



Labor Update No. 109 March 19, 2021

This bulletin contains information on law changes that have either passed, or are being discussed, in parliament, court decisions, and other labor issues in Japan that are of interest to activists.

1. Law/Policy

(1) “DV protection: expand to cover mental and sexual violence”, proposes Cabinet investigating committee

A Cabinet Office investigating committee of experts has put together a report containing a proposal for new measures to fight domestic violence (DV).

The report points out that mental violence, such as verbal abuse, can lead to psychological disorders and in extreme cases even to suicide. Therefore it proposes that laws should be amended so that the ability for victims to petition a court for “protective orders” that restrain a perpetrator from coming near them--currently only allowed in cases of bodily violence--would be expanded in scope to apply to mental and sexual violence as well.

The report, saying that many perpetrators justify their violence, or are otherwise not aware they are doing wrong, also calls for cities and towns to open consultations for offenders and connect this to programs that may help them to “turn over a new leaf”. It recommends that, in cases where child abuse is involved, children’s welfare centers direct the offenders to take part in such a program.

(2) Independent administrative institution JEED publishes manual

“Manual for Employment Until 70”, Japan Organization for Employment of the Elderly, Persons with Disabilities and Job Seekers (JEED)

<https://www.jeed.go.jp/elderly/data/q2k4vk000000tf3f-att/q2k4vk000003n1kz.pdf>

(3) Information on “Subsidy to Support Balancing Work and Family” for fiscal 2021

“2021 Guide to Subsidy to Support Balancing Work and Family” MHWL

<https://www.mhlw.go.jp/content/000754798.pdf>

2. Legal Violations/Disputes

(1) “Stop” Uber pay cuts: union makes protest statement

Uber Eats Union, a union made up of delivery workers for food delivery service Uber Eats, has released a statement of protest regarding the company's unilateral cuts in delivery pay, saying "the unbelievably unfair pay rates are destroying the lives of delivery workers. They must stop immediately".

Uber Eats Japan introduced a new pay structure in Fukuoka and Kyoto prefectures. The level of base pay for delivery was reduced, and, according to people involved, the total amount delivery workers' pay fell by an average of 30%.

(2) Unpaid overtime comes to light at Shimane Prefectural Central Hospital--approximately ¥180 million to be paid (Izumo, Shimane)

It has been discovered that Shimane Prefectural Central Hospital was making doctors do night duty in excess of what is stipulated by the Labor Standards Act. The Izumo Labor Standards Inspection Office has ordered the hospital to back-pay approximately ¥180 million in overtime allowances.

For the period in question, the two years starting from April of 2018, the overtime allowances owed to 135 doctors reach a total of about ¥180 million.

The Prefectural Central Hospital, having received the LSIO's warning, plans to pay the whole amount by the end of March, as well as, beginning in April, to revise their working system, including the night-shift system.

(3) Settlement of ¥400 million agreed to over deduction of overtime from commission--Kokusai Motorcars

When a driver works overtime, an amount equal to the overtime pay will be deducted from the driver's commission (pay based on a percentage of sales): in a lawsuit over this pay rule at major taxi company Kokusai Motorcars, a settlement has now been reached. According to the plaintiffs, drivers for the company, the company has agreed to pay settlement money totaling approximately ¥400 million for back-payment of the drivers' overtime, etc.

(4) Three successive Yamagata LSIO chiefs made interested groups pay food and drink tab

The Yamagata Labor Bureau has found out that three successive chiefs of the Yamagata Labor Standards Inspection Office (LSIO), when they dined with groups that were considered interested parties, violated public service ethics rules by not paying their part of the bill.

According to the Labor Bureau's announcement, the three chiefs accepted food and drink at social gatherings hosted by interested groups between May of 2014 and April of 2019: the current chief two times, leaving a total of ¥7000 unpaid; the previous chief a total of four times, totaling about ¥42,000; and the chief before that also four times,

for a total of ¥31,600. The three said that they “failed to check the details properly”.

(5) Kagawa U. makes outsourcing contracts with 400 part-time lecturers--MEXT seeks report of situation

Reporters have found out that Kagawa University signed *gyomu itaku* contracts (outsourcing contracts) with about four hundred part-time lecturers (*hijokin koshi*) to entrust them with lessons, and that the Education Ministry (MEXT, Ministry of Education, Culture, Sports, Science and Technology) has begun investigating. MEXT has expressed a position that, in order for a university to have responsibility over education, it is normal to use direct employment, so that the university can give orders and directions to instructors. The Ministry is requesting a detailed explanation of the teachers’ real working situation from Kagawa University.

3. Situation/Statistics

(1) Percentage of women in national legislatures: Japan ranks 166th in world, with 9.9%

<https://data.ipu.org/women-ranking/?month=1&year=2021>

(2) Real wages down 0.1% in January, 11th month in a row of decreases--Monthly Labor Survey

According to the Monthly Labor Survey (preliminary figures) released by the Ministry of Health, Welfare and Labor (MHWL), real wages for January were down by 0.1% compared to the previous year. This was the 11th year in a row of negative figures. The decline in total cash earnings is having an effect. There has also been some decline in the rate of decrease due to the shrinking number of part-time workers.

Total per-capita cash earnings, corresponding to nominal wages, were ¥272,972. This is 0.8% less than the previous year, and the tenth month in a row to show a decrease. However, the amount of the decrease was smaller than that of 3.0% for December of last year.

Scheduled cash earnings, corresponding to base pay, turned positive with an increase of 0.3% compared to the previous year. While the number of those in full-time employment rose by 1.2% compared to the year before, the number of part-time workers shrank by 1.1%. This pushed up the average of base pay.

Non-scheduled cash earnings decreased by 6.6%.

Bonuses and other special pay decreased by 12.7%, to ¥12,061.

“Monthly Labor Survey: Preliminary Figures for January, Reiwa 3 [2021]” MHWL
<https://www.mhlw.go.jp/toukei/itiran/roudou/monthly/r03/0301p/dl/pdf2101p.pdf>

(3) Japan the second-worst country for women to work in: *Economist* ranking

To coincide with International Women's Day, British magazine *The Economist* has released a ranking of 29 major countries indexed by how easy it is for women to work there. First place went to Sweden, with Japan in 28th place—second to last—just as it was last year. The lowest-ranked country was South Korea.

The rankings were decided by *The Economist* on the basis of ten criteria, such as the proportion of women in executive positions, the rate of female participation in the workforce, and the gender gap in wages. The top spots all went to countries on Northern Europe, with Iceland in second place and Finland in third. The U.S.A. ranked 18th: while women's workforce participation continues to improve, the participation of women in politics remains low.

Japan had the lowest numbers both for the proportion of women in executive jobs and for that in the lower house of the national legislature (in Japan, the House of Representatives). Referring to how former Prime Minister Mori Yoshiro was replaced as head of the Tokyo Olympics and Paralympics organizing committee by Hashimoto Seiko after making comments deemed demeaning to women, the magazine stated that "At least signs of progress can be seen even in traditional laggards like Japan."

Second-ranked Iceland has also held on to first place in the World Economic Forum's gender equality rankings for the past eleven years. In the most recent ranking, released in 2019, Japan was rated 121st out of 153 countries.

"Is the lot of female executives improving?" *The Economist*

<https://www.economist.com/graphic-detail/2021/03/04/is-the-lot-of-female-executives-improving>

(4) "Non-recognition of same-sex marriage is unconstitutional" says Sapporo District Court

Sapporo District Court has made a ruling in a lawsuit filed against the national government by three couples, six people, in Hokkaido, who claimed that not allowing legal same-sex marriages goes against the Constitutional guarantee of "marriage freedom". The three couples had sought damages of ¥1 million each. The District Court admitted the unconstitutionality, while denying the claim for damages.

The plaintiffs argue that Article 24 of the Constitution, which stipulates that "marriage shall be based only on the mutual consent of both sexes", is "a provision for freedom of marriage, and does not forbid same-sex marriage". However, under current law, marriage registration by a same-sex couple is deemed illegal and not accepted. Therefore, the plaintiffs claim their freedom of marriage is being infringed.

Furthermore, they also insist that, since the nonacceptance of their marriage leaves them disadvantaged in regard to such matters as tax and inheritance, it also violates the Constitution's Article 14, which gives "equality under the law". Recently, the attitudes of society have been changing, as evidenced by multiple cities and towns

setting up “partnership systems”--giving same-sex couples treatment equivalent to legal marriage on a municipal level. Yet the Diet’s “legislative inaction” in making no laws to recognize same-sex marriage has caused the plaintiffs mental harm, they say.

On the other hand, the national government says that Article 24, which uses the terms “both sexes” and “husband and wife” for the participants in a marriage, is referring to a man and a woman, and argues that “same-sex marriage is not imagined by the Constitution”. Regarding the system of recognizing marriage only for a man and a woman, the government says that “it is meant to give legal protection to a relationship of living together to bear and raise children, therefore its reasonableness is clear.”