



Labor Update No.36 June 15, 2018

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) MHWL: June is “Foreign Workers’ Issues Awareness Month”

This year’s slogan is “Follow rules to employ foreign workers properly: appropriate personnel management and working environments so foreign workers can show their abilities!”

Just a “month” is not enough.

Details on “Foreign Workers’ Issues Awareness Month” linked below (in Japanese):
<http://www.mhlw.go.jp/stf/houdou/0000208921.html>

(2) MHWL moves toward guaranteeing rest between shifts: “*Karoshi* Prevention General Principles” final proposal announced--“High-Professional” system not removed, conflicts with “Work-Style Reform Bill”

The Ministry of Health, Welfare and Labor released a new final proposal for “*Karoshi* (overwork death) Prevention General Principles” on May 31.

Its main pillar is a numerical target: to raise the proportion of companies using a “shift interval system” to 10% or more by 2020.

The list of industries where workers’ actual working situation will be investigated has had additions made: media, such as news and advertising, and the construction industry.

It will be approved by the Cabinet possibly as soon as July.

What is confusing is that the “High-professional” work, which is exempt from restrictions on working hours under the “Work-Style Reform Bill”, is subject to restrictions in this proposed outline. This raises doubts about the government’s seriousness.

“General Principles (Proposed) Relating to Measures for the Prevention of *Karoshi*” linked below (in Japanese):

<http://www.mhlw.go.jp/stf/shingi2/0000209413.html>

(3) MHWL updates “black companies” list; Oji Paper factory added

On May 31, the Ministry of Health, Welfare and Labor updated their list of companies that have faced prosecution on charges of violating labor standards laws.

Although 24 companies were added to the list for the period up through April, other companies were removed after being judged “no longer necessary to be listed”.

This brought the total number of companies on the list to 458.

The time has come to test whether this has contributed to any reduction in the number of labor-law violations.

“Items for Publication Relating to Violations of Law Concerning Labor Standards”, published May 31, 2018, linked below (in Japanese):

<http://www.mhlw.go.jp/kinkyu/dl/170510-01.pdf>

2. Legal Violations/Struggles

(1) Okinawa Christian University withdraws dismissals of irregular teaching staff, makes switching to unlimited contracts possible

Starting this year, newly-hired irregular teaching staff at Okinawa Christian University and Junior College had become unable to switch to unlimited-term contracts, but it became clear on the 16th that the University would scrap the stipulation in their working rules that limited the employment period to “up to five years in total”.

“Fifth-year dismissals” will disappear, and conversion to unlimited term will become possible.

The University gave their answer to Hijokin Union Okinawa in collective bargaining on that day.

The University put “working rules for limited-term teaching staff” into effect in April which contained the “total of five years” provision.

The union had been demanding it be withdrawn, calling it “firing in order to evade the law”.

(2) Snow removal costs lead to pay cut? City employees vehemently protest unusual

policy

The policy that Fukui City laid out was to cut employees' pay by 10% for the nine months from this July through March of next year.

The truth was that, due to heavy snowfall, the city's snow removal costs had ballooned to 5 billion yen.

National government subsidies and the city's own savings were not enough to cover this, so there is likely to be a shortage of funds for this year's budget.

The city employees are vehemently protesting this extraordinary plan.

Their union has demanded its total withdrawal.

(3) Tohoku University dismissals to go to trial--"no compromises" seen in labor tribunal

Sendai District Court decided on the 25th to end deliberations in the labor tribunal case started by certain irregular staff who had been employed at Tohoku University until being dismissed in March 2018, and who had filed for the tribunal seeking reinstatement at their jobs. The case will now be fought in court.

(4) Supreme Court: "disparity of allowances" with regular staff "partially unreasonable" --difference in the perfect-attendance allowance also seen as a problem

In the lawsuit over the difference in allowances between regular and irregular staff, the Supreme Court, 2nd Petty Bench, gave a judgment on June 1 saying the disparity was "partially unreasonable".

The Supreme Court made a new determination that "setting a disparity in the allowance for perfect attendance is unreasonable".

About four other allowances (transport, zero-accident, service, and meal allowances), they upheld the Osaka High Court's decision that these were unreasonable.

However, they did not accept the housing allowance, over which the plaintiffs had appealed.

(5) Supreme Court verdict orders payment of attendance allowance to *shokutaku shain* (contract employees) at shipping company

On June 1, the Supreme Court, 2nd Petty Bench, gave a verdict in the final appeal of a lawsuit filed by three contract employees (*shokutaku shain*) who worked at Nagasawa Unyu. Claiming that the reduction in their pay upon re-hiring after retirement age

constituted an “unreasonable disparity” in violation of the Labor Contract Act, the three had sued for payment of the difference in wages between them and regular employees.

The Supreme Court ruled for the first time that “whether a disparity in working conditions is unreasonable or not must be judged not only on the total amount of pay, but taking individual parts of the pay into account separately”, and considered individual items of pay individually.

Regarding the “regular attendance allowance” of 5000 yen per month paid to regular employees who came to work on all working days, the Court judged it “unreasonable” not to pay this to contract employees, overturning the appeal verdict of the Tokyo High Court (November 2016) on this point.

The company was ordered to pay the appropriate amounts, from 50,000 to 90,000 yen, to the three plaintiffs.

Apart from this point, on the questions of base pay and most other allowances, in consideration of the fact that the three would soon be receiving their pensions, the Court dismissed their claims and decided disparities were “not unreasonable”, sending only the case for recalculation of the overtime work allowance (which was linked to the attendance allowance) back to the High Court.

3. Situation/Statistics

(1) Half of university lecturers are part-time (*hijokin*); even a quarter of full-timers (*jokin*) are term-limited (*ninki-tsuki*): Asahi Shinbun-Kawai Juku survey

Approximately half of all university teachers nationwide are part-time, and 1 in 4 full-time *sennin* professors are in limited-term (*ninki-tsuki*) employment under names such as *tokunin*, *tokumei*, etc., according to a survey conducted jointly by Asahi Shimbun and Kawai Juku, titled *Hiraku Nihon no Daigaku*.

With irregular and limited-term employment on the rise the same way they are in ordinary industries, conditions for these lecturers seem likely to be a problem for the future, along with stability of education and research.

The Ministry of Education, Culture, Sports, Science and Technology has also investigated the numbers of full-time and part-time teaching staff in its Basic Survey of Schools.

According to the results of this, the cumulative total number of part-timers (*hijokin*) in 1987 amounted to 41.2% of all teachers.

But in 2005 for the first time they outnumbered full-timers (*sennin*), and last year amounted to 51.5% of the total number.

Half of university education has come to depend on part-time lecturers.

Part of the background for this increase is the fact that universities must depend on part-timers for foreign language classes, where the number of lesson *koma* is large, and for fields where researchers are few.

But without belonging to a particular university or having any other main job, teachers who live only on part-time work are in a severe situation.

(2) Silver Personnel Centers inundated with dispatch work offers: more than tripled over 4 years

Amid the worsening labor shortage, Silver Jinzai (personnel/human resources) Centers--whose purpose is to give elderly people something to live for--are being deluged with dispatch work offers.

The number has more than tripled over the past four years. On the other hand, accidents at work have increased by over six times, and experts point out that "the burden on seniors is increasing, so it is essential to create a safe environment that will be easy to work in".

Silver Jinzai Centers, which have approximately 730,000 people as members, are public-service corporations for the purpose of giving elderly people something to live for. But over 900 of them dispatch members to companies as workers.

The number of people doing this kind of dispatch labor per month has reached a national cumulative total of 430,000, which is 3.4 times the figure four years ago.

With the amount of dispatch work increasing sharply, accidents involving members are also on the rise.

Last year, the number of accidents in the year was 6.5 times more than four years before.

(3) ILO discusses first international standards on sexual harassment: aims for treaty including penalties

The International Labor Organization will hold its International Labor Conference in Geneva, Switzerland, from May 28 to June 8.

They will discuss new international standards for eliminating violence and sexual harassment in the workplace.

There have never been international standards dealing directly with work-related

harassment in general, including with sexual harassment, before; after discussion at this meeting, they hope to adopt standards at next year's Conference.

It will be a focus of debate whether the standards can be enforced with treaties.

According to results of a survey of current conditions in 80 countries, conducted by the ILO ahead of drawing up a draft proposal, there are 60 countries that have regulations on work-related violence or harassment.

Japan was classified as one of those with "no regulations".

In Japan, the Equal Employment Opportunity Act does require business owners to take measures to prevent workplace sexual harassment.

But it contains no definition of sexual harassment or regulation to prohibit it as such, which is an obstacle to protection and relief of victims.

(4) Total cash earnings for last fiscal year increase for the fourth year in a row; but real wages fall short

Working people's per-capita total cash earnings last fiscal year reached a monthly average of 317,000 yen, the fourth year in a row of increases.

On the other hand, real wages, reflecting fluctuations in prices, fell below those of the previous year.

"Monthly Labor Statistics Survey for Heisei 29 [2017]: Explanation of Preliminary Report" linked below (in Japanese):

<http://www.mhlw.go.jp/toukei/itiran/roudou/monthly/29/29p/dl/sankou29cp.pdf>

(5) Over half of children worldwide threatened by conflict, poverty, and gender discrimination

International NGO Save the Children, which specializes in supporting children, released a report on the 30th claiming that over half of children around the world are exposed to the threats of conflict, poverty, and discrimination against girls.

The report, bearing the title "Many Faces of Exclusion", ranks 175 countries on the basis of such things as forced child labor, exclusion from education, child marriage, and youth pregnancy.

According to the report, 1.2 billion children around the world are exposed to at least one of the three major threats of conflict, poverty, and gender discrimination.

The report also says that more than one billion children live in impoverished countries,

240 million in conflict-affected countries or in fragile states, and more than 575 million in countries “where gender discrimination is a severe problem”.

The number of children said to be living under all three threats of child labor, exclusion from education, and child marriage was 153 million, specifically in 20 countries including South Sudan, Somalia, Yemen and Afghanistan.

“The Many Faces of Exclusion - End of Childhood Report 2018” linked below (in English):

<http://www.savechildren.or.jp/news/publications/download/2018-end-of-childhood-report.pdf>

Explanation in Japanese linked below:

<http://www.savechildren.or.jp/lp/eoc2018/>