa 50.4.6 Ho Hatsu 9, Heisei 5.3.5 Ho Hatsu 15).

Now these conditions are examined to lighten and increase members of the insurance, and the household central idea is reflected practically.

Incoume Tax Law

In case of a part-time (temp) worker whose wage in a year is bellow ¥1.03 million, the income tax is Zero.

If a year wage exceeds ¥1.03 million and bellow ¥1.41 million, "spouse special deductoin" is recognized. It was introduced out of respect to the assistance of wife in 1998.

Trade Union Law

In case of the worker in article 3 of the law, part-time(temp) worker is completely protected by the law.

Renewal of Part-time and Court Decision

There were too large numbers of court decisions about part-time renewal, Here I introduce noticeable decisions in brief.

According to the Tōshiba case of Supreme court decision (Showa 47.7.22) Tōshiba company renewed the part-time contract of two months term from five times to twenty three times. To be brief the relation of labor and management continues under the reliance connection and in conditions not different from the contract without any set period. The refusal of the renewal was declared invalid.

In Hidachi Mediko case of supreme Court decision (Showa 61.12.14) Hidachi Company refused the renewal of part-time term of two months after five times of renewal. In the Hidachi case different from Tōshiba there were no reliance connection, no lifetime expectation and the factory took

the self-supporting accounting system. Therefore the factory discharged the part-time (temp) workers in preference of the full-time workers. The supreme court decided that the refusal of the renewal was valid

The principle of the preference in case part-time may generally recognized, but when the part-time workers were deep in the connection with company irrespective of the name of temp, Nagoya district court judged that the discharge of the part-time worker was invalid as an abuse of right. (Tōyo Seitō case, Showa 49.9.30)

And in Heiankaku case of supreme court decision (Showa 62.10.16), Heiankaku company refused the renewal of part-time term of one year after the renewals of five time and eight times. The supreme court decided that the refusal of the renewal was invalid by the substantially same reasons with Tōshiba case.

The Labor Ministry approved that the rejection of the renewal of part-time contract were made void in the court decissions and the decisions reached not a few number. The ministry issued a notification for employears to take care for part-time contract and its renewal in order to prevent the troubles (Heisei 12.12.28 Number, 779 ki hatsu).

(2) Part-time Worker and the Rules in the Firm

Though part-time workers are protected by labor laws, these contents are decided by the rules in the firms.

1) Wage, Bonus and promotion

A part-time (temp) worker's wage is very low and about from 50% to 70% of a full-time worker and has in many cases no bonus or no chance of promotion.

Some instances of part-timer bonus or its promotion are sometimes reported as the result of competition of firms.

2) Working hours

A part-time worker's serive hours are commonly short for a definit day or a week in comparison with a full-time worker and engages in a light work.

But in some case a part-time (temp) worker engages in almost same work for the same hours with a full-time worker.

3) Period of Contract

A part-time (temp) worker is a temporary employee in principle for a definite period not exceeding one year (article 14 of Labor Standards Law)

(3) The movement of the legislation for part-time worker

Part-time workers were limited to term, low in wage and bad in working coditions.

legislation bill

About in 1983 all political parties out of power, Komei, Shakai, Minsha and Kyōsan proposed the legislation bill that the emplayer shall be disallowed to give discriminatory treatment to a worker by reason of part-time worker or shall guarantee a status of a part-time worker in the firm.

But still now these contents have not been relized.

Part-time Labor Law

In 1992 "The Law Concerning the Improvement of the Employment of Short-time Worker was realized.

The law stipulates the employment of part-time worker, and its contents are its suggestion, training, employment exchange, the employear's effort obligation to ask a person representing the majority of the part-time workers at the working place, in making or changing the Rule of employment

about part-time worker, the electin of the employment manager of part-time workers and part-time work help center.

These are chiefly effort obligation, and do not stipulate the discriminatory treatment of the part-time worker's wage and the other working conditions.

(4) Japan's Part-time (temp) Worker and ILO. EU

ILO, EU and England. Netherland

In June 1994 "Treaty Concerning Part-time Work" Number 175 of ILO was adopted, EU also adopted "Part-time Worker Decree" in December, 1997.

ILO, EU and England, Netherland etc. on the standard treat part-time and full-time workers equally in wage and other working conditions.

Speaking the impressive proposition of ILO and EU, the number 175 of ILO states clearly the freedom of the transfer from regular worker to part-time worker or from part-time worker to regular worker and gives various influences to EU.

According to the "Part-time Work Degree" of EU in 1997, the same standard with regular worker shall be applied to part-worker in wage, pension, training and vacation. EU member nations shall provide for legislation suitable to EU, within two years.

Britain already adopted it and Netherland was previously famous by its model

Maruko Keihōki Case

Nagano Distric Court in March, 1996 decided in a case of temp worker that an discrimination was invalid because it was against public order and good customs from the point of view on the idea of entirely whole equality treatment.

The employer strikingly discriminated the temp workers against the reg-

ular workers concerning wages in the same work and working hours.

The court regarded the temp worker's wage as eighty percent of the regular worker's wage. The member of the temp workers were 26 persons and they worked at the factory beyond for nine years repeating the renewal of every two months labor contract's term without the chance to the regular worker.

The case was in November, 1999 settled at the Tokyo High Court. The contents are as following ①changing daily pay to monthly pay ②correcting the 50%-70% wagee of the regular degree of the regular worker's wage to the about 90% till 2005 for five years ③Wage base up, bonus and retiring allowance of the same rate with the regular worker ④As solution money the employear shall pay about ¥1.6 million

Labor Ministry's Private Research Committee

The Private Research Committee of the employment management part-time labor under the Labor Misisty Female Bureau Chief competed in Apirl, 2000 the following researches

① When part-time worker engages in the same work with regular worker, employer shall treat part-time and full-time worker equally in treatment and working condition. It is one method.

② Even if part-time worker engages in the same work with regular worker, in case of part-time worker there are generally no overtime working, no working on rest day and no transference. In this case wage per one hour, treatment and working condition shall be decided with due regard to bolance of regular worker.

③ When bonus and retiring allowance is paid for regular worker, reasonable bonus or retiring allowance shall be paid for also part-time worker who engages in the same work with regular worker.

④ Employer shall give a chance for part-time worker to be regualr. It

will raise part-time worker's will and understand, and conduce to develop faculty.

⑤ Also concerning the treatment and working condition of part-time worker who engagages in the differenet work from regular worker, discrimimation shall be reasonable and convincible.

In a case of different work the part time worker who engages in the work under low conditions may feel uncomfortable for discrimination and unequal treatment, lose working will and create trouble.

This proposition seems now to be a common sense in the world (ILO and EU), but Japan's government has till now not accepted.

(5) Increasing Attention to Part-time Worker

An ecomic slump created unemployment. The full-time workers decreased, and the part-times workers increased.

Why did the part-time workers increase? Because their wages were chiep and the periods were short. It was favorable for employers. And because their working hours were short. It was farvorable for working wives.

A part-time worker's status is very unstable. The period is generally two or three month and below one year. Without the renewal of the period, the part-time worker lose his position.

A ccording to Nanohama Union President, Momoyo Kamo, a full-time may be at any time changed to a part-time worker. (January 1, 2002 Weekly Labor News)

An employer ordered a full-time worker to be a part-time worker against his will, took out the application of the employment insurance law and the social insurance law and lowered wage to 30% or 50% of the former wage about the same job, same working hours and days.

But a full-time work or a part-time work shall legally decided by contract. An employear is not be allowed to change a full-time worker to a part-time

worker against his will.

By the traditional way of thinking, as the full-time worker has such job or position as transference, overtime or rest day work, and responsibilty, he has wage and condition 30%-40% higher than the part-time worker engaging in the same work with the full-time worker.

But 30%-40% is too high. Transference, overtime or rest day work is not necessarily forced. The cases in which transference is limited in the homeland increase. Responsibilty is very different by the position in the company.

There are the part-time persons holding positions of supervision or management of part-time workers. For instance there is a director supervising part-time workers and a persons teaching the freshmen or managing the part-time workers' grievances.

Therefore the content, nature and responsibilty about the job an hour shall be examied. According to the theory the part-time worker's wage is given priority to work.

Many Japan's company trade unions hitherto have not been concerned about part-time workers. By decreasing full-time workers the part-time workers increased and the chiep wages of part-time workers have disturbed the wage rise of full-time workers.

The largest Unions, Rengo or Jenroren for the first time took up the wage rise (more than ¥10 an hour in case of Rengo) of part-time worker at the 2001 spring struggle.

2 Dispatch Worker

(1) Worker Dispatch Law

The dispatch of worker was prohibited in order to forbid forced labor and expulsion of intermediate exploitation, but it was introduced under the 1986 Worker Dispatch Law.

The law was drastically revised with certain conditions 1996.

The temp dispatch workers were permitted to work only in 26 jobcategories, each requiring specific skills such as software development, typing and interpretation.

In December 1999, the Worker Dispatch Law was revised to allow companies to hire dispatch worker to do almost any kind of work, excluding transportation service in harbors and the other certain essential services jobs (article 4 of the law)

Dispatch worker is legally opened to be a regualr worker.

One is a dispatch worker's propose to be a regular worker when the disaptch term expires. The employer has only effort obligation to accept the dispatch worker's porpose.

The other is a dispatch contract which prearranges appointment in advance. An employer judge the suitable character of regular worker by the procedure of the dispatch worker. If the dispatch worker has no suitable character, he may not approint him as a regular worker, but he shall not abuse his right.

Dispatch Worker and Part-time Worker

Dispatch and part-time worker are both temp, but although the part-time worker's employer is only one, in case of dispatch there are at least two employears.

In case of dispatch and part-time the contract becomes viod when the term expires, but although in case of part-time the renewal of the contract is valid, in case of dispatch the renewal of the contract is not permitted. A new full-time contract shall be contracted or a new dispatch contract shall be concluded with an other company.

Until now employers have used part-time workers to complement their regular stuff, but employears must not use dispatch worker to complement

the regular worker.

A dispatch worker may gain various experiences and a useful lifetime job. On the other hand an employer may reduce cost of training new granduates and find suitable employees while new graduates can save time for job-hunting.

(2) Three Relations about Dispatch Worker

There are three relations pertaining to dispatch workers.

First, dispatch company (hereinafter reffered to as A company) concludes employment contract with antoher company (hereinafter reffered to as B company). Dispatch worker engages under the commaned of B company for B company.

Next the relation between A company and dispatch worker is employment.

Third, the relation between B company and dispatch worker is engagement (Article 44-47 of the law)

Contract between two A and B companies

Two compaines A and B shall concluds a contract between A and B.

Its contents are as following (article 26 of the law) ①the job in which dispatch worker engage ②the working place ③the matters pertaining to the persons who take the command of dispatch worker ④the dispatch period and dispatch engaging days ⑤the time to begin and end the work and recess of dispatch worker ⑥the matters pertaining to safety and sanitation and ⑦ the other seven items.

Period of contract

The periods of the dispatch contract are decided by the government notification. The periods of almost 26 Categories as already stated are in less than one year. The renewal is permmited, but it shall not exceed three

years because dispatch must not substitue for regular worker. The periods of the categories other than 26 categories are within one year. The renewal of one year in not permmited.

The period within one year was criticised as too severe by employears. The Employment Policy Temporary Special Law in December 2001 changed the period of year to three years about dispatch persons of over 45 old years old.

This is a law with stipulated efective period of three years from 2002 to 2005. But they shall not be substituted for regular workers.

Specification of Dispatch Worker

Noticeably B company has effort obligation in concluding a worker dispatch contract that it shall not act with the object to specify dispatch worker (article 26 VII of the law). The act with the object to specify dispatch worker is the interview before the fact, the request for sending of curriculum vita, limitation to early age and statement of sex dsitinciton (government notification B 2,3.4). A company shall cooperate the act (government notification A 11(1)(2)).

(3) A company and Dispatch Worker

A is divided in two kinds. One is permission business (registration pattern). The other is notice business (regular employment pattern)

As disqualification clauses for A, the proper managment of individual informations and the maintenance of private secrets are added newly.

The relation between A company and dispatch worker is contract of employment as previously stated. A company pays wages and concludes an a greement of article 36 of Labor Standards Law with a trade union or with persons representing the majority of the worker.

A shall apoint its responsible person who manages the dispatch worker,

and keeps in contact with B's responsible person.

The relation between B company and dispatch worker is the connection of conerete engagement as previously related. For instance B company is prohibited to order working beyond eight hours a day or forty hours a week without the agreement of article 36 of Labor Standars Law.

Acconding to the report of the Health, Labor and Welfare ministry on December 28, 20001, the numbers of the dispatch workers increased and reached 1.386 million (Tokyō newspaper December 29, 2001)

An Addition

According to the public management announcement in January 29, 2002, Japan's unemployment rate climbed to a reord high 5.6 percent (Asahi newspaper January 29, 2002). Finance minister masajuro Shiokawa said "(The jobless rate) may continue to go up for a while." (The Japan Times January 30, 2002). The numbers of part-time workers reached 9.087 million (Asahi newspaper January 31, 2002).