



Labor Update No. 124 Oct. 15, 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) "Kishida Cabinet Ministers, Etc., Directory" Oct. 4, 2021--Cabinet Office

https://www.kantei.go.jp/jp/100_kishida/meibo/index.html

(2) "Growth and Distribution" in new capitalism: benefits for non-regular workers and families with children--general policy speech

Prime Minister Kishida Fumio gave his first general-policy speech on the 8th at a joint session of the two houses of the Diet. Regarding his concept of a "new capitalism", he expressed a wish to bring about "a growth strategy and a distribution strategy" as "the two wheels of a cart". He also indicated his determination to make thorough efforts on COVID-19 measures, including benefits to support non-regular workers (part-timers etc.) and households with children who are in hardship due to the effects of the pandemic.

(3) "Inspection and Study Manual for Eliminating Unreasonable Disparity in Treatment: Following the Part-Time and Limited-Term Workers Act"--MHWL

<https://www.mhlw.go.jp/content/11909000/000494536.pdf>

(4) "Inspection and Study Manual for Eliminating Unreasonable Disparity in Treatment: Following the Amended Worker Dispatch Act"--MHWL

<https://www.mhlw.go.jp/content/11909000/000501271.pdf>

(5) Lower house dissolved; election announced Oct. 19, to take place Oct. 31. Election campaigns begin

The House of representatives was dissolved at the plenary session held just after 1 P.M. on October 14. With the election to be officially announced on the 19th and voting to take place on the 31st, the parties have begun *de facto* campaigning.

The House was dissolved only 10 days after Prime Minister Kishida took office on

October 4. This is the shortest time it has been from any Prime Minister's taking office to dissolution since the war.

Responding to the dissolution of the lower house, the government will hold an extraordinary Cabinet meeting to officially decide the schedule for the general election: The election announcement will be on the 19th, and votes shall be cast and counted on the 31st.

This will be the first general election since October of Heisei 29 (2017). The parties have begun *de facto* campaigning, centering on COVID=19 measures and economic policy.

The members of the just-dissolved House of Representatives, elected in October of Heisei 29, have served in office for 1,454 days. This is the second-longest Diet term since the war, shorter only than the 1,461 days served by the House whose term ended in Showa 51 (1976) after the Miki cabinet did not dissolve it.

At the time of dissolution, the seats in the House of Representatives were held by the various parties as follows. Of the total 465 seats:

- ◇ The Liberal Democratic Party had 276
- ◇ The Constitutional Democratic Party, 110
- ◇ *Komeito* had 29 seats
- ◇ The Communist party held 12
- ◇ *Nippon Ishin no Kai* had 10 seats
- ◇ The Democratic Party for the People, 8
- ◇ *Reiwa Shinsengumi*, -
- ◇ The Social Democratic Party, -
- ◇ "The Party Suing NHK for Violating Article 72 of the Attorney Act", -
- ◇ *Kibo no To* had 1 seat.
- ◇ Independents held 12 seats; and
- ◇ 4 seats were vacant.

2. Legal Violations/Disputes

(1) Public school teachers' overtime lawsuit: plaintiffs' claims rejected, but ruling "ground-breaking and progressive in contents"

The Saitama District Court has rejected a suit by a teacher at a public elementary school in the prefecture. He had claimed that his not being paid overtime in line with his actual work hours was a violation of the Labor Standards Act, and sought back-payment of ¥2.42 million from the prefectural government.

"It is truly ground-breaking, and the contents [of the ruling] are quite progressive", said the lawyer for the plaintiff at a press conference. Although the man's claim was not upheld, his lawyer sees the results in an optimistic light.

The point that impressed the lawyer was that the court's indication that the Labor

Standards Act rule--in principle, workers may not be made to work more than eight hours per day--does indeed apply to public school teachers. This ruling points out that school principals have a duty of care and must take steps to eliminate overly long working hours for teachers. The court emphasized the meaning of this, saying "if it can be proven that long working hours have become a daily commonplace, there is a possibility that compensation for damages may be granted".

(2) Two teachers at Kadokawa Dowango Gakuen go on strike, seeking improvements in environment at "N High School"

Two currently-serving teachers working for school corporation Kadokawa Dowango Gakuen, which operates the major private correspondence school "N High School", will go on strike starting October 7. They say they will start the strike at 4:30 P.M., so as not to affect their students.

The two are members of a union called "Shigaku Kyoin Union", or the Private School Teachers' Union. They both formerly taught at N High, but currently work at other schools run by the same company.

The strike demands include reducing the number of students per teacher--one teacher can be in charge of as many as 150 students--as well as improvements in pay and in the working environment, in which many teachers have had to take time off or quit due to ill health.

The company's correspondence school, N High, received a citation from the Kameido Labor Standards Office on May 19 this year, for reasons including the lack of break time. In response to this, the company held a press conference in June, at which director Kawanoue Nobuo explained that the problem had been solved.

On the other hand, Shigaku Kyoin Union insisted in a press conference on October 1 that "there are still days when we can't take any breaks". The opinions of the two sides do not match.

(3) Unfair labor practice at JR Group company

When a supervisor put pressure on an employee of JR Bus Kanto, a JR East group company, saying records of his misconduct would be erased if he quit the union, this constituted an unfair labor practice, according to a complaint filed at the Tokyo Labor Commission by the employee. The Commission has granted the man's claim, ordering the company to issue him a letter promising the act will not be repeated. The company says that "The justification of our company's position has not been recognized. We cannot accept this. We have already appealed the decision to the Central Labor Commission".

According to the Commission's written order, in November of 2018 the man was called in to talk to a supervisor for having smoked and talked on the phone while driving a bus back to the depot. The supervisor then said "write a notice of withdrawal from the

union, and bring it to me, then I'll keep this scandal quiet". When he asked why he should have to quit the union, he was told "because that's the company's policy", according to the Commission's order. The man refused to resign from the union, and was punished by being suspended from work for 30 days.

(4) Work in hostess bar is as a worker, not a "contractor": settlement grants *de facto* overtime pay

It has become known that a suit filed in the Saitama District Courts by a woman who worked in a *kyabakura* hostess bar, in which she sought payment of approximately ¥11 million from the establishment in back-payment of overtime, ended in a settlement at the end of July. The business asserted that, since the woman was on an outsourcing (*gyomu itaku*) contract, there was no need to pay for overtime. But the terms of the settlement include agreeing that the woman's actual situation was that of a "worker", and therefore that she was indeed entitled to overtime. The monetary amount of the settlement has not been disclosed.

The woman worked at the establishment from May of 2015 until March of 2019. Her court battle began in the spring of last year, when she sued for overtime pay, late-night pay, pay for the times she was sent home early when there were no customers, and money that was deducted from her wages to pay for supplies and transport.

According to the lawyers for the plaintiff, the establishment never showed her a contract. However, since the hours she worked were kept track of with timecards and daily reports, and since she followed the manager's directions in entertaining customers, she claimed that in reality there was management of work hours and a system of command and direction, and that therefore she should be considered a worker.

(5) Labor Commission orders employment of after-school teachers: "Dormy Inn" parent company

Kyoritsu Maintenance, which contracts with Moriguchi City, Osaka, to run a "Children's Club" (after-school care), last year terminated the employment of ten staff members who were in a union. This constituted an unfair labor practice, according to the Prefectural Labor Commission. The Commission has ordered the company to employ the teachers and back-pay their wages. The same company runs the nationwide "Dormy Inn" chain of business hotels.

The company also carries out counter services for other local governments under outsourcing (*gyomu itaku*) or designated management (*shitei kanri*) contracts; it also runs after-school care facilities in Mimasaka, Okayama, and in Tagawa, Fukuoka.

According to the teachers, immediately before their scheduled contract renewals at the end of March 2020, they were given a written warning for having "criticized the company", and then their contracts were not renewed.

3. Situation/Statistics

(1) Agreement on international minimum rate of 15% for corporate tax, aimed to be introduced in 2023

136 countries and regions around the world, including member countries of the Organization for Economic Cooperation and Development (OECD), agreed on the 8th to set an international minimum for corporate tax rates at 15%.

Of the 140 countries and regions that participated in the talks, Ireland, Estonia, and Hungary--all of which had previously opposed the deal--agreed to it. Kenya, Nigeria, Pakistan, and Sri Lanka have as of now abstained.

U. S. President Biden expressed in an official statement that "Establishing, for the first time in history, a strong global minimum tax will finally even the playing field for American workers and taxpayers, along with the rest of the world."

Germany's finance minister Olaf Scholz stated in an email to Reuters that "Today we have taken another important step towards more tax justice", while Rishi Sunak, U.K. Chancellor of the Exchequer, stated that "We now have a clear path to a fairer tax system, where large global players pay their fair share wherever they do business."

According to the OECD, having made this agreement, they will now aim to have it accepted by the G20 finance ministers' conference to be held in Washington on October 13, and then to have a final agreement made at the G20 summit meeting to be held in Rome within the month. If an agreement is reached there, then each country or region will proceed with preparation in 2022, with a plan to introduce the minimum tax rate in 2023.

However, there are already criticisms to be heard from some countries.

Switzerland's finance minister made a statement asking that accommodations be made for the national interests of countries with smaller economies, and said a 2023 start would be impossible.

Also, Poland says that "an international tax rate must not lead to increasing taxes on foreign companies that invest in Poland and actually engage in economic activity within Poland. Starting further efforts related to the international tax project is our condition".

(2) IMF revises world economic growth prediction downward, U.S. by 1 whole point

The International Monetary Fund (IMF), in their predictions for worldwide economic growth released on the 12th, revised the estimate for this year's growth 0.1 percentage point down from this July's estimate, to 5.9%.

In particular, the predicted growth rate for the United States was lowered the most of any of the G7 countries, by 1.0 point, down to 6.0%. Supply chain trouble and the July-September slump in consumption are mentioned as main causes.

Also, Germany and Japan saw their numbers revised downward as well: Germany because of reduced manufacturing production due to a shortage of materials, and Japan because of effects from the July-September State of Emergency that was declared on account of increasing COVID-19 cases.

China's growth rate was also revised downward from the July estimate, in consideration of shrinking public investment. Large-scale corporate bankruptcies, such as in China's real-estate industry, have come one after another, and the IMF points out that there is danger of the effects spreading to financial markets.

The world growth rate for next year was kept at the same number predicted in July. Overall this was only a small downward revision, but the IMF expressed a view that risk to the world economy has grown larger.

As causes, the report mentions exiting the pandemic, inflation, and uncertainty regarding the slipping balance between supply and demand. The U.S. government's debt ceiling problem was also called a large risk.

In developing countries, economic recovery has greatly lagged on account of the damage done to the labor market and of inequalities in vaccine supply. It is predicted that, even in 2024, the developing world's GDP will still be stuck 5.5 percentage points below its pre-pandemic level.

"World Economic Outlook" October 2021

<https://www.imf.org/en/Publications/WEO/Issues/2021/10/12/world-economic-outlook-october-2021>