



## Labor Update No.20 October, 2017

***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) Government sets up a committee to deliberate introducing IT in the courtroom: aims to reduce the burden on participants

It has become clear that the government is to set up a deliberative committee of experts later this month within the Cabinet Secretariat to promote the use of IT in civil court procedures. They will debate a wide range of things, including submission of documents via the Internet, keeping court records electronically, and expanding the use of video conferencing systems in trials. They are expected to put together a proposal within this fiscal year. This means the government is setting about in earnest with the electronization of the legal system, in which Japan has fallen behind other countries.

Concerning electronization of court procedure, the 2004 amendment to the Code of Civil Procedure allowed the use of the Internet to make witness statements, etc. However, concrete rules for implementation have not been put in place, and currently documents cannot be submitted online.

- (2) 350,000 people begin receiving pensions: result of reducing the qualification period to 10 years

Due to the period of enrollment required to receive a public pension (qualification period) being shortened from 25 years to 10, approximately 350,000 people who had not received any pension before were given their first pension payment by bank transfer on October 13. According to the Ministry of Health, Welfare and Labor (MHWL), there were no particular difficulties.

The necessary qualification period was shortened to 10 years by legal amendment last year, with the aim of giving relief to those who were without a pension due to lacking the total 25 years' enrollment. The Japan Pension Service sent notice to the 676,000 eligible people between February and July.

- (3) Towards introducing a new system for young people of fourth-generation Japanese heritage to work in Japan: Justice Ministry policy

The Justice Ministry has settled on a plan to introduce a new residence system for young people of fourth-generation Japanese descent living abroad (such as in Brazil or Peru) to be able to work in Japan. There will be conditions on issuing visa status, such as a certain level of Japanese language ability, etc. The plan imagines accepting several thousand people each year. The Justice Ministry will be implementing “public comments” to gather wide-ranging opinions from citizens. With consideration being given to these opinions, the Ministry plans to introduce a system within the fiscal year.

The LDP had been requesting an expanded system from the government as part of their plans for countering the labor shortage in Japan. However, there are also worries that, just like Technical Interns, these people may be made into an employment “escape valve” in the form of cheap labor.

## **2. Legal Violations/Struggles**

(1) “Manager in name only” recognized, overtime ordered to be paid

Saying that it was unfair to be made to work as a “manager” in name only and not paid for overtime, Tokyo District Court handed down a decision on the 6<sup>th</sup> in the case of a woman formerly employed as a branch manager by Konami Sports Club, which operates sports facilities. The woman had sued the company seeking payment of approximately 6.5 million yen. The court decision ordered the company to pay her approximately 4 million yen.

The ruling pointed out that “branch managers’ discretionary authority is limited, they have no influence on the running of the company, and so they are not in the category of management”.

(2) 120 million yen in unpaid overtime at Tokyo hospital

It has come to light that Tokyo Metropolitan Children's Medical Center received a citation from Tachikawa Labor Standards Inspection Office for failing to pay enough overtime to around 130 doctors and other staff who worked at night and on holidays. By June the Center had paid staff a total of approximately 120 million yen in overtime that was unpaid from 2014 and '15.

(3) Japan Professional Baseball Players Association files for redress of unfair labor practice: “negotiation in bad faith”.

The Japan Professional Baseball Players Association, which had demanded reconsideration of Yomiuri Giants player Shun Yamaguchi’s penalty for causing a violent incident, asserts that the Nippon Professional Baseball Organization committed an unfair labor practice in refusing collective bargaining. They have filed for redress at the Tokyo Prefectural Labor Commission.

As points on which the Yomiuri Giants negotiated in bad faith, the Players Association

listed the following: “They unilaterally ended negotiations with this Association”; “They negotiated separately with individual players”; “They failed to give a reply to this Association”; “They failed to show any objective or concrete documentation, and gave no fair explanation”; and “They denied that it was a matter for obligatory collective bargaining”.

Regarding the filing of this claim, the Players Association says they did not seek prior approval from Shun Yamaguchi of the Giants. General Secretary Tadahito Mori explained that “Mr. Yamaguchi has an agreement [about his contract] with the Giants. We are acting on the judgement that this is a problem affecting all players, and something we as a union must take up on our own, as is our right as a union. It’s not to do with getting approval from Mr. Yamaguchi.”

(4) Nagoya University of the Arts orders professors to stay at home: conflict with the faculty union?

It has come to light that the educational corporation Nagoya Jiyu Gakuin, which operates Nagoya University of the Arts, gave stay-at-home orders to two professors in September. The professors are chair and vice-chair of the faculty union. The union is demanding the orders be rescinded, claiming that “there is no clear reason, so it is unfair”. In reply to a reporter from the Asahi Shimbun, the corporation said “the matter is currently under discussion. We are not able to say any more”.

According to a union source, the two professors received an e-mail in the name of the corporation’s chief director Daisuke Kawamura on September 22 ordering them to stay at home. A paper document with the same contents arrived by post on a later day. Among the reasons given were “The staff members’ conduct is deserving of reprimand. Or, there is a chance of it being so”; and “The staff members, by coming to work, hinder the carrying out of normal duties. Also, they have a large influence on other staff members”. When the union asked for concrete reasons, they say they received a document saying “We will not give answers on individual items”.

This corporation has had conflicts with the union over labor conditions in the past. As well as the Aichi Prefectural Labor Commission having made mediation proposals in 2014 and 2016, there was also a settlement made in January of this year over the union’s filing for redress of unfair labor practices.

### **3. Situation/Statistics**

(1) Toyota Automotive introduces new system: 170,000 yen to be paid across the board, regardless of overtime hours

Toyota Automotive has decided to introduce a new system starting in December 2017, guaranteeing a 170,000 yen overtime allowance regardless of overtime worked. The new system, having gained approval at the regular general meeting of the Toyota Automotive Workers’ Union on October 14, will come into effect in December. It will apply to about 7,800 employees in chief posts, both in office work and in engineering,

and will involve paying 170,000 yen per month to all, corresponding to 45 hours' worth of overtime pay, regardless of actual worked hours of overtime. Those who work more than 170,00 yen worth of overtime hours will be paid the additional amount as well.

(2) Convenience-store industry demands Foreign Technical Interns: some say “they should not use such a problematic system”

The Japan Franchise Association, to which convenience-store companies belong, is expected within the year to apply to the government to have convenience-store operation added to the list of eligible jobs for the Foreign Technical Intern system.

The JFA explains their reasoning with an eye on overseas expansion: “we want to export the Japanese convenience store as a package. If we become eligible for Foreign Technical Interns, the interns will be able to gain great understanding of the know-how to operate stores”. Labor shortages are becoming chronic in the convenience-store industry, but the JFA denies that this is the reason, saying “this is not in order to make up for shortages of personnel”.

Up to now, Foreign Technical Interns have mainly been in factories and farms, and their harsh labor conditions, among other things, have often been viewed as a problem.

Some say that “Their real purpose is to secure labor. The current Foreign Technical Intern system, with its fundamental flaws, must not be used to solve labor shortages”.

(3) Awareness of “unlimited conversion rule” not progressing in Aomori Prefecture: with the system starting in April next year, Labor Bureau senses a crisis

With less than half a year to go until the April 2018 start of the “unlimited conversion rule”, whereby irregular workers who have been employed a total of over 5 years will be able to keep working until retirement just like regular employees, and with awareness of this system not spreading well in Aomori Prefecture, the Aomori Labor Bureau senses a potential crisis. In a survey by the Bureau of heads of personnel management at companies, about 45% answered that they “do not know the content of the system”. As is, there are worries of trouble with workers over contract periods, etc., after the system comes into effect. The Labor Bureau plans to make requests to economic and labor organizations within the month regarding spreading awareness of the system and encouraging its introduction.

(4) At Nagoya U. gender-research facility, toilets with consideration for gender diversity

“All-gender” toilets, designed with consideration for LGBT and other sexual minorities, will appear at the Gender Research Library (Furo-cho, Chikusa-ku, Nagoya City), a research facility of Nagoya University that is to open on November 1. The facility aims for completeness in researching and communicating information relating to gender issues, and has taken care even in the planning of its toilets. These toilets will be open for public use, and seem likely to attract attention as a first-of-its-kind effort at a university.

On the wall in front of the toilets are reliefs shaped like people. If one looks closely, one of the people has a beard and is wearing a skirt, expressing the variety of gender. The toilet doors have the same type of design. The facility was built with donations from philanthropists, etc., and hopes by the time of opening to have a collection of about 20,000 books relating to gender. It will be open to the general public.

Osaka University also has come up with its own symbol indicating “useable by any gender” and plans to put this on newly-built multipurpose toilets on campus starting this November. International Christian University (Mitaka City, Tokyo Prefecture) also established an all-gender floor in a student dormitory on campus in April this year.

More and more universities are becoming conscious of gender diversity. In the future, Nagoya University, while also taking into account safety and security considerations, will consider whether to install all-gender toilets in other campus facilities.