

The Regulation of Irregular Work in Japan:
From Collusion to Conflict

by

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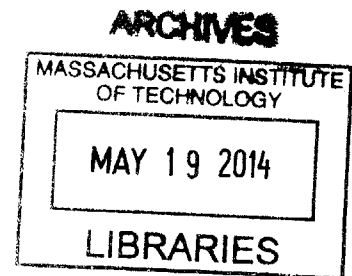
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Abstract

Japan's labor markets are clearly segmented between regular and irregular workers. Regular workers enjoy employment stability, good wages and promotion, and access to good pensions and health plans. Irregular workers—contract, dispatch and part time workers—can be fired easily, are paid less, and don't have access to fringe benefits. In Japan irregular work contracts have been progressively liberalized since the 1980s, and the share of irregular employment over the same time period has more than doubled to over one third of all workers. However, there are important cases of re-regulation. How can we account for Japan's specific policy path in regard to irregular work contracts? A good explanation ought to shed light on the politics of similar labor market phenomena across the affluent democracies.

In this project I argue the policy process by which labor policies are decided substantially impacts whether or not irregular work contracts are liberalized or re-regulated. When labor unions and employer associations bargain over policy in consensus-based deliberative councils housed in the labor ministry the resultant policies are very unlikely to be favorable to irregular workers, though they are likely to be favorable to regular workers. This is the way most policies were decided until the 1990s. In contrast, when labor policies are processed through parliamentary politics the content of policy is shaped by electoral competition between the parties of the right and left. Irregular work contracts receive favorable policies only when there is an electorally credible party of the left. When there is not a credible leftist party both regular and irregular work contracts are liberalized. Political competition rather than formal inclusion of labor representatives most often results in favorable policies for irregular workers.

Thesis Supervisor: Kathleen Thelen

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*À : mes maîtres et ma mère ;
et amis et mon père.*

Contents

List of Figures	7
List of Tables	9
1 Introduction	14
1.1 Is Japan becoming a floating crab cannery?	14
1.2 The argument in brief: policy institutions shape policy outcomes	19
1.3 Lessons from and for Japanese labor policy	22
1.4 Thesis outline	23
2 Definitions, measurement and explanations of irregular work regulation	25
2.1 Regular workers and irregular workers	26
2.2 What is labor policy?	29
2.3 Japan's irregular work contract policies	31
2.4 Existing accounts of labor policy making in Japan	34
2.5 Looking ahead: actors and institutions	37
3 Making labor policy in Japan: institutions and actors	40
3.1 Labor policy: institutions	41
3.1.1 The institutionalization of labor policy	41
3.1.2 Consensus-based deliberative councils	42
3.1.3 Competition-based party politics	45

3.1.3.1	Changes in party politics	45
3.1.3.2	Changes in policy making institutions	49
3.1.4	A hybrid model?	51
3.2	Labor policy actors	51
3.2.1	The actors up close	54
3.2.2	Employer associations	54
3.2.2.1	General policy orientation	55
3.2.2.2	Deregulation	59
3.2.2.3	Workplace diversity and irregular workers	62
3.2.3	Unions	66
3.2.3.1	Rengō's creation and general policy orientation	66
3.2.3.2	Deregulation	70
3.2.3.3	Workplace diversity and irregular workers	74
3.2.4	Political parties	79
3.2.4.1	The LDP	81
3.2.4.2	The DPJ	86
3.2.5	Governmental actors	91
3.2.5.1	The RRCs	91
3.2.5.2	The labor ministry	95
3.3	Looking ahead	97
4	The dispatch worker law	98
4.1	Period 1: Consensus-based policy making with strong insider bias	100
4.2	Period 2: From consensus to conflict	105
4.3	Period 3: The capacity for political conflict decreases	112
4.4	Period 4: Opposition parties regain the capacity for conflict	116
4.5	Period 5: Ambiguous policy process under the DPJ	119
4.6	Discussion	121

5	The part time worker law	123
5.1	Period 1: Consensus-based policy making dominates	128
5.2	Periods 2-3: Stasis in the deliberative councils	131
5.3	Consensus-based policy making dominates but is directed by political parties	133
5.4	Period 5: Ambiguous and contentious political process	137
5.5	Discussion	139
6	Fixed-term contract regulations	142
6.1	Period 1: No clear consensus on reform in the deliberative councils	148
6.2	Period 2: RRCs target FTC expansion	150
6.3	Period 3: Political conflict dominate LSL revision	155
6.4	Period 4: Politics breaks the consensus norm	160
6.5	Period 5: Partisan push for re-regulation	163
6.6	Discussion	166
7	Conclusion: has Japan solved the Goldthorpe Dilemma?	168
7.1	General findings	168
7.1.1	Has the ship sailed? Prospects for labor policy in Japan	171
7.2	Is Japan still Japanese?	172
7.3	What do employers want?	172
7.4	What do unions want?	174
7.5	The Goldthorpe Dilemma: does corporatism kill itself?	176

List of Figures

1.1	Total number of irregular workers by contract type	16
1.2	Percent of irregular employees in the workforce	16
1.3	Summary of the main argument	20
3.1	The normal labor ministry deliberative council process	43
3.2	Chronology of cabinets, coalitions and elections	48
3.3	Unionization rate in Japan	67
4.1	Number of dispatch workers in Japan	101
5.1	Size of the part time worker population	124
5.2	Relative proportions of <i>pāto</i> and <i>arubaito</i> by gender	125
5.3	Article 8 of the revised (2007) PTL	136
7.1	Regular worker EPL	180
7.2	Regular worker EPL	180
7.3	Regular worker EPL	180
7.4	Regular worker EPL	180
7.5	Temp worker EPL	181
7.6	Temp worker EPL	181
7.7	Temp worker EPL	181
7.8	Temp worker EPL	181
7.9	Vote share of two largest parties, 1956-2012	184

7.10 Unemployment rate for selected age and gender groups	186
7.11 Chronology of cabinets, coalitions and elections	188

List of Tables

1.1	Why are you in irregular employment?	17
2.1	Description of contract types in Japan	28
2.2	Chronology of irregular work contract regulations	31
3.1	Formal labor policy actors	52
3.2	Rengō's largest unions in 2012	68
3.3	Part timer unionization rate	74
4.1	Chronology of Dispatch Worker Law (DWL)	98
5.1	Chronology of Part Timer Law (PTL)	123
6.1	Chronology of fixed-term contract (FTC) legislation	142
6.2	Percent of employees with fixed-term contract by contract length in 2010	145
7.1	Poverty and poverty reduction in OECD countries	182
7.2	6th Central Labor Policy Deliberative Council Members	183
7.3	Chronology of coalition governments	185
7.4	List of Regulatory Reform Committees	187
7.5	List of prime ministers	187

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I would first like to thank all my teachers, though teacher sounds a bit childish. The Japanese word *Sensei* gets more at it, as does the word *maître*. That is how *Sensei* is rendered in the French translation of Natsume Soseki's novel *Kokoro*. The young narrator, opens the story by telling the reader that he had always naturally addressed his mentor only as *Sensei*, so no other name would do. Like the Sensei of *Kokoro*, my teachers formed the man who writes these words today, and I would like to recite here the names of those who had a particular impact on my thinking about Japanese politics and political economy. I owe a debt at UC Berkeley to Alan Tansman, Steven K. Vogel and T.J. Pempel. At MIT I would like to thank Kathleen Thelen, Richard Locke, Richard Samuels, and Suzanne Berger. At Harvard I would like to thank Peter Hall, Shinju Fujihira and Susan Pharr. I am also grateful to Bruno Palier, Cornelia Woll, Mari Miura, Margarita Estévez-Abe, Nobuhiro Hiwatari, Pepper Culpepper, and Yuichiro Mizumachi, all of whom helped me along the way.

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Everyone all for a cat who doesn't yet have a name.

The administration of labor
Has a too tragic history.
During the war as the mobilization bureau
We hunted down for munitions work
Laborers, countrymen.
After the war,
We were the arms and legs of rapid growth,
From the plan to double national income
To the plan to reshape the archipelago.
And we have come to bear the burden
Of pauperized workers.

Foreword to *This is Labor Policy* (1976) by Zenrōdō
National Labor Ministry Union, (Author translation)

List of abbreviations

Note: All direct quotations are my translations from Japanese to English unless otherwise indicated. When I possible I use the English translation of Japanese terms in the main text with a transliteration of the Japanese in square brackets unless the Japanese term is commonly used in English. Transliteration follows Modified Hepburn rules. Personal names follow English conventions.

Political Parties

DPJ	Democratic Party of Japan
DSP	Democratic Socialist Party
JCP	Japanese Communist Party
JNP	Japan New Party
JRP	Japan Renewal Party
JSP	Japanese Socialist Party
KP	Komei Party
LDP	Liberal Democratic Party
LP	Liberal Party
NFP	New Frontier Party
NKP	New Komeito
NPS	New Party Sakigake
NSPJ	New Socialist Party of Japan
PNP	People's New Party
SDP	Social Democratic Party

Organizations

ICTJ	Federation of Info. and Comm. Tech. Service Workers of Japan
JAM	Japanese Association of Metal, Machinery, and Manufacturing workers
JAW	Confederation of Japan Automobile Workers' Unions
JBU	Japan Federation of Basic Industry Worker's Union
JICHIRO	All-Japan Prefectural and Municipal Workers Union
JILPT	Japan Institute for Labour Policy and Training
JTU	Japan Teachers Union (Nikkyōso)
JTUC	Japanese Trade Union Confederation (Rengō)
J-R	Japan Fed. of Telecoms, Electronic Info. and Allied Workers (JOHO-ROREN)
JSD	Japan federation of Service And Distributive workers unions
LIU	National Federation of Life Insurance Worker's Unions
MHW	Ministry of Health and Welfare
MHLW	Ministry of Health Labour and Welfare
MOL	Ministry of Labour
MSIU	Mitsu Sumitomo Insurance Company Union
NSBA	National Federation of Small Business Associations
Rengō	Japanese Trade Union Confederation (JTUC)
RRC	Regulatory Reform Committee

Laws and Labor terms

DWL	Dispatch Worker Law
ESL	Employment Security Law
FTC	Fixed-term contract
LCL	Labor Contract Law
LSL	Labor Standards Law
PTL	Part Timer Law

Chapter 1

Introduction

Oi! We're headin' t' hell.

Opening line of *Kani Kōsen*

1.1 Is Japan becoming a floating crab cannery?

In 2008 an unlikely book shot into Japan's best-sellers list.¹ Takiji Kobayashi's 1929 novel *Kani Kōsen* [The Crab Cannery Ship] tells the story of mistreated workers on a crab canning ship in the seas north Japan who unionize and strike back against the degrading conditions of their employment. The surprising resurrection of a proletarian novel published eight decades earlier is just one thread of a large and growing national debate about the present and future of decent work in Japan. Japan is no longer a ninety percent middle class society in which most people are employed in the same company for their entire working career or are in a family where the main income earner enjoys such 'lifetime employment'. Policy makers, politicians and the popular press cast about for ways to understand Japan's rapidly changing labor markets, but one point is clear: the number of stable jobs with regular promotions and training—what used to be regarded

¹*Kani Kōsen* was the 8th highest selling paperback book at Japan's largest book store Kinokuniya in 2008. Its improbable success triggered a *Kani Kōsen* 'boom', and the book's title made it into the top ten of a closely watched keywords of the year list [*Shingo, ryūkōgo taishō*]. In a similar vein, 2006 "unequal society" [*kakusa shakai*] made the list. In 2007 "net cafe refugee" [*netto kafe nanmin*] made the list. In 2009 "dispatch worker layoffs" [*haken-giri*] made the list. See ? and ? for a discussion in English of the *Kani Kōsen* 'boom'.

as ‘regular employment’—is in decline, perhaps terminal decline. How did this happen and what are the consequences of this dramatic change in Japan’s labor markets?

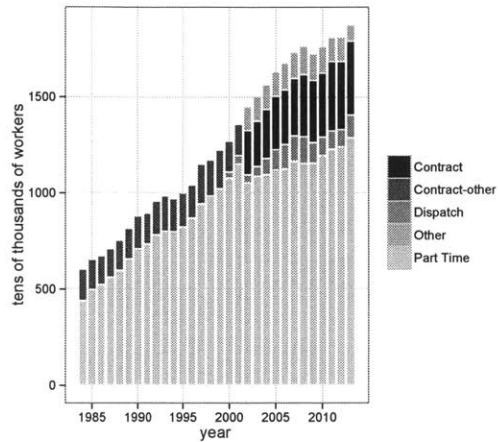
The number of irregular workers in Japan—dispatch workers, contract workers, part timers etc.—has exploded in recent years. In 2012 irregular workers as a share of total employment stood at just over 35%, its highest ever.² In 1985 the share was 16.4%. In 2005 it had increased to 32.6%. By gender, in 2012 19.7% male workers had irregular work contracts. 54.5% of work contracts for women were irregular. (See FIGURE-1.1 and FIGURE-1.2 below.) The increase is not simply an artifact of changing demographics or industrial structure, i.e., more women entering the workforce, or post-‘retirement’ regular workers re-hired to their old jobs on a part-time basis, or more jobs in the service sector (?). National labor policies play an important role. Labor policies determine how and for how much employers can hire irregular workers. In Japan, as in most affluent democracies, labor markets have been asymmetrically deregulated over the past three decades. Rules for full-time permanent workers, Japan’s “salarymen”, are relatively unchanged from the 1980s. Meanwhile, regulations governing the peripheral workforce have been gradually lessened.³

In the past decade scholars have devoted considerable attention to describing and analyzing Japan’s increasingly polarized labor market. Some have focused on the concrete experiences of the working poor and unemployed youth (????). Others have analyzed the effects of increasing polarization on Japanese society (???), or how to workers and managers ought to navigate the changing labor market (??). Still others have turned their attention to the political and economic causes of labor market polarization (?????). In this study I examine how political and economic actors mobilize around and advocate for important labor market policies, especially regulations governing dispatch workers, part time workers and contract workers. Permissive labor market regulation is a necessary condition for labor market polarization. Firms can partition their workforce only inasmuch as they are legally permitted to do so. Even if labor policy simply ratifies firm practices

²See “Historical Data 9”, of the Monthly Labour Force Survey, Statistics Bureau, Ministry of Internal Affairs and Communications of Japan for detailed historical tabulation: <http://www.stat.go.jp/data/roudou/> (Japanese); <http://www.stat.go.jp/english/data/roudou/> (English).

³See FIGURE-7.1 to FIGURE-7.4 in the appendix for comparative international measures of labor market regulation. There is very little change in regular worker regulation across countries since the 1980s.

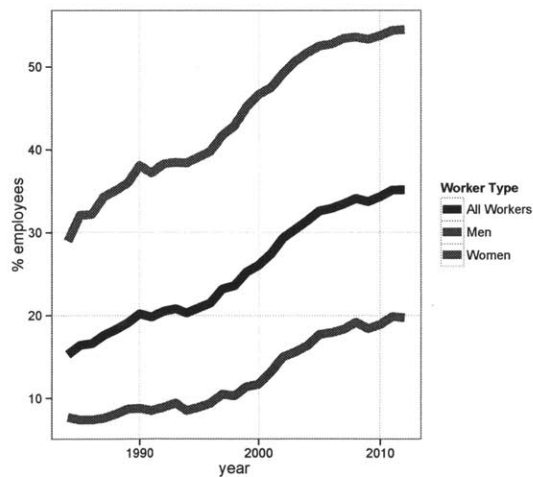
Figure 1.1: Total number of irregular workers by contract type



Note: Contract: “contracted” and “entrusted” workers [*keiyaku* and *shokutaku*]; Part Time: “*pāto*” and “*arubaito*”. Contract workers counted separately from Other beginning in 2002. Dispatch workers counted separately beginning in 2000.

Source: Labour Force Survey, Ministry of Internal Affairs and Communications of Japan.

Figure 1.2: Percent of irregular employees in the workforce



Note: The share of irregular employees (“non-regular employee” [*hiseiki no shokuin / jūgyōin*]) is reported directly in the labor force survey and is the summation of part time, dispatch, contract and other non-regular employees among all non-executive employees.

Source: Labour Force Survey, Ministry of Internal Affairs and Communications of Japan.

Table 1.1: Why are you in irregular employment?

Percent who responded, “Because I couldn’t get a regular job.”

	1999	2010
Total	14	22.5
Contract	29.3	34.4
Contingent	10.2	14.2
Part time		16
Dispatch	29.1	44.9
Other	15.8	34

Source: Ministry of Health, Labour and Welfare, Labor Economy White Paper 2012 [*Rōdō keizai hakusho 2012*].

(rather than enabling them), an analysis of how regulation comes about sheds light on the political process by which economic and political actors engage one another in Japan to structure the relationship between employer, worker and the production process.

There is a broad consensus that irregular workers in Japan face substantially diminished opportunities for securing a good livelihood compared to regular workers (??????). Indeed, Japan’s labor law stands out when compared to Anglo-European labor law in the degree to which overt discrimination between regular and irregular workers is permitted, even when the workers are performing the same tasks. The capacity to legally discriminate based on employment contract is a hallmark of Japan’s labor law. The Japanese government’s labor force statistics take great care to delineate between regular and irregular workers, and between the various forms of irregular work. Employers must use different rules and norms in their interaction with full-time regular employees than with part-timers, contract workers, subcontract workers, etc. Pay, protection from firing and access to social/corporate welfare programs also differ between these groups. So too can such minutiae as whether an irregular worker has the right to wear company uniforms (yes for part timers, no for dispatch workers) and whether a supervisor can give direct orders to the worker (yes for dispatch workers but no for subcontractors). TABLE-1.1 reports that the number of irregular workers who would like to be in regular employment is on the rise.

The different rights and responsibilities attached to different work contracts creates the possibility for labor market segmentation. Labor market segmentation, in turn, can directly cause other outcomes of interest to scholars and policy makers, such as social stratification and exclusion, differential access to political and economic rights, etc. (?). In Japan the relationship between

poverty and employment status is particularly strong because there is very little redistribution through taxes and transfers (?????).⁴ Nevertheless, labor policy appears stuck.⁵

In the pages below I aim to explain Japan's particular pattern of labor market regulation since the early 1980s.⁶ I am motivated in part by the recent and rapid growth of Japan's irregular workforce, but I am also motivated by the puzzling pattern of labor market regulation. In many ways Japan's policy trajectory confirms the worst predictions of the new dualism literature in political science: polarized labor markets, politically and economically excluded outsiders versus privileged insiders (?????). Indeed, by one measure, Japan has among the least regulated labor markets in the OECD.⁷ However, even in Japan the policy path for irregular work regulation does not always lead downward. While the overall direction since the 1980s is toward more liberalization of irregular work contracts, liberalization is occasionally accompanied by the extension or creation of social policies aimed at irregular workers. On occasion re-regulation also occurs. To be clear: a greater share of the Japanese workforce today holds irregular work contracts than in 1980, 1990 or 2000 because the market has been liberalized. At the same time, there are more rules governing irregular work contracts than ever before.

I find that that Japan's pattern of labor market regulation can be substantially explained by the institutions that determine labor policy. When labor policy is decided by consensus-based bargaining between national labor and management representatives irregular work contracts are likely to be liberalized. Only when labor policy is determined through open political competition and compromise with a credible party of the left in parliament do irregular workers consistently receive regulatory favor. The change in policy making institutions and the struggles of Japan's political left account for both the general liberalization of the market for irregular work contracts and its occasional re-regulation. Formal inclusion of labor unions in the policy process accounts for the perseverance of regular worker regulations, but it has done little to create protective regulations

⁴See TABLE-7.1 in the appendix for comparative international measures of poverty and poverty reduction across OECD countries. Japan has the lowest percent reduction in poverty through taxes and transfers among peer countries.

⁵See ????. Most of the work on social movements since the 1960s starts with the observation that there is never a shortage of grievances in society yet only a small number result in organized, sustained social movements and political change.

⁶The first major policy change came in 1985 with the legalization of temporary dispatch work agencies.

⁷See FIGURE-7.5 to FIGURE-7.8. Among the affluent democracies Japan scores lowest outside the Anglophone countries.

for non-unionized irregular workers. Rather, it is only when unions are excluded from the policy process that they turn their attention to broader working class issues. These findings are based on in-depth case studies of the politics of irregular work regulation in Japan: for dispatch work, part time work, and fixed-term contract work.

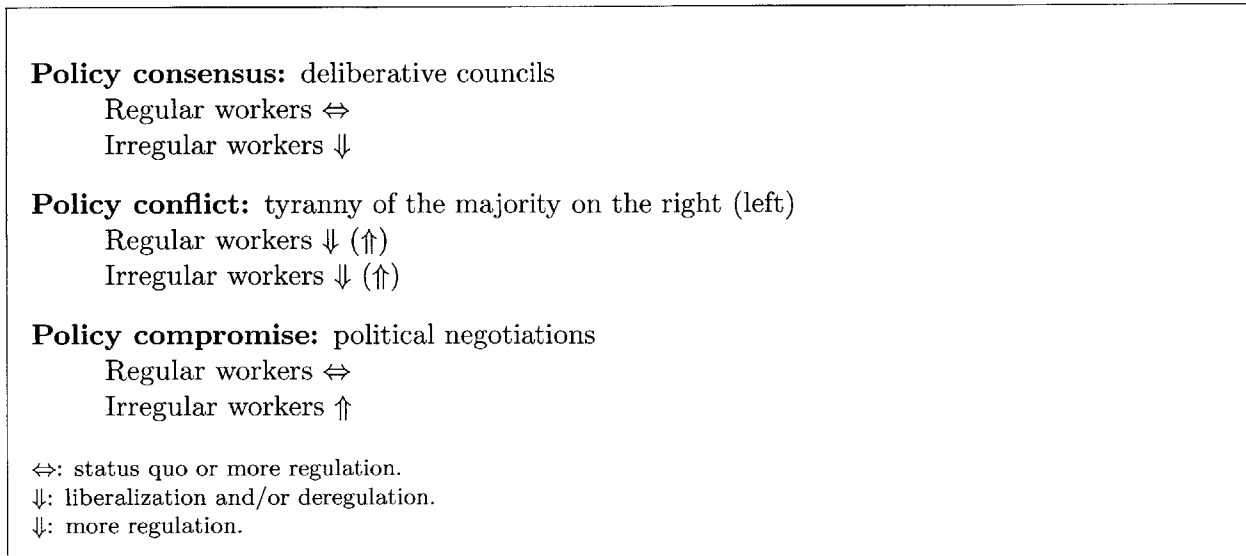
I arrive at these findings by first asking: who gets to decide labor policy, and what constraints do they face? A sensible way to get at these questions is to trace through how actual policies in Japan take shape and evolve. I can then search for generalizable patterns in the policy process. The output of interest in my analysis is national level statutes and regulations—the rules imposed by the state on the worker-employer relationship. How and why are policies made to slice up Japan’s labor markets in the particular ways we observe? A satisfying answer to these questions should also shed light on the realistic possibilities for labor market reform in Japan and other countries with similar actors and institutions, especially the so-called social insurance welfare states of continental Europe.⁸ The recent global financial crisis has put a new spotlight on the governance of labor markets. Whether one takes the position that regulations are the cause of unemployment or an needed ballast against worker exploitation, a clear explication of how policy making institutions structure actor behavior and policy outcomes—such as the one offered here—defines the outer boundaries of possible policy futures. Japan offers a unique opportunity to study the effect of the policy process on labor policy outcomes. The actors are clearly delineated. Their behaviors are relatively easy to observe. The process is transparent. Furthermore, the institutions of policy making change over time so it is easier to observe how permutations in the policy making process lead to different outcomes.

1.2 The argument in brief: policy institutions shape policy outcomes

From the institutionalization of labor policy making in the 1970s until the 1990s mainstream labor unions were formally incorporated into Japan’s policy making process, and were given substantial

⁸Recent similar work on labor market reform in social insurance welfare states includes ????. These authors explore constraints common to social insurance states, especially polarized labor markets.

Figure 1.3: Summary of the main argument



statutory and informal say over labor policy (?????). During this period most labor policy was decided in tripartite consensus-based policy councils comprised of equal parts labor, management and public interest representatives. The consensus process facilitated the asymmetric deregulation of Japan's labor markets. The institutions of policy making endowed unions with the capacity to block or amend regulations that were unfavorable to either regular or irregular workers. However, mainstream unions, particularly in the private sector, did not have the incentive or inclination to defend against liberalization of the market for irregular workers; the overwhelming majority of union members were regular workers and only a very small minority of irregular workers were union members.

By the 1980s, the heyday of consensus-based labor policy making, centrist labor unions and employers had reached a broad understanding concerning the necessity of a two-tiered labor market (?????).⁹ This agreement was continually renewed through a policy process that encouraged labor

⁹I am thinking here of two things: 1) The general acceptance of the three productivity principles by the private sector unions. 2) The approach taken by these unions to the post-oil shock rationalization and workforce diversification pushes. Private sector unions in particular conceded the need for employment flexibility, which ought to be achieved through expanding alternative employment contracts. Unions did not want the wall between internal and external labor markets to become more permeable. The analysis here does not require an explanation for the private sector unions' behavior. See ? and ?.

representatives to consider the appropriateness of labor policy in regards to its benefit for regular workers as well as employers, even when the policy exacerbated labor market inequalities between regular (unionized) and irregular (non-unionized) workers. Unions placed employment protections for their regular workers at the center of their policy demands from the first oil shock in mid 1970s through the Japanese yen appreciated in the 1980s, and into the ‘lost decade’ of the 1990s. All three periods added strength and urgency to employer demands to reduce (“rationalize”) labor costs. Employers consistently opposed additional regulations on work contracts of any kind; mainstream unions were willing to accept liberalization of irregular work contracts in exchange for employment guarantees for regular work contracts.

However, the institutional locus of labor policy making shifted to the Prime Minister’s Office and parliament with the upheavals of party realignment and electoral reform of the mid-1990s. As a result, unions lost the ability to directly veto labor policy proposals, while political parties—and especially the party of government—gained the ability to steer policy directly. This included policy committees within the Prime Minister’s Office comprised of neo-liberal intellectuals and employers who could forcefully push for general labor market liberalization as an alternative way for firms to control labor costs.

The change in policy making from political consensus to political competition had a few important results. First, employers could pursue labor market reforms that were unacceptable to unions. Second, unions were forced to re-engage with party politics, and in doing so transform themselves from the mouthpiece of protected male regular workers into advocates of broad working class interests. Political mobilization around the protection of entrenched economic interests was not a viable union strategy in the 1990s and 2000s because it could not attract the attention of the major opposition parties. Finally, the institutional changes of the 1990s made policy outcomes less stable. In the consensus process employers could not unilaterally change legal protections for regular workers. In the competition process employers were able to propose and shape policy initiatives through their relationship with the parties of the right who monopolized government. However, because the new policy process is predicated on partisan competition, the calculus of party coalitions and electoral advantage trumps the liberalizing preferences of businesses when the two conflict. The

party of government, even when it is from the right, is constrained by coalition and opposition parties. As unions reoriented themselves to be advocates of all workers, both regular and irregular, they found ways of interacting with opposition parties that slowed down and even reversed labor market liberalizations more generally, which benefited both regular and irregular workers.

FIGURE-1.3 summarizes the relationship between policy institutions and outcomes. By more regulation I mean an increase in regulations that compensate for the power asymmetry between employer and worker. By liberalization and/or deregulation I mean less rules governing the conditions under which employers can use an irregular work contract and less obligations placed on the employer when employing an irregular worker. An example of more regulation is the requirement to offer an indefinite contract to a fixed-term contract worker after a certain period of time. An example of less regulation would be permitting a fixed-term contract to be drawn for three years instead of one year.

1.3 Lessons from and for Japanese labor policy

My argument has several implications for both Japan and the study of labor politics more generally. First, the standard image of the Japan's unions as essentially a labor aristocracy should be revised. Japan's unions can and do represent the interests of non-unionized irregular workers in national policy, but they are much more likely to do so when they are forced to engage in parliamentary politics than when they participate in tripartite policy making.

Second, a revival of consensus-based policy making will again exacerbate the division between insider and outsider unless unions are forced to organize irregular workers. Cooperative, deliberative policy making institutions are often thought to produce more equitable labor market outcomes than competitive partisan politics (?????).¹⁰ However, in Japan cooperative policy making institutions

¹⁰See the discussion in chapter 2 on alternative analytic frameworks. The neocorporatism literature in particular makes specific assumptions under which peak-level bargaining ought to produce superior outcomes. More generally, Mancur Olson's framework for understanding the impact of interest group size on economic outcomes suggests that we should expect tripartite negotiations to be most effective when the collective actors incorporate the interests of most individuals (?). My point is that in the middle range where interest groups are big but not encompassing there is not so deterministic a relationship with economic outcomes. Greece and the United Kingdom have similar unionization rates, as do Portugal and the Netherlands, yet in these pairs of countries unions play very different roles in politics and the economy. Even the extremes do not provide a very good granular mapping: Norway has seven times the unionization rate as France but France has a slightly lower relative poverty rate See TABLE-7.1 in the

facilitated labor market polarization because unions do not have a reason to represent non-union members. Indeed, it is only once competition and conflict entered into the process that irregular workers found voice.

More generally, institutional design has a significant and predictable impact the behavior of policy actors. This is nothing new to institutionalists but analyses of labor unions both in Japan and elsewhere tend to instead make assumptions about ‘what unions want’. Preferences may be pre-institutional or not, but the behavior of Japan’s unions cannot be read directly from their place in the system of production. A theory of union behavior in policy making based only on deductive economic characteristics, such as the insider-outsider framework, cannot explain why unions in Japan first countenanced then opposed liberalization of irregular work contracts. Rather than assume actor preferences we should start with observable things: actor behaviors within an institution.

The findings presented here have real-world implications. Governance of national labor markets matters for workers, who have to earn a living, and for employers who need to maintain their balance sheet. It also matters in aggregate. Societies fare poorly when there are too few “good jobs”.¹¹ In this study I hope to provide a framework to think clearly about the conditions under which workers, employers and political parties create policies that ultimately determine the quality of work in the 21st century.

1.4 Thesis outline

I develop the remainder of this thesis in four parts. First, I provide an overview of important terms and concepts, including a list of major labor market regulations since 1980. I also connect my analysis to broader political science research. Second, I describe the relevant labor policy actors and institutions in Japan. Next, I interact actors and institutions through detailed case studies of labor policy. The case studies are focused on the three main categories of irregular work in Japan: dispatch workers, part time workers and workers with fixed-term contracts. I conclude with a brief

appendix for comparative poverty and unionization rates.

¹¹See ? for an example of the link between labor market regulations and the distribution of “good jobs” and “bad jobs”.

discussion of implications from my analysis Japanese labor policy and the study of labor politics.

Chapter 2

Definitions, measurement and explanations of irregular work regulation

In this chapter I provide some vocabulary for empirical approach and analysis to follow.

- Key terms:
 - Who is a regular worker, an irregular worker, what do I mean by labor market regulation?
- Description of the explanandum:
 - What are the regulations concerning irregular work contracts since 1980.
- The analytic and empirical approach within political science:
 - The type of policy outcome gives you the relevant actors and institutions.

My goal with the last item not to provide a literature review but rather to point out similarities between my approach and common political science frameworks, as well as ways the analysis here might be of use in important scholarly debates.

This chapter deals with the “left hand side” of the policy process. In the following chapter I introduce Japan’s policy actors and institutions, what might be thought of as the explanans or

“right hand side” of the policy process—the things that we can use to describe and predict policy outcomes outlined here.

2.1 Regular workers and irregular workers

In Japan **regular workers** (*seiki shain*) are those workers offered an open-ended, direct full-time work contract. Regular workers usually have access to annual wage increases and promotion, lifetime job security and access to special pension and health insurance programs. **Irregular workers** (*hi-seiki shain*) are those who are not regular workers. In practice this means part time workers, fixed-term contract workers and day laborers, and dispatch (temp agency) workers. Irregular workers usually do not have access to pension plans, can be fired easily, and do not have the option for regular career advancement.

The definitions are parsimonious, widely used, and capture the difference I want to make between the two groups.¹ Workplace sociologists make more fine-grained distinctions than the above but they are essentially qualifications and restrictions to the regular worker category.² All irregular work contracts have at least one of the following attributes: less than full time hours, a fixed-term contract or an indirect employment contract (? , 1).

“Regular worker” and “irregular worker” are frequently used in the popular press and in government statistics. The government’s main labor force survey directly reports the number in each category. It relies on firm self-reports, meaning the employer also makes the distinction. The labor force survey divides “irregular worker” into several categories: part timer (*pāto* and *arubaito*), dispatch worker, “contract worker or commissioned worker” (*keiyaku shain* and *shokutaku*), and “other”. (See TABLE-2.1 below.) The case studies in the second half of this thesis provide more detail on some of these terms. For now I simply want to underline that nearly all employees neatly fall into one of two broad categories: regular or irregular.

National labor regulations assign a specific meaning to the difference between regular and

¹Mari Miura, for example, gives an even more brief definition in her recent book on Japanese labor politics “The category of non-regular worker includes all workers other than full-time workers with open-ended contracts and covers various styles of work” (? , 29).

²For example, Michio Nitta uses: typical typical employment, less typical typical employment, typical atypical employment, non-typical atypical employment, and so on (??).

irregular workers. Regular worker contracts are not tightly controlled by detailed statutes, and the contracts themselves tend to be vaguely written (???).³ Regular worker contracts are broad because the employees are expected to stay with the firm their entire career and undertake a variety of jobs during that time. Labor disputes are traditionally dealt with through company unions rather than through litigation, and until 2003 either party could, on paper at least, terminate the labor contract with two weeks' notice, though case law had severely restricted the employer's dismissal right for regular workers (?). The Labor Standards Law (LSL) permitted fixed-term contracts of no more than one year per contract and dispatch work was banned outright (as were private employment and recruitment services). Part time workers were often given the same type of indefinite contract as regular workers; HR practices determined whether an employee was part time or not.⁴ Aside from certain narrow constitutional constraints employers had a near absolute right in statute to discriminate in hiring, promotions, pay and termination (?).⁵ Furthermore, irregular workers, including long-term part timers, who despite their title worked full-time, were generally exempted from social insurance programs (company and national pensions, health insurance and unemployment insurance).

³Labor contracts are treated as a type of private contract and were originally spelled out in the civil code [*Minpō*]. In 2007 a separate Labor Contract Law (LCL) was created to give more structure and clarity to labor contract statutes. For a general overview of Japanese labor law in English see ? and ?. Work conditions are regulated by the Labor Standards Law (LSL). "The Labor Standards Law is a comprehensive statute laying out minimum standards for employment conditions. It provides for methods of wage payment; working hours, rest periods and days-off; annual paid leave; leave before and after childbirth; protection of young workers; compensation for industrial accidents; work rules; specification of working conditions at the time of hiring; notice of dismissal; equal wages for men and women; and so forth" (? , 5). The LSL also covered minimum wages and safety and health, but these were removed and put into different laws in 1969 and 1972.

⁴When the dispatch work law was passed in 1985 96.1% of all non-executive employees were covered by the same type of open-ended contract, either as a regular employee or as a part timer.

⁵The constitution bans discriminate based on creed or nationality.

Table 2.1: Description of contract types in Japan

Type	Japanese	Employment	Contract length	Wages	Hours
Regular worker	Seki-shain	Direct	Open	Monthly	Full time
Contract worker	Keiyaku shain	Direct	Fixed	Monthly	Full time
Contract worker	Shokutaku shain	Direct	Fixed	Monthly	Part time
Temporary worker	Rinji koyōsha	Direct	< 1 mo	Hourly/Daily	PT / FT
Subcontractor	Ukeoi rōdōsha	Indirect	Fixed	Hourly	FT / PT
Registered dispatch worker	Tōroku haken rōdōsha	Indirect	Fixed	Hourly	FT / PT
Regular dispatch worker	Tsūjō haken rōdōsha	Indirect	Fixed	Monthly	FT
Part time worker	Pāto	Direct	Fixed/Open	Hourly	FT / PT
Part time worker	Arubaito	Direct	Fixed	Hourly	Part time

Note: adapted from ?.

A brief summary of the rules governing an employer's right to terminate a labor contract for economic reasons (layoffs or redundancies) gives a sense of how labor regulations discriminate between regular and irregular workers. Case law (and later statute) explicitly requires that employers fire irregular workers before laying off regular workers (?).⁶ In the 1970s the courts ruled that employers can only lay off regular workers if four criteria are met:

- There must be a demonstrated need to reduce employment
- Employers must have taken measures to avoid dismissing regular employees
- There must be a objective standard to decide which employees will be dismissed
- Employers must seek understanding with labor representatives

The critical requirement is the second item. The measures needed to avoid regular worker dismissal are:

- reduction of work hours
- transferring workers and work sharing
- terminating employment of irregular workers

Employers can discriminate in pay and promotion simply by virtue of the type of contract given to workers.

2.2 What is labor policy?

In this thesis I analyze a subset of public policy, namely labor policy. For my purposes here an informal definition of policy is suitable. By policy I mean the national government's statutes, rules and regulations. The **policy process** is the process by which policy actors decide statutes, rules and regulations; it is introduced in the next chapter.

An expansive definition of labor policy might include all those statutes, rules and regulations that affect the supply and demand for workers. The expansive definition would include obvious

⁶The LSL was amended in 2003 to include the criteria described here.

policies, such as minimum wages, firing rules, worker training programs, etc. It could also include such things as the education system, family planning policies or product regulations since they, too, directly or indirectly affect the supply or demand for labor. Social policy, the set of policies aimed at the living conditions and well-being of citizens, can also shape the supply and demand for workers. To take one example, as a matter of social policy we might want to make sure that a person who has lost their job receives a stipend for some period of time, usually in the form of unemployment insurance. As a matter of labor policy we might want to ensure that workers are well-matched to their jobs or are not degraded by the loss of a job, so we give workers looking for a new job a stipend so they do not take a job for which they are not well-suited out of necessity.

Social policy and labor policy often overlap because a very direct way governments can improve a citizen's well-being is to influence wages and wage potential. The overlap between labor policy and social policy might pose a problem for my analysis here if there is a different process that governs how the two types of policy are decided. For example, a change in the pensions system might involve an entirely different set of policy actors than a change in the allowable contract length for dispatch workers. To head off this problem and to focus my analysis I therefore use a more narrow definition of labor policy. It might be called "**labor contract policy**". I want to look specifically at those policies that govern the type, content and extent of various labor contracts on offer to employers and workers. The unique quality of labor contract policy is that the state directly stipulates form of the employment relationship between the two parties to the contract. Training policies or workplace safety rules are not labor contract policy because they do not determine the content of a labor contract. Labor contract policy includes: hiring and firing rules, the length of a contract, whether or not employers must provide health care, etc.

Narrowed this way, the characteristics that distinguish regular and irregular work contracts that I describe above are drawn to the foreground: contract length, direct/indirect employment, working hours, promotion and pay rules. To the extent social policy overlaps with labor contract policy it is because the government explicitly invokes employer-employee relationship to achieve the policy aim, such as universal health insurance with an employer mandate. Even with the more narrow definition provided here there is not a perfect separation between labor policy and social policy, but

Table 2.2: Chronology of irregular work contract regulations

1947 Labor Standards Law legislated -FTCs regulated to 1 year max.	2003 DWL amended -Manufacturing permitted.
1985 DWL legislated -Dispatch work legalized.	2003 FTCs expanded (LSL revision) -3 to 5 year max.
1986 DWL expanded	2007 PTL amended -Minor regulations introduced.
1993 PTL legislated -Minor regulations introduced.	2007 FTCs revised -Labor Contract Law legislated.
1996 DWL expanded	
1998 FTCs expanded (LSL revision) -3 year max in some cases.	2012 FTCs revised -Major regulation introduced.
1999 DWL expanded -Major liberalization.	2012 DWL revised -Some re-regulation.

the scope of policies to consider is considerably smaller, and indeed all the labor contract policies examined in this thesis involve the same actors and institutions.⁷

2.3 Japan's irregular work contract policies

From the 1950s until the middle of the 1980s there were no major legislative changes to labor contract law.⁸ However, from the passage of Dispatch Worker Law (**DWL**) in 1985 onward labor laws began to rapidly change. Important legislation in the past thirty years includes: a reduction in the statutory work week, regulations on flex time and overtime, the liberalization and regulation of part time workers and fixed-term contracts, new legislation concerning dismissal rules, etc. In the 1960s and 70s big social programs were launched, and the government created various active labor market programs aimed at older workers and workers in declining industries, but these did

⁷Several policies at the intersection of labor and social policy were implemented over the past few decades. They include: gender equality laws, age discrimination laws, child and family care laws, various active and passive labor market policies, and a revision to the minimum wage law. These policies disproportionately affect irregular workers, however in the main they are not regulations that refer to a specific type of employment contract, as is the case with, say, the part time worker law.

⁸There were many important court decisions. I mention them in the case studies.

not regulate the type of labor contract offered or the content of the contract.⁹ *There have been more changes to labor contract laws in any one of the three decades starting in 1980 than in the entire thirty years from 1950 to 1980.*

Regulations concerning irregular work contracts can be easily divided by the three main types of irregular employment: dispatch work, part time work and fixed-term contracts. TABLE-2.2 gives an idea of the chronology of regulatory changes in Japan over time. TABLE-2.2 is essentially an exhaustive list. All of the major policy changes concerning dispatch, part time and fixed-term contract workers are included. The case studies below are divided between these three categories. The overwhelming majority of policy changes have been deregulation and/or liberalization.¹⁰

Dispatch work regulations have gone through the most revision, though at its peak dispatch work was never more than 3% of non-executive employees and 9% of irregular workers.¹¹ Despite the low absolute number of dispatch workers, political parties, employers and unions fought hard over the introduction and eventual expansion of dispatch work. Dispatch work was first legalized in the mid-1980s for a small number of occupations and with very little contract regulation. The number of permitted occupations was expanded in the 1990s until it included almost all corners of the labor market. In the 2000s some additional regulations were added to restrict the scope of dispatch work, and to regulate more closely the obligations of employers to employees.

Part time work is by far the largest category of irregular work in Japan.¹² Through the 1970s most women worked until marriage or childbirth then left the labor market and returned again once their children were older. Nearly without exception their second career would be “part time” regardless of the number of hours worked. Part time workers acted as a labor cushion for employers

⁹? and ? provide excellent summaries in English of social and labor policy during this period.

¹⁰Deregulation is the reduction in the number of rules governing a market. Liberalization is the expansion of a market, which might require more or less rules. See ? for the distinction between the two. The creation of a market for dispatch workers was a liberalization, but it required the government to come up with regulations to govern the market. The early history of dispatch work is a classic example of “freer markets, more rules”.

¹¹See FIGURE-1.1.

¹²There are two types of part time worker, *pāto* and *arubaito*. Japan’s Labour Force Survey collects data for both. It translates the former as “part time worker” and the latter as “temporary worker”, though the distinction is not legal. Part time work includes both and is defined as those working fewer hours than regular workers in a place of work. *Pāto* are invariably women; *arubaito* are invariably students of either sex with a side job (?). The ratio of *pāto* to *arubaito* among women workers over the past 30 years is about four to one and relatively stable. For men in the mid-1980s it was four to one *arubaito* to *pāto*, however that ratio has declined by more than half since indicating more men are moving into *pāto* jobs. Women were about 43% of the workforce in 2012 but nearly 90% of *pāto*. See FIGURE-5.2 in the chapter on part time work (5) for gender data on part time work.

and allowed families to supplement the husband's income. Until the 1990s part time workers did not have access to company benefits and could be fired without recourse to the sort of protections given regular workers.¹³ In 1993, after substantial pressure from the opposition in parliament, the government finally introduced a rather tepid part time worker law (**PTL**). Its only major accomplishment was to require employers specify when a worker was considered a part timer. A major revision to the PTL was passed in 2007 with pressure from the opposition parties backed by the unions. The government and labor ministry had resisted adoption of "equal treatment" for part timers, but the 2007 revision includes the idea in a very limited way.¹⁴

The third major category of irregular work contract is fixed-term contracts (**FTCs**). About one in five irregular work contracts in 2012 fell into this category.¹⁵ FTCs are unique in that they bind both the employer and employee to employment for the contract length. Until 2012 there were essentially no restrictions on FTCs. Employers did not have to give a reason for offering a FTC, they could be drawn for any length of time under the one year legal limit including by the day, and there was no obligation to continue renewal or offer an indefinite contract. The LSL stipulated a maximum length of one year for fixed-term contracts, though of course the contract could be perpetually renewed. In 1998 and again in 2003 legislation passed to increase maximum allowed contract length. In 2012 substantial restrictions on FTCs were enacted for the first time. The rules restricted when and how FTCs could be applied, and included a path to a regular work contract.

As a point of contrast, regular worker contracts are basically unchanged since the 1980s. Nearly all of the policy fights about regular work contracts have centered on working time regulations, especially the length of the statutory work week and overtime rules (???).¹⁶ None of the drastic labor market reforms proposed since the 1980s targeting regular workers have been implemented. They

¹³In 1996 a court ruling made it harder for employers to discriminate in pay and fringe benefits for part time workers who do similar work to regular employees.

¹⁴In 2001, 2007 and 2009 the government also gradually expanded the unemployment insurance system to include part time workers and workers without a long job tenure (? , 91). It should be noted that these changes also permitted older semi-retired male workers greater access to unemployment benefits during the darkest days of Japan's lost decades.

¹⁵Part time and dispatch workers might be on a fixed-term contract. Regular workers are never on a fixed-term contract.

¹⁶Wage negotiations, employee retention policies and promotions are also major sites of contention but those negotiations are outside the scope of government regulation in Japan. The biggest and longest fight is over annual across-the-board wage increases.

include: exempting most white collar workers from overtime pay, making it harder for employees to claim overtime pay, the introduction of a system that would allow employers to fire any employee and give a severance package, and even abolishing the distinction between regular and irregular worker.¹⁷

2.4 Existing accounts of labor policy making in Japan

How should we go about explaining the basket of changes to irregular work contract regulations in Japan, most of which were deregulation/liberalization, but with important instances of re-regulation? The most common approach links policy outcomes directly to the economy or society. Ross Mouer and Hirosuke Kawanishi list several sources of change in their recent expansive sociological study of work in Japan, though they could equally be discussing Germany or Italy: aging of the population and low fertility, collapse of mass production and mass level consumption, increasing level of affluence, technological change (? , 140). Mouer and Kawanishi go on to describe how these changes themselves change worker and employer preferences for types of work contracts, generally in favor of more flexibility. The authors share an analytic framework with much of the popular press descriptions on how globalization or the rise of China as an export competitor influences Japan's labor markets. In most of these accounts the mechanism by which changes in the economy or society translate into different policy outcomes is unspecified. There is almost a functionalist logic at work: the regulation of work corresponds more or less to the economic needs of society. These journalistic accounts nevertheless close with a diagnosis of dysfunctions of current regulation and recommendations for change, i.e., 'increase the retirement age', 'make it easier to fire workers'. That is, there is a mismatch between socioeconomic conditions and policy, even though the conditions themselves are supposed to explain policy outcomes.

Macro-structural changes in Japan's economy and society undoubtedly have a 'deep' causal influence of some sort on changes in labor policy.¹⁸ These changes make businesses unprofitable or raise or lower a worker's reservation wage. However, in order to explain policy change we should

¹⁷In the case of a wrongful termination the employer is required to reinstate the employee.

¹⁸I am thinking here especially of ?.

be interested in how these conditions shape policy actors' behaviors. Knowing an actor's policy preference is not the same as knowing whether or not a government will pass a law or change a regulation. Socio-economic conditions do not themselves make policy; that is the work of real agentive people. Indeed, even if it could be shown that irregular workers in Japan want labor market liberalization of the kind observed, that preference would have to be linked to relevant policy actors. A useful complement macro-structural arguments would provide a mechanism that directly links the behavior of actors to policy outcomes. This is a task for which political analysis is particularly well-suited because it fashions direct causal statements from actors, behaviors and outcomes.

In his detailed and ground-breaking analysis of policy making in Japan Frank Schwartz writes, "Which model of interest group politics is most applicable to contemporary Japan? Not Marxism or a model of power elites...Not pluralism...Not corporatism...Not statism...Although patterns of interest-group politics vary across issues and over time, to generalize, neopluralist models offer the best lens through which to examine Japan today (? , 1)" For Schwartz, the advantage of a "neopluralist model" is that it allows for a variety of policy making processes, each with its own logic (though Schwartz says they all have in common a reliance on deliberative councils in Japan). Schwartz argues different ways of making policy exist, which are basically divided by policy area, and the actors and rules vary. Only powerful and well-organized actors are able to access policy making, which is a standard definition of neopluralism.¹⁹ To explain labor policy we need to know about the actors and institutions involved in labor policy making. This is a very thin theory of policy making but it implies that we should be able to read policy outcomes from the actors and institutions directly. Furthermore, changes in policy ought to come from changes in actors (or their preferences) or institutions.

My approach is similar to that of Schwartz. The policy process can vary across policy domains or over time, and as a result general theories of policy are not granular enough for close policy analysis. Still, within this broad approach might something resembling pluralism or corporatism or statism be observed for labor policy? Probably not. The labor policy process has changed over time

¹⁹See (?) in addition to Schwartz. Both provide a useful contrast between neopluralism and neocorporatism.

so it is unlikely a framework that describes only a single dominant policy process can adequately explain the policy outcomes in Japan. In fact, the one common element Schwartz finds in his review of the literature turns out to no longer always be the case: “Whatever their differences, every school has acknowledged the role of *shingikai*, Japan’s consultative [deliberative] councils” (?, 47). A major theme of this thesis is that labor policy deliberative councils were sidestepped in the 1990s by a new policy process. That is not to say these frameworks offer no analytic leverage. It simply means that any individual analytic framework is probably not descriptively rich enough to capture the full range of labor policy making in Japan.

At this point it is common to present a literature review of several prominent analytic frameworks and their take on labor policy in Japan. Schwartz’s list is a good one. A couple of syncretic approaches from comparative political economy would also be mentioned—varieties of capitalism and the new insider-outsider framework. These literature reviews have been more gracefully executed elsewhere eg., ?.²⁰ Instead I would like to identify what sort of things these frameworks point out as relevant to policy outcomes. There is in fact a relatively short list of actors, structural variables (like macroeconomic conditions), and institutions that appear over and over. Furthermore, each and every one of these frameworks has the same analytic starting point: there is a finite set of relevant policy actors, with preferences about policies, these actors’ preferences usually conflict, and there are decision rules (a set of institutions or procedures) for deciding which actor(s) get to decide the policy. For my task here, that is good enough. There is already a general agreement on methods and basic empirical strategy. The political science frameworks listed above are an improvement over correlational and functionalist arguments made in the popular press. All the approaches, when conducting political analysis as social science, insist on an observable conjunction between actors, behaviors and outcomes to form a causal statement. I do not want to sidestep important analytic debates. Rather, I want to suggest that the analytic and empirical approach I adopt here is broadly congruent with many approaches to the study of labor policy and labor politics in political science.

²⁰See also, for example, (??) and ? for a good summary of institutional approaches to political analysis. ? offers a useful review of theories as they relate to Japanese labor policy.

2.5 Looking ahead: actors and institutions

In the next chapter I introduce the cast of characters, the actors who decide labor policies in Japan. I also describe the process by which labor policy is made. The process changes over time, and in doing so provides the variation needed to gain traction over the sometimes contradictory regulatory direction of irregular work contract regulations. The relevant actors and institutions are inductively derived. I have set out as the thing to be explained here a list of discrete labor policies. With a couple of exceptions all the policies are legislative acts approved by parliament. Japan's constitutional structure and parliamentary rules define a very small number of actors who can formally approve legislation. And even before that, there are rules that determine from where the legislative bill must originate, and who has a formal say in that process. From the outcome of interest, labor policies, I identify the relevant institutions/rules, and from the institutions I identify the relevant actors.²¹

The approach is inductive but efficient. Actors who do not have a formal say in the policy making process may still matter, but they can only matter inasmuch as they change the behavior of actors who do have a formal say. A causal chain between informal and formal actors must be specified in order for informal actors to matter. For example, suppose we claim that voters' preferences are what matters for a policy outcome, say, a nation going to war. That may indeed be so, but in most countries formal acts of war are declared through a formal legislative or executive process. It cannot be the case that the thing voters want directly causes a war declaration, rather, those preferences must be channeled through the behavior of the legislature or executive. Similarly, firm profitability or rising unemployment might be the distal, or ultimate, cause of changes in labor laws, but the proximate cause must that parliament approved a change. Fortunately, the frameworks above agree that big, organized collective actors are what matters for policy. Labor unions, employer associations, political parties and bureaucratic representatives probably figure in somehow to policy outcomes. Which unions? Which parties? The set of possible actors is not very

²¹This methodological strategy is not "selecting on the dependent variable". The concern with selection bias is that you identify relevant factors by looking at only a subset of possible outcomes. Here I am looking at the set of all outcomes rather than a subset. Any factors that do not correlate with any of the possible outcomes would not be detected but they would also be causally irrelevant. It is conceptually the same as fitting a model to an entire population.

long. There is only one big national labor confederation. There is only a handful of important parties. In the next chapter I describe the formal policy making process in Japan, and indeed each of these actors, and only these actors, are formal policy participants. Not all are relevant all of the time, but each has a part. Japan's labor policy process is very clearly delineated, so there is not much debate about who matters.²²

Here I think my analysis can be of use to theories of labor politics in Japan and more generally. I want to preview two empirical findings in particular about specific actors' behavior that come from the case studies in chapters 4-6, and in a more limited form in the next chapter:

- Employers never advocate for greater labor market regulation in any domain, and consistently push for more labor contract flexibility and autonomy.
 - There is no evidence that Japanese employers prefer more labor market regulation to less, at least since 1980. Of course, all we can observe are behaviors, but a framework that assumes firms prefer something other than what we observe should bear the burden of demonstrating the veracity of the assumption.
- The largest and only relevant union confederation, Rengō, shifted from hostility toward irregular workers to open embrace of irregular workers from the 1990s to the 2000s.
 - Union behavior regarding irregular workers does not covary with changes in the composition or coverage of labor unions. Unions demanded policies to preserve status differentials then did an about-face and became broadly workerist. A framework that assumes invariant union behavior regarding irregular workers based on the composition of labor

²²There is less agreement on what these actors want, their policy preferences. I have elsewhere laid out in more detail my idea of the difference between preferences, strategies and behavior (?). Briefly: a behavior is a thing we can observe, including speech acts. Strategies and preferences are not observable and therefore have to be inferred. A preference is a thing an actor wants. A strategy is a belief about behaviors needed to get thing the actor wants based on beliefs about the world. Behaviors are implementations of an actor's strategy. That does not mean we cannot know an actor's preferences. It may even be fine to ask directly and accept the response uncritically. I think, however, there is a problem in inferring preferences directly from behaviors. Since both preferences and strategies (beliefs about the world) are both unobserved, we cannot know immediately whether or not a change in behavior is the result of a change in preference or strategy. I think there are reasonable ways to minimize this problem, and this thesis offers one approach. If we observe a change in behavior in a very short period of time and we cannot find a reasonable and corresponding change in conditions in the world upon which strategies are based, then we should conclude there was a change in preferences. However, if we can find a corresponding change in conditions in the world then we should conclude preferences remained the same but strategy changed.

unions or the labor market cannot explain why Japan's unions at first embraced their insider status then rejected it.

I expand these points in the concluding chapter.

Chapter 3

Making labor policy in Japan: institutions and actors

In this chapter I introduce and describe the relevant labor policy institutions in Japan. I then do the same for the labor policy actors. Over the course of the 1990s labor policy making in Japan gradually migrated from tripartite deliberative councils housed in the labor ministry to the Prime Minister's Office¹, and occasionally to parliament itself. The shift was facilitated by institutional reforms to the Prime Minister's Office, as well as party realignment and centralization. Prior to the middle of the 1990s, the long-ruling Liberal Democratic Party (**LDP**) had little interest in developing within the party particular expertise in labor regulation, and the Prime Minister's Office lacked resources and skills necessary to draft legislation without the assistance of the ministries.² From the middle of the decade onward, however, the Prime Minister's Office began to grow in size and take the lead in policy formation, particularly in regard to regulatory reform and liberalization of the economy. These changes at first accelerated the pace of labor market deregulation because unions were excluded from the policy process and pro-reform business leaders were given privileged access to the prime minister. However, unions adapted to institutional change and re-engaged in

¹The Prime Minister's Office [*Sōriifu*] was reorganized as the Cabinet Office [*Naikakufu*] in 2001. I use the old name throughout.

²Labor unions and business representatives were formally represented in the deliberative councils already. They had direct access to policy making. Furthermore, individual LDP MPs could not use the Ministry of Labor's budget to dole out pork, unlike in the Ministry of Agriculture or Ministry of Construction. See ??????.

party politics through new opposition parties in parliament.

Change in the policy process drives change in policy outcomes. By emphasizing the policy process I want to draw a contrast between my argument, which looks at how interests are organized and represented by actors in an institutionally defined process, and other arguments that explain labor policy with reference to deductively derived actor preferences. I argue that the same actors, particularly labor unions and employer associations, push for different policies depending on the locus of policy making. While it is true that labor unions in Japan had little interest in organizing or representing irregular workers for most of the postwar period, this is largely a product of the privileged access unions had to policy making, particularly in the 1970s and 1980s.³ Indeed, unions had little material incentive to mobilize against labor market polarization until the mid-1990s, when policy making began to migrate from the consensus process to open political conflict. Once labor policy became a politically contested issue directed by political parties labor unions reached to appeals to worker solidarity over appeals to shoring up the status of regular worker union members. They did so because they had to work through parties and parties have a different set of concerns to labor unions.⁴

3.1 Labor policy: institutions

3.1.1 The institutionalization of labor policy

Beginning in the 1960s, and with renewed urgency after the first oil shock in 1974, there was a concerted attempt on the part of the government, private sector unions and employers in Japan to construct something like a de-politicized corporatist policy making framework. The first major breakthrough came in 1974-5, when there was a decisive shift in the balance of power between the two major labor confederations, Dōmei and Sōhyō to the latter's detriment. Dōmei was based primarily in the private sector, was accommodating to management, and was willing to negotiate

³See also ? and ? for a historical discussion of labor relations in the early postwar period.

⁴Two excellent pieces written in the 1980s foresaw the move toward dualism in Japan, in contrast to the proclamations after Japan's successful response to the oil shocks of the 1970s and early 80s. One is by Toshimitsu ? and the other is by John ?. Both see the reaction of Japan's labor unions to economic distress in the 1970s as profoundly status-reinforcing. The same dynamic was rediscovered again in the 2000s. I revisit these arguments in the concluding chapter.

wage restraint. *Sōhyō* was based mainly in the public sector, more militant, rejected institutionalized wage negotiations (in favor of political struggle), and was marginalized as the government convened emergency economic advisory councils that included *Dōmei* to respond to rapid inflation and falling demand in 1974. The quasi-official wages policy that resulted allowed Japan to recover from the oil shock faster than any of its OECD peers (?).

The change in policy making in the 1970s has been called the “depoliticization” of labor politics (? , 71). It was equally the institutionalization labor policy making. And though labor unions did not have total control of the policy making bodies that emerged, nor did LDP politicians have much interest in pushing labor policy in the direction of business. The first studies of the LDP’s so-called ‘policy tribes’ (*ginzoku*; informal parliamentary caucuses) in the 1970s showed that the labor tribe was small, and had relatively few former ministry members. Labor committees within the LDP and parliament were not desirable because there was no pork to dispense (? , 72).

By the 1980s it is fair to say that labor policy was depoliticized in that it was not contested between the major parties, and was institutionalized in that there was a regular official forum in which employers and labor unions negotiated over labor policy. The forum, deliberative councils within labor ministry, balanced between employers and unions, embraced a norm of consensus, and was the source of labor-related laws that were passed upward through the ministry and to the parliament for ratification.

3.1.2 Consensus-based deliberative councils

FIGURE-3.1 shows the general deliberative council process. Most policies start with the labor ministry calling a consultation group comprised of experts on a specific topic.⁵ Consultation groups can have more or less latitude to investigate a topic. Their mandate is spelled out by the ministry in advance. The consultation group is supposed to provide background material on the issue and lay out possible solutions in the form of a written report. It is meant to serve as the starting point for deliberations on policy. Their report is then passed to the labor ministry’s deliberative councils.

⁵Consultation groups go by several names in Japanese. The most common is *kenkyukai* which literally means “study group”. Consultation groups are ad-hoc and administratively not part of the ministry. They are private advisory bodies sponsored by a specific part of the ministry, often the labor minister’s office or a section head’s office.

Figure 3.1: The normal labor ministry deliberative council process

1. Consultation group comprised of experts called by the ministry
Prepares a report to the ministry providing background material and summarizing major issues, potential solutions.
2. Ministry's tripartite deliberative council takes the consultation group report
Deliberates on the relevant issues and issues a guideline of proposed legislation for the ministry.
3. Ministry drafts legislation based on the deliberative council's outline
The draft is sent back to the deliberative council with a request for comment.
4. Deliberative council reviews the draft and issues a response to the ministry
There usually are not big changes made in this step.
5. The approved legislative draft is finalized in the ministry and then sent up to the minister and then cabinet.
Ministry-sponsored bills are rarely amended by the cabinet.

The deliberative council passes the consultation group's report down to the relevant subcommittee which then calls hearings, circulates proposals etc. Once the subcommittee comes to a consensus on the appropriate legislation it drafts and approves a legislation guideline which is then passed up through the full deliberative council to the ministry. The ministry then drafts an outline of the recommended legislation and hands it back to the deliberative council with a request from the labor minister for comment. Usually this is just a formality since the outline is based on the deliberative council's guideline. After the outline's response is approved by the deliberative council the labor ministry drafts a bill that is handed up to the labor minister and then over to the cabinet for approval. Once the cabinet approves the bill it is submitted to parliament. Until the late 1990s all government bills had to be presented in the cabinet by a ministry. The prime minister could not independently introduce a bill. In effect, all labor policies had to go through the deliberative process.

The exact size and names of the deliberative councils change over time. There was a major consolidation in 2001 when the Ministry of Labour was combined with the Ministry of Health and Welfare. The main labor policy deliberative council today is the Labor Policy Deliberative Council.⁶

⁶ *Rōdō seisaku shingikai.*

It has seven subcommittees and nine working groups, each of which has an equal number of labor, management and public interest representatives. TABLE-7.2 in the appendix lists the current Labor Policy Deliberative Council members of which there are 30. All the labor representatives always come from Rengō and Rengō affiliated unions. Nippon-Keidanren and before it Keidanren and Nikkeiren always have at least one representative. The Japan Chambers of Commerce usually has a representative. The other management representatives are senior executives in large firms, trade or industry representatives or company HR chiefs depending on the deliberative council. Most public interest representatives are university professors. The remainder are usually lawyers or journalists. Civil society groups are rarely represented, however, they may be invited to testify. Public interest representatives always act as the chairperson. They also usually draft the legislation guideline and the response to the minister's legislation outline. The ministry sends representatives from the relevant bureaus to the meetings but they are not voting members.

Members of the deliberative councils can hold up the process in two ways. In the initial phase, step 2 of FIGURE-3.1, when recommendations from the deliberative council are passed out to the ministry the majority of the deliberative council must approve. Labor and management representatives cancel each other out numerically so even if one side completely objects the process moves forward. Nevertheless, public interest representatives and the ministry work hard to ensure both sides approve because of the consensus norm. Once the ministry drafts proposed legislation it is passed back to the deliberative council for approval, FIGURE-3.1 step 4. Ministry guidelines require that at least one representative from labor, management and public interest be present in order to approve a response to the legislation outline. If any of the three parties do not attend the meeting legislation cannot proceed.⁷ It is exceedingly rare for legislation to be blocked at this stage. It has reputational effects on all the actors, especially the labor ministry bureaucrats in charge. It is, though, a formal veto.⁸

⁷Legislative failure at this stage can be cause for the responsible labor ministry official to resign (?, 16).

⁸See (?). By formal veto I mean the actor has statutory power to prevent an alternative proposal from being selected over the status quo. In this case labor and management representatives can formally block the policy if they refuse to attend.

3.1.3 Competition-based party politics

Two sets of changes in the 1990s altered the policy process, and in doing so changed the content of labor policies. One set of changes had to do with party politics. The LDP lost his hegemonic position in the party system; the DPJ became an electorally credible threat; the main political cleavage shifted from left/right to pro-/anti-reform; coalition government became the norm. The other set of changes had to do with political control of policy making. The central government was consolidated; the Prime Minister's Office was expanded and its agenda-setting authority increased; the number of political appointments to ministries was increased; cabinet ministers and the prime minister were compelled to answer questions in parliament and the bureaucrats were barred from speaking on behalf of their minister.⁹

3.1.3.1 Changes in party politics

Japan's party system has gone through three stages in the past thirty years:

1. Japan had a one-party dominant regime under the LDP until 1993.
2. From 1993 to 2003 the LDP was still the dominant party electorally but could no longer control both houses of parliament without coalition partners.
3. From 2003 onward the LDP was no longer the dominant party electorally and no party could form a government without coalition partners.

This description captures two essential elements of party politics in Japan: that from the early 2000s onward electoral competition mattered in a way it had not previously, and that in order to control both houses of parliament coalition governments have become the norm. (FIGURE-7.9 in the appendix shows the relative performance of the LDP and largest opposition party in upper and lower house elections over time. TABLE-7.3 in the appendix shows a chronology of coalitions and their parliamentary motivation over time.)

Japan's parliament gives opposition parties a number of tools to slow down legislation. First, The constitution of Japan requires the consent of both houses of parliament for most bills. As a

⁹Toru Shinoda's account is the first and most well-known (?). See also ???.

result parties wishing to form a government need to control both houses in order to get anything done. If the parties of government have a majority in both houses opposition parties can still slow down the legislative process through a variety of tactics (refusing debate in parliamentary committees, the 'ox walk', filing excessive bills or amendments, etc.). Japan's parliament is in session for a comparatively short time each year so delay tactics are effective. Finally, committee and committee chairs assignments in each house are based on party size.¹⁰

No party has had an outright majority in both houses of parliament since the upper house election of 1989.¹¹ Since 1993 all parties have needed coalition partners to ensure legislative control over both houses. Lower house elections since 1996 consist of two tiers, 300 single member districts and 11 PR districts totaling 180 seats.¹² The new electoral system has encouraged policies aimed at the median voter, increased party brand, weakened the personal vote and encouraged the development of two big parties. The PR tier, however, means that micro-parties can preserve a foothold. Upper house election rules make it harder for a single party to win elections. 60% of the seats are divided among the 47 prefectures and the rest are decided by a national PR ballot. In the larger prefecture districts micro-parties can pick up seats with a small share of the vote as well as in the national PR ballot. That the LDP was able to control the upper house until the end of the 1980s indicates the opposition's electoral weakness.

The unique development of Japan's postwar party system deserves highlighting. The LDP dominated government for nearly forty years after its founding in 1955. Even after it was ousted from government by insurgent party members in 1993, and even after electoral and campaign reform in 1994, it managed to remain the largest party and a party of government (with the premiership from 1996) for the next fifteen years, until 2009. From 1955 to 2009 the LDP was not part of government for only eleven months in total. Nevertheless, the LDP was not immune to change in the 1990s. It stayed in government but no longer could form a government by itself, and could no longer count on winning lower house elections against a political left split between four parties. As

¹⁰A party needs around 56% of the seats to control a majority of all committee seats and control of all committee chairs.

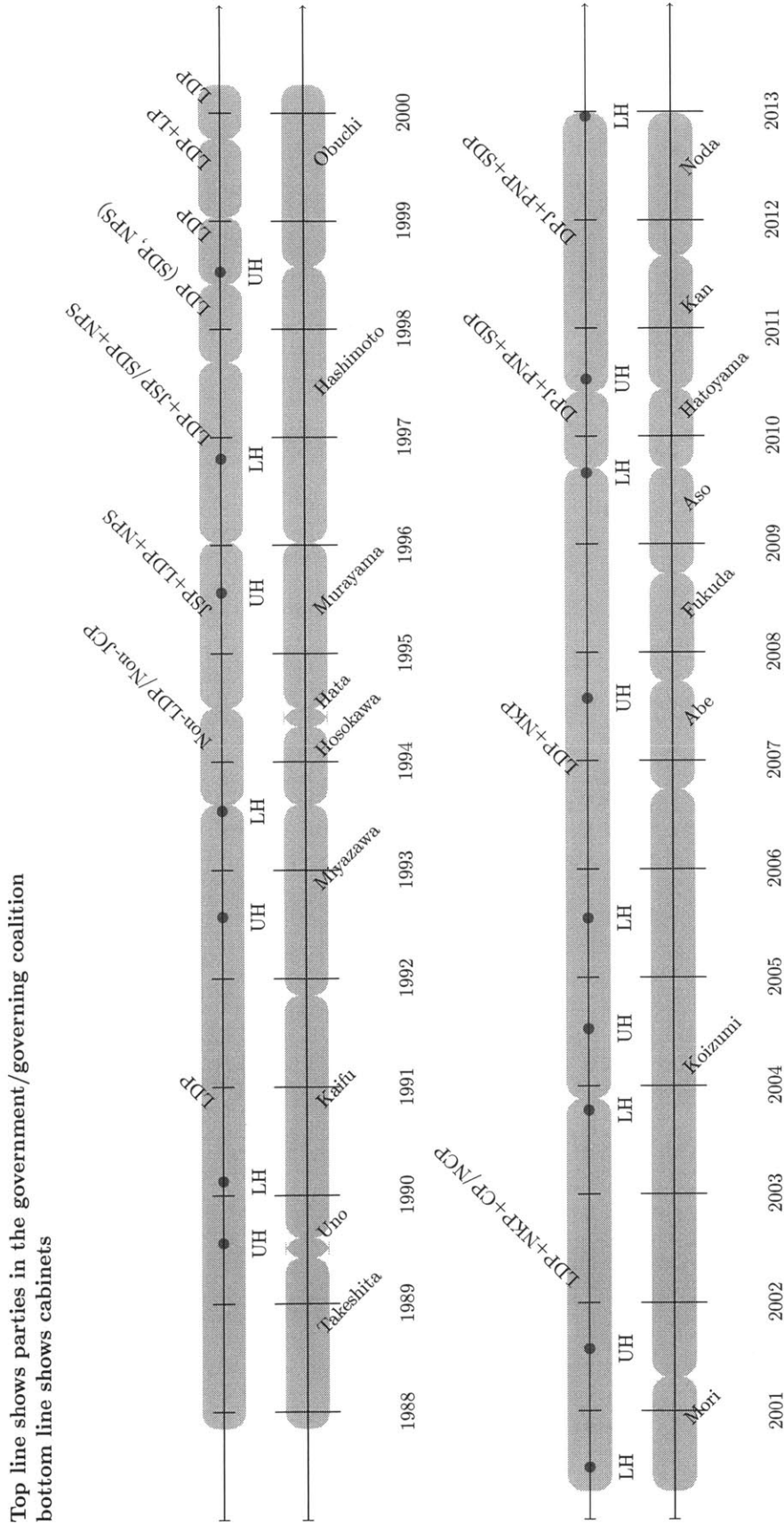
¹¹The LDP nevertheless retained the most important positions in the chamber because it controlled 43% of the seats. It did not enter into coalition with another party.

¹²200 seats in 1996 only.

the LDP's control of government became more tenuous from the mid-1990s onward as the opposition congealed into a single electorally potent party, the DPJ. To speak of political change in Japan is to speak of these three phenomena: the LDP's need to form coalition governments, its increasing electoral insecurity, and the formation of an electorally viable opposition party. These three emerge fully only in 2003, the first time another party gets more votes than the LDP in the second tier of a lower house election. Only from 2003 onward is there a 'normalization' of party politics in Japan in the European sense (? , ch. 1). The preceding ten years, from the party schism that brought down the LDP government in 1993 to the election in 2003 was a time of tremendous flux in Japan's party system. However, as I have detailed here, it can be coherently thought of as the sequential rise of the LDP's need for coalition partners (from 1994), the LDP's growing electoral insecurity (1993-2003), and the DPJ's rise as an electorally successful party (2003 to 2009, when it forms a government).

The details of Japan's party system from the 1990s onward are important insofar as they point out the constraints on governments. The leeway parties of government have to craft policy to their liking is determined by their need to consult coalition partners and consider the electoral costs of the policy. The LDP is generally pro-business. The LDP gets pulled off its ideal point only enough to win elections and form governments. In particular, the business community wanted labor market reform and the LDP was willing to oblige until the electoral cost got too high. FIGURE-3.2 shows cabinets, coalitions and elections in Japan from the mid-1980s onward.

Figure 3.2: Chronology of cabinets, coalitions and elections



Note: LH: Lower House election; UH: Upper House election (every 3rd July)
 +: party in governing coalition; () : outside government but with parliamentary support
 LDP: Liberal Democratic Party; JCP: Japan Communist Party; Non-LDP/Non-JCP: JSP, JRP, KP, JNP, NPS, SDF, DRP; Democratic Reform Party; JNP: Japan New Party; JRP: Japan Renewal Party; JSP: Japan Socialist Party (becomes SDP); KP: Komei Party (becomes NKP); NPS: New Party Sakigake; SDF: Socialist Democratic Federation SDP; Social Democratic Party; LP: Liberal Party; NKP: New Komei Party; CP/NCP: Conservative Party / New Conservative Party; DPJ: Democratic Party of Japan; PNP: People's New Party

3.1.3.2 Changes in policy making institutions

The LDP was able to oblige the business community on labor market reform in the 1990s because the institutions of policy making changed:

1. Until the mid-1990s policy making happened in tripartite consensus-based councils. Political parties were not involved.
2. From the mid-1990s onward political parties asserted control over policy making.

The institutional changes were gradual but a line can be drawn somewhere around 1993, when the non-LDP Hosokawa government convened an economic reform commission chaired by Keidanran president Gaishi Hiraiwa, or 1994, when the Administrative Reform Committee was established in the Prime Minister's Office, which would become the first regulatory reform committee (RRC). Beforehand the prime minister did not have an institutionalized way to formulate economic policies. Afterward policy making under the Prime Minister's Office was possible and increasingly likely.

It was not a foregone conclusion that the RRCs would be an important policy actor. Hiraiwa's commission was just the latest in a string of reform bodies spawned by 2nd *Rinchō*¹³ Hosokawa, then Hashimoto and later Koizumi took a special interest in the RRCs. All three campaigned specifically to reform policy making. Without cabinet support the RRCs would not have been relevant. Their unique organizational attribute was that they reported directly to the cabinet and so were able to sidestep the factional and sectoral battles within the bureaucracy and within the LDP. The prime minister decided whether or not to endorse RRC proposals.

The RRCs' ten to fifteen members were entirely pro-business.¹⁴ Almost from its inception in 1994 through the Koizumi administration in the first half of the 2000s the RRCs were chaired by financial services company Orix chairman Yoshihiko Miyauchi.¹⁵ A particular feature of the RRCs and top-down policy making from the 1990s onward is that there is no attempt at systematic interest group representation as there is in the ministerial deliberative councils (? , 262).

¹³2nd Provisional Council on Administrative Reform [textitDai ni ji rinji gyōsei chōsakai.] in the 1980s. The first *Rinchō* was launched in 1961. It took thirty years for the follow-up.

¹⁴There was one labor representative from 1995 to 2001 and none thereafter. Even 2nd *Rinchō* included two labor representatives among its nine members.

¹⁵There was an exception from April 1995 to April 1996. During that period Shiina Takeo of IBM Japan was chair. Miyauchi also served as the head of several Keidanren regulation policy committees.

The RRCs quickly settled on a standard routine. In the summer they would release their tentative regulatory reform proposals. In the fall they would make the rounds to the ministries, politicians and industry groups, then decide on specific deregulation legislation recommendations. They would also solicit comments from the public. Keidanren's annual deregulation requests, for example, would go to the RRCs. (See the section on employer associations below.) By fiscal year end the following March everything would be packaged up and given to the cabinet for approval. The cabinet's endorsement would then compel the ministries to come up with appropriate legislation.¹⁶ The RRCs worked on a three year time frame. They would issue a big policy list and then monitor the progress of past years' proposals. The RRCs not could veto policy but they could set the agenda. Their proposals were public and widely reported in the press. The RRCs could also require ministries to attend public meetings in which their regulations were interrogated.

The RRCs were part of a larger attempt to empower the prime minister in the second half of the 1990s. Prime Minister Hashimoto pushed through an administrative reform package in 1997 that among other things greatly expanded the staff and budget of the Prime Minister's Office. The reform also allowed the prime minister to appoint special ministers and introduce legislation at cabinet meetings without ministerial sponsorship. These changes took effect in 2001.¹⁷ Another set of reforms championed by Ichirō Ozawa when his short-lived Liberal Party was in coalition with the LDP under Keizō Obuchi in 1999 expanded political control over the ministries and made the cabinet directly accountable to parliament by allowing cabinet ministers to be questioned in parliament about legislation. Prior to 1999 ministers could defer these questions to bureaucratic representatives from the ministry (? , 260-268)

¹⁶In 1999 the Obuchi government introduced a series of reforms to increase political control over the ministries. These continued Hashimoto's reforms a couple years earlier. Before 1999 there were only two political appointees to a ministry, the Minister and one Vice Minister. During the LDP's long term in government cabinet positions were divided up based on factional strength and tenure. The average cabinet appointment was about a year. It was very difficult for the political parties to control the bureaucracy because they had to rely on the ministries to draft legislation and the political appointees to the ministries were not decided based on expertise. As a result, even if the cabinet endorsed a certain policy they could not always produce the required legislation. See ?, 260-268, ? and ? for a description of these problems and Obuchi's institutional changes. For a colorful vignette of this tension see ?, 1-5.

¹⁷The most well-known part of this reform package was a central government reorganization that reduced the number of ministries and deliberative councils.

3.1.4 A hybrid model?

The simultaneous party and electoral changes of the mid-1990s transformed the way labor policy is made, but political competition did not replace or crowd out consensus policy making. Rather, party-politics based policy making expanded alongside the consensus process. It was (and continues to be) an open questions which will ultimately have primacy. However, from the mid-1990s onward both existed. Though top-down policy making in the Prime Minister's office was ascendant for much of the decade from the mid 1990s, it may have reached its acme by the the end of the Koizumi years. Since then the consensus process has waxed accordingly. Top-down policy making still happens, but it is less dominant than it was in the late 1990s and early 2000s. Wolfgang Streeck and Kathleen Thelen give several options for describing institutional change—displacement, layering, drift, etc.—but none quite capture this sudden emergence of a new way to make policy which does not displace the old institution (? , ch. 1). Layering gets more at the dynamic, but it invokes a vertical or concentric relationship between the old and new institutions in which one envelops or surrounds the other. In Japan the consensus process is not (yet) gone, nor is it clear that politicians much want to continue to take the policy lead in every instance. There is rather an composite of the two, with seams of both bottom up consensus policy making and top town policy making without a clear institutional equilibrium.

3.2 Labor policy actors

The set of relevant actors is determined by the policy making institutions. The institutions define the formal policy actors—those who get to propose, amend or veto policy proposals. They also determine informal policy actors—those who cannot directly make policy but who have an active interest in policy and the capacity to influence formal policy actors. In the ministerial deliberative councils employer associations, labor unions and the labor ministry formally deliberate over policy. In parliament political parties, but also political appointees to policy committees housed within the Prime Minister's Office, are the formal policy actors. Employer associations, labor unions, the media and civil society groups are relevant to the extent they shape the behavior of political parties

Table 3.1: Formal labor policy actors

- Employer associations
 - Ex.: Keidanren, Nikkeiren, Dōyūkai, Chambers of Commerce
- Labor unions
 - Ex.: Rengō
- Political parties
 - Ex.: DPJ, LDP
- Governmental actors
 - Ministry of Labour/Health, Labour and Welfare
 - Regulatory reform committees

through lobbying, organizing social movements, persuading voters etc. Informal policy actors by definition can only influence policy outcomes by influencing the behavior of formal policy actors. TABLE-3.1 lists the formal labor policy actors in Japan.¹⁸

The starting point for my analysis is to get a good sense of what actors want. In this study I approach preferences inductively. That is, I locate actor preferences by examining behaviors and inferring backward.¹⁹ I am especially interested in how changes in policy making institutions translate into changes in behavior, since that might tell us something about the stickiness of actor preferences.

In fact, there is a general consensus between the inductive and deductive approaches discussed in the previous chapter as to what employers and unions want. Taking the inductive approach, for example, in the 1980s and 1990s Japan's peak employer associations expressed concern in policy statements and speeches about maintaining a productive and cooperative workforce at as low a cost as possible. Mainstream labor unions during the period publicly described their role as protecting

¹⁸The mass media and civil society groups are also informal policy actors but their role is small and I exclude them here for brevity.

¹⁹Mari Miura writes of her own approach to studying labor politics: "...I have contended that the policy preferences of actors are not determined by their positions in the economy. Instead, I have proposed that we should empirically reveal how they understand their interest. In other words, their ideas of how the labor market and the social protection system should be organized are politically constructed rather than economically determined" (? , 158). For other inductive analyses of Japanese political economy in English see ???.

their members' jobs, work conditions and pay.²⁰ We would conclude then that employers want a productive, cooperative and inexpensive workforce and unions want strong job protections, high wages and good working conditions for their members. Most deductive approaches arrive at the same set of preferences whether approached from an economic or marxist framework.²¹ Of course, beliefs about the best strategy to realize a preference can vary. One employer might think the best policy course is wholesale liberalization of the labor market while another might think strong employment protections are the best route to ensuring profitability. Still, we would say the underlying preference is the same between the two.

Political party preferences are slightly more slippery. The Japan Socialist Party (**JSP**) and the Japanese Communist Party (**JCP**) were more committed to programmatic coherence than electoral advantage (???). The JSP did not even run enough candidates to be able to form a government had all of them been returned to the lower house of parliament in the 1980s (?). A deductive theory that assumes parties maximize vote shares must make ancillary assumptions in order to explain the behavior of parties if the left.²² The LDP certainly favored electoral success over policy consistency; how far it was willing to go in that direction is harder to pin down. Still, the party's "creative conservatism" in the 1970s and 80s and its "regime shift" in the 1990s indicate it was at least minimally committed to winning elections (??). The same is true for the Democratic Party of Japan (**DPJ**). They are interested in winning elections (?). For these parties, at least, both deductive and inductive approaches converge: the DPJ and LDP want to win elections and form a government.

I am confident, therefore, in concluding that the major economic and political actors in Japanese labor policy have essentially materialist and self-regarding first-choice preferences. Firms care about profitability. Unions care about protecting union jobs. Political parties care about winning elections. They may want other things but there is broad agreement on at least these statements.

²⁰Left-wing labor unions had a more programmatic and revolutionary set of policies, but they were marginalized in the late 1970s and folded into the mainstream labor unions' newly formed peak association in the late 1980s were they were further marginalized (????).

²¹See ? for a more marxist interpretation. See ? for a more economic interpretation. Both marxist and economic approaches are essentially materialistic. A framework that directly operationalizes ideas might arrive at a different conclusion. See ??.

²²For example, it is possible the party leadership received more benefit from their behavior than they would have had they been less ideological. This seems to be what Ethan ? argues.

3.2.1 The actors up close

I now examine what each set of actors wants regarding labor policy from the early 1980s through the 2000s. I do so by looking at the policies actors back, promulgate, promote, etc. I cast a dragnet but the haul is a surprising monoculture. Actors are generally consistent in their vision of labor policy during the period of study here. Rather than present all of the rich qualitative data I want to instead give a sense of how the actors regarded labor policy in each decade to give context for the case studies. I examine employer associations and labor unions in the greatest detail. With both actors I look especially at their general orientation to labor policy since 1980, their attitude toward deregulation and their specific ideas for irregular worker regulations.

3.2.2 Employer associations

Employer associations were unsure of how to deal with the economic challenges of the early 1990s. Firms in the previous decade had experienced a doubling of domestic labor costs and the value of the yen against the dollar, the country's longest postwar recession and the world's largest asset bubble, the rise of export competitors and new production centers in East Asia, and the gradual unification of the labor movement even while the labor force became more demographically diverse. These changes placed pressure on firms in different ways, and it was the task of employer associations to aggregate these pressures into coherent labor policy demands. At first there was real divergence among employers, particularly between the the various chambers of commerce whose members were small firms dealing with high land and labor prices but who did not benefit from the cooperative enterprise unions of large firms, and Nikkeiren, which had by the 1980s embraced cooperative labor relations and traditional Japanese management practices of its large firm members (enterprise unions, lifetime employment and seniority wages). However, by the mid-1990s there was a general consensus among employers that labor market reform ought to be pursued, particularly in regard to irregular workers. ²³

²³Firms were more evenly split in how to carry out reform for regular workers. The debate took place on two levels: what is the moral responsibility of employers to their workers, and is it more profitable to have a more flexible regular workforce? Steven Vogel argues that the former can be viewed in terms of the latter (?). There are potentially production costs and reputation costs to being an immoral employer, especially for large firms participating in the annual school graduation recruitment system. Since the moral argument is also consistent with the economic argument

3.2.2.1 General policy orientation

Until the early 2000s employers were primarily represented in the policy process by four national level associations. The largest of the four was the Japan Business Federation (**Keidanren**).²⁴ The second was the Japan Federation of Employers' Associations (**Nikkeiren**).²⁵ Individual firms, industrial associations and regional associations could all affiliate with Keidanren and Nikkeiren. Keidanren tended to focus on industrial policy and the concerns of large export-oriented firms. Nikkeiren included more domestically oriented firms and focused on labor policy and human resource management. For example, Nikkeiren issued annual reports on labor relations from mid-1970s onward and produced regular policy briefs on labor policy. Nikkeiren and Keidanren merged in 2002 to form Nippon-Keidanren.²⁶ The new organization fills the niches occupied by both its parent organizations, with the former staff from Nikkeiren working on labor policy.

The two other organizations are the Japan Chamber of Commerce and Industry (**JCC**)²⁷ and the Japan Association of Corporate Executives (**Dōyūkai**).²⁸ JCC draws most of its membership from small shops and producers organized into local chambers of commerce. There are also important regional chambers of commerce, particularly in Tokyo (**TCC**), whose president is also the president of JCC. Dōyūkai is unique in that its membership is comprised of individual company executives rather than companies or industry associations.

Among the four employer associations JCC and Nikkeiren traditionally took a hard-line stance in labor policy. Dōyūkai was more conciliatory. Keidanren fell somewhere in between. The difference is usually explained by the production profiles of member firms. JCC represents small producers and retail firms who have less ability to control labor costs and who do not benefit from enterprise unions and lifetime employment among workers. Nikkeiren members included more domestically oriented medium-sized and large firms. Keidanren's members were more export oriented and larger

and there is no good way to disentangle the two I assume that the morality of labor regulation is understood by the actors involved to be rooted in economic considerations. From management's position the 'morally right' thing to do is usually consistent with the economically right thing to do. Furthermore, if the two are substantially in conflict the economic consideration must take priority for a firm or it will fail.

²⁴ *Nihon keizai dantai rengōkai.*

²⁵ *Nihon keiei dantai renmei.*

²⁶ I use Keidanren to refer to the organization before 2002 and Nippon-Keidanren for the organization after it merged with Nikkeiren.

²⁷ *Nihon shōkō kaigisho.*

²⁸ *Keizai Dōyūkai*; literally Economic Friendship Association.

on average. Both Nikkeiren and Keidanren benefited from cooperative labor relations. Dōyūkai's membership is comprised only of reform-minded senior executives from very large firms.²⁹

Another important management organization is the Japan Productivity Center³⁰, established by Kōhei Gōshi in 1955 upon his return from a visit to the United States, where he had studied in the 1920s. The Japan Productivity Center, supported by the American government, expressed concern about labor militancy and rising class antagonism after occupation's end in 1952. Upon its founding in 1955 the Japan Productivity Center promulgated its "Three guiding principles of productivity" as a counter-ballast to Nikkeiren's militant management approach. They were: 1) expansion of employment 2) cooperation between labor and management, 3) fair distribution of the fruits of productivity (?).³¹

Nikkeiren was the employer association in charge of labor issues. Its annual "Labor Issues Research Group Report" (hereafter "Labor Issues Report") is a key document for discerning employers' positions on national labor policy.³² The yearly document summarizes management's view of wages, industrial relations and regulation, but it is more than a simple policy statement. It is a highly visible management white paper of sorts and the best indicator of general management sentiment at the time, particularly in large firms. It is variously described as: "Nikkeiren's annual basic posture regarding the spring wage offensive" (Ohara 1984 3.5.1); "The document laying out big business' basic approach to labor issues" (Ohara 1987 3.5.1); "theoretical foundations of the

²⁹I find it hard to explain differences in approach to labor between Dōyūkai, Keidanren and Nikkeiren based only on the production strategies of member firms. Historical legacy played a role as well. Nikkeiren was involved in labor struggles with militant unions as far back as the 1950s. It took an early lead among employer representatives negotiating over unified wage demands with unions and retained its position as the voice of employers thereafter. Keidanren focused on managing industrial policy and international business development. Dōyūkai was founded by progressive junior executive managers (Kōhei Gōshi and Kanichi Moroi) in the early postwar period who were heavily influenced by American thinking on cooperative productive industrial relations. These early organization characteristics persisted through the 2000s. See ?.

³⁰*Nihon sanseisan honbu.*

³¹Because Dōyūkai embraced the three principles early on and because it was established by young progressive managers it is characterized as progressive in general (?). By the 1990s it had developed into essentially a management talk shop where individual members have more latitude to float trial balloons that might not get off the ground in other organizations. Practically, this means they were able to propose sometimes radical labor market proposals.

³²The Labor Issues Report had existed since 1974, with the title "Wage Issues Committee Report" from 1975 to 1978. Since Nikkeiren merged with Keidanren in 2003 it is the "Management and Labor Policy Issues Committee Report". I use Labor Issues Report to refer to all the reports. The Ohara Institute's encyclopedic annual Labor Yearbook of Japan [*Nihon Rōdō Nenkan*] provides a summary of each annual statement. Yearbooks before 1990 are can be found online at <http://oohara.mt.tama.hosei.ac.jp/rn/index.html>. Citations from the 1980s include sections as indexed in the online version. The Labor Issues Report was its own division under the board of directors in Nikkeiren (Ohara 1996, 112).

management perspective” leading up to spring wage negotiations (Ohara 1985 3.5.1); “Big business’s basic position on labor policy issues” (Ohara 1991 93); “...It should be thought of as the guidelines” for spring wage negotiations (Ohara 1992 109). The Labor Issues Report is issued in the winter of each year in the months leading up to the annual spring wage negotiations between large employers and unions. The reports generally start off with an assessment of the economy in the previous year, then move into wage negotiations and relevant policy issues: demographic change, small firm concerns, education and training, etc. Labor policy proposals constitute a major part of the report.

In the 1980s large employers essentially accepted the settlement with private sector unions over job security and wage increases. They opposed additional regulation of regular work contracts (work time, minimum wages, company rotation), however they did not push for meaningful liberalization. Scholars of Japanese labor politics generally conclude that employers maintained their commitments to regular worker protections in the 1990s, and that to the extent they sought to revise these commitments they were motivated by a persistently negative domestic business environment (???).³³ However, large employers even in the 1980s were moving in the direction of labor management reform. Already in the 1980s employer associations were voicing complaints about two of the pillars: seniority wages and lifetime employment. These were pushed even further in the first half of the 1990s as companies moved to reduce labor costs. At the national level employer associations pushed for economic deregulation and wage restraint. At the firm level employers began to reduce the number of regular employees through natural attrition and to expand the number of irregular workers. In the second half of the 1990s employer associations moved more aggressively not just for further economic deregulation but also for broader labor market liberalization for both regular and irregular work contracts. By the end of the decade firms were actively substituting irregular workers for regular workers and the business community in general had essentially cast off lifetime employment and seniority wages as commitments to workers.

The overwhelming priority for firms large and small in the 1990s was to reduce total labor costs. The most direct way to do so was through controlling wages. The annual spring wage negotiations

³³Leonard ? argues that globalization, neoliberalism and social changes decreased the cost to exit the political economy so though that could did.

were an important arena in which to contain wage growth but even zero wage growth was not enough to keep firms in the black. Regular workers are expensive because their salaries increase with seniority and they cannot be easily fired during an economic downturn. The obvious options available were to either reduce the number of regular workers or reduce the cost of employing regular workers. Both required deregulation, either to permit the employment of irregular workers or to make it easier to fire regular workers. In the second half of the 1990s employers became much more interested in changing labor market regulations. Before they were concerned mainly with controlling wages, then they tried to adjust total labor costs by reconfiguring regular employment at the margins (i.e., through early retirement). In the second half of the 1990s they tried to control total labor costs through liberalization of irregular work contracts. That the business cycle was on a downward slide from May 1997 to January 1999 and again from November 2000 to January 2002, and that the recoveries in between achieved growth only in that they were above zero surely added urgency to firm cost control measures. Other issues divided employers in the 1990s but they were mainly in agreement on labor market regulation: 'less is more'.³⁴

In the first half of the 2000s employers continued to demand deregulation, but by the end of the Koizumi administration in 2006 most of the big policy changes requested by employers had already been enacted: seniority wages and uniform wage increases were largely gone, there were clear rules for dismissing regular workers, the market for dispatch and contract workers was liberalized, as were fee-charging employment placement services, industrial minimum wages have been abolished. Major re-regulation of part time workers and fixed-term contracts had been thwarted. Still, employers did not get everything they wanted. Overtime rules are still in place for most non-managers, the dispute resolution system for wrongfully dismissed workers requires reinstatement as it has for decades, work rule changes still require collective worker agreement. These policies all have to do with giving managers greater flexibility over their regular workers. They were all pushed for by employers but never enacted.

³⁴Miura writes, "Although Japanese business was split on the issues of cooperate governance and government intervention to save companies from bankruptcy, they agreed on the issues of public corporation reform, retrenchment of social spending, increasing the consumption tax, and...labor market reform" (?, 98).

3.2.2.2 Deregulation

In the 1980s employer associations were active proponents of economic deregulation through administrative reform and privatization of public corporations. For example, Nikkeiren's 1982 Labor Issues Report asked, "What is administrative reform? It is the prevention of the rich country disease" (Ohara 1983 3.5.2). (The comparison is with, for example, the UK's Winter of Discontent.) They endorsed the administrative reform drive kicked off by the 2nd Provisional Council on Administrative Reform (2nd *Rinchō*) in their 1984 report (Ohara 1985 3.5.1) and the next year called administrative reform the country's "greatest mission" (Ohara 1986 3.5.1). In 1986 Nikkeiren complained the "labor offensive" has turned into the "labor ministry offensive" through excessive administrative guidance (Ohara 1987 2.5.1). Structural reform is a major theme in the 1988 Report (Ohara 1989 2.5.1). Nikkeiren also complained about excessive public spending, especially on public construction (Ohara 1989 2.5.1). It advocated political reform, including the abolition of the upper house always while reaffirming parliamentary democracy (rather than the bureaucracy or back room deals) as the appropriate way to make laws.

Nikkeiren found a powerful political ally for reform in the labor movement's consolidated national confederation 'private sector' Rengō in the 1980s.³⁵ Its 1983 report welcomed the formation of Rengō's forerunner and the expansion of private sector unions in the labor movement contra public sector unions (Ohara 1985 3.5.1). Nikkeiren praises 'private sector' Rengō in its 1988 Report and expresses desire for close policy consultation with the new confederation, noting that 'private sector' Rengō conceded many of management's main points including treating wages and work time reductions as a set, and the need to consider reducing taxes, work time, real estate prices and retail prices in addition to wages (Ohara 1989 2.5.1).

In 1993 Keidanren president Gaishi Hiraiwa (of Tokyo Electric Power Company) drafted a list of proposals as chairman of a regulatory reform commission under (the first non-LDP) Prime Minister Morihiro Hosokawa. The report called for large scale economic deregulation as well as the development of a smoothly functioning external labor market.³⁶ The Hiraiwa Report was not an

³⁵In 1982 a labor council was created to facilitate the establishment of a consolidated national labor confederation. This led to the formation of 'private sector' Rengō in 1987. In 1989 public sector unions joined to create Rengō.

³⁶For a summary of the Hiraiwa Report see ?, 96.

official Keidanren document but the proposal represented the large firm consensus view. In October 1996 Keidanren president Shōchirō Toyoda (of Toyota Motor Corporation) unveiled his “Toyoda Vision”.³⁷ This time the deregulation requests were officially under the auspices of Keidanren. The policy document embraced large-scale economic deregulation. On employment policy it called for a “paradigm shift” whereby job security is guaranteed not by companies but by the entire society.

Keidanren and Nikkeiren have a long history of involvement with government deregulation commissions. Keidanren president Toshio Dokō was the chairman of 2nd *Rinchō* (March 1981-March 1983). He was also chairman of the council that followed, the Provisional Council for the Promotion of Administrative Reform (July 1983 - June 1986).³⁸ Nikkeiren’s chairman Bunpei Ōtsuki was the chairman of the second Provisional Council for the Promotion of Administrative Reform (April 1987 - April 1990). Nikkeiren chairman Eiji Suzuki was chairman of the third incarnation (October 1990 - October 1993).³⁹ After the 1993 Hiraiwa Report employer associations began to publicly demand deregulation and regulatory reform with more frequency.⁴⁰

It should be noted that the Tokyo Chamber of Commerce was ahead of the big employer associations in both the timing and specificity of its labor-related regulation demands. For example, on 8 July 1993 the Tokyo Chamber of Commerce put out its annual policy demand statement. They criticized the “trend toward strengthening [labor] laws” (Ohara 1994 117). They wanted instead to strengthen a “retreat from regulation”. On contract work the Tokyo Chamber of Commerce wanted the current one year maximum to be extended to five years for older workers and foreigners

³⁷The document’s full English name is “An Attractive Japan: Keidanren’s Vision for 2020” (*Miryoku aru nihon - sōzō e no sekinin*). An English translation can be found at: <http://www.keidanren.or.jp/english/policy/vision/text1.html>.

³⁸*Rinji gyōsei kaikaku suishin shingikai, (dai ichi ji gyoukakushin)*.

³⁹Nikkeiren’s newspaper was of course enthusiastic: “We have high hopes for 3rd Council.” “The goal of regulatory reform is to create a smaller government that costs less without reducing quality” (Nikkeiren Times 3 Nov 1990).

⁴⁰In January 1994 Dōyūkai put out a report on structural reform (Ohara 1995 114-5). In relation to labor policy they argued that it is unavoidable that the employment structure will change as structural reform is carried out and that unemployment should be minimized while smooth labor transfer is facilitated; labor issues are issues for everyone to deal with. On 7 November 1994 Nikkeiren met with the government to submit a list of deregulation demands. Their labor demands were in line with previous statements: abolish industrial minimum wages, expand the number of approved occupations for the dispatch worker law (number two on the list), abolish special treatment for women in labor law, expand applicable jobs under the discretionary work hours rule, expand the job categories for which fee paying job placement services can be offered (twenty nine at the time), as well as further requests regarding the unemployment system and subsidies for employment preservation (Ohara 1995 118). Nikkeiren’s newspaper on 19 November 1994 published a request on discretionary work time for white collar workers which at the time applied only to five approved occupations. They wanted the list expanded to include more types of white collar work (Ohara 1995 119).

with special skills. They opposed regulation of part time work and did not want any regulations to impinge on managers ability to exercise their discretion. They also wanted the tax exemption on part time work increased. They also called for the liberalization and eventual abolition of special protections for women in the law. In September 1996 The Tokyo Chamber of Commerce released a report on dealing with the aging workforce. They called for deregulation of fee charging employment matching services. They also say the standard: firms need to introduce lots of types of employment systems. (Ohara 1997 115). Every one of these proposals was later picked up by Nikkeren/Nippon-Keidanren and most of them eventually became law, but the first big proponents were small business associations.

Keidanren put out major regular regulatory reform and deregulation reports with a list of policy requests from 1994 onward. They formed the basis of Keidanren's deregulation lobbying strategy. Even before 1994 they issued periodic deregulation requests.⁴¹ Employment remained Keidanren's top policy area in its annual deregulation request list from 1998 until 2007. In 2007 labor was knocked back to near the bottom of the list. By 2008 dispatch work did not even appear in the policy requests, though it had been a major request in every labor-related policy statement from the early 1990s onward. By autumn 2009 the DPJ was in government and Keidanren scaled back all its policy requests substantially.

Most of Keidanren's labor policy requests during from the mid-1990s onward centered on: dispatch work, employment placement / recruiter services, foreign workers, fixed term contracts, work time regulations (overtime rules and exemptions, discretionary work) and employer communication (such as emailed labor contracts). All these requests got top billing.

⁴¹In July 1992 they put out a "Deregulation proposal". In September 1993 they put out an "Emergency request concerning deregulation". By 2000 the report's main title was fixed as the "Annual Keidanren Regulatory Reform Requests"; until then "deregulation requests" was more common. The document remained separate from the Labor Issues Report (formally changed to Labor Policy Report in 2003) for which Nippon-Keidanren assumed responsibility following Nikkeiren's merger with Keidanren in 2002. The Regulatory Reform Request documents were usually issued in the fall of each year with a follow-up in the winter. Keidanren also submitted annual requests to the RRCs. The organization also kept a scorecard on government responses to each item. From 1996 onward Keidanren highlighted urgent deregulation requests. In that year already there were 699 items in seventeen policy areas. Keidanren's policy requests going back to the early 1990s can be found at <https://www.keidanren.or.jp/japanese/policy/>.

3.2.2.3 Workplace diversity and irregular workers

Workforce diversity is synonymous with non-standard employment. In the 1980s employers were particularly concerned with how to treat women employees and re-employed older workers because they fell outside of the traditional regular worker employment pattern. To the extent employer associations expressed an opinion on the regulation of irregular work contracts it was on how to best deal with short term labor demand and supply issues: finding a place for women and older workers and employing workers for short periods of time through dispatch or contract or part time work.⁴² Nikkeiren opposed a separate law for part time workers in the late 1980s when the labor ministry began deliberations to consider the issue.⁴³ Nikkeiren's formal position on part time labor in a report issued in November 1988 was that the pillar of Japan's employment structure is still lifetime employment. Workers outside that support system—"in other words, part timers and *arubato*, are limitlessly diverse forms of labor. Needless to say, that diversity is beneficial to both the person who works and the firm receiving the worker." "If you wrap this diversity up in rules, you injure the freedom of work styles, you increase administrative costs, and you worsen the efficiency of our labor economy. It is completely pointless" (Nikkeiren Times, 24 Nov. 1988).⁴⁴

Dispatch work in the 1980s was discussed in terms of fixing short term labor mismatches in specialized occupations such as translation work or copy machine repair. The Employment Security Law banned dispatch agencies with the exception of union provided free placement services.⁴⁵ Dōyūkai put out a proposal in October 1985 shortly after dispatch work legislation was passed in parliament proposing a "middle labor market" that simultaneously deals with redundant staff and

⁴²In its Labor Issues Report for the 1980 spring wage offensive Nikkeiren rejected legislating a mandatory retirement age (which it continued to do throughout the decade). Nikkeiren proposed a system to reemploy older workers with salaries based on skills. The standard practice in large companies had been to set mandatory retirement age at fifty five and then re-employ older workers at reduced wages until pensions started at sixty. Nikkeiren said for example in 1982 that, while there were undeniably merits to seniority wages, for post retirement workers pay should be based on skills. "Fortunately, labor unions requesting an extension of the retirement age understand this completely."

⁴³Nikkeiren's committee devoted to part time work issued a report in November 1988. It argued a new law was not needed because part time workers were covered by the LSL. The LSL at the time applied almost all work contracts. Part time workers were given standard work contracts. See chapter 5 for more detail.

⁴⁴See also, Nikkeiren Times, 10 Nov 2988 and Ohara (1989 2.1.2.2). The Tokyo Chamber of Commerce came out with a similar statement. Their position was that working conditions of part timers is already protected by the LSL; more regulation is not needed. Additionally, part timers should not be added to the unemployment system and their salaries should be exempted from taxation. (Spousal income under a certain threshold is not taxed. Most married employed women are part timers who earn below the threshold.)

⁴⁵The term used in Japanese law is 'manpower supply business'. Unions opposed the introduction of dispatch work agencies because of its similarity to union-monopolized manpower supply business.

demand for new staff created by labor market change. Dōyūkai called for the ban on manpower supply businesses and employment matching services (monopolized by the public employment agency) to be abolished.⁴⁶

Employers' rationale for the expansion of dispatch work contracts in the mid-1990s shifted: government regulations constrain employers in their use of workers and the management of labor costs. Nikkeiren's newspaper on 12 October 1995 stated, "We need to get out of this mindset that public agencies [referring to the public employment office] are good and private agencies are bad"; management's position in the labor ministry's deliberative bodies should be "liberalization in principle" of dispatch work and employment matching services. Nikkeiren continued that in the immediate future the labor ministry should expand the number of permitted sectors for dispatch work and that as far as principles are concerned, laws should protect the freedom of business to manage their affairs by removing regulations and on that basis private employment matching services should be developed (Ohara 1996 122).

Employers in smaller firms did not have enterprise unions or strong adherence to lifetime employment and seniority wages. In the 1980s they were more likely to depend on cheap flexible labor. Their policy views in the 1980s reflect a preference for less regulation for regular work contracts and liberalization of irregular work contracts.⁴⁷ For smaller firms there was not such a clear division between regular and irregular workers. Most of the business arguments in favor of labor market protections for regular workers did not apply to small firms; it is much harder to train, retain and promote workers in small firms. Eventually larger employer associations came to a similar position; firms should abolish the distinction between regular and irregular worker and have individuated work contracts and career ladders. Nikkeiren's 2001 Labor Issues Report took as its subtitle "To

⁴⁶Dōyūkai is usually more conciliatory than its peers. Dōyūkai called for a substantial liberalization of different forms of dispatch work it also said that employment changes in the workplace should be accomplished through consultation with unions. Furthermore, employers should not force workers to bear the cost of labor market adjustment; employers should to the greatest extent possible pay. They closed their proposal with a call for appropriate policies to ensure dispatch workers are protected.

⁴⁷For example, The Tokyo Chamber of Commerce released a policy piece on 2 July 1986 that was pro-deregulation and a fluid labor market, and that called for dispatch work expansion, "On Future Labor Policy Developments", (quoted in Ohara (1987 2.1.3.2)). In August 1987 the Tokyo area regional employers association (*Kantō Keieisha kyōkai*) put out a policy statement titled "The diversification of employment types and future directions in employment management: a new take on integrated employment management with lifetime employment at the core". It argued that lifetime employment can be preserved if its coverage shrinks (Ohara 1988 2.1.3).

achieve an economic system with diverse options” (Ohara 2002 137). The report included a section on differentiating between different classes of regular workers. Nikkeiren pointed to diversifying work contract types as a way to reduce the gender gap between men and women. The idea was an extension of the ‘career tracks’ concept wherein nominally regular workers could have different types of contracts and employment conditions. The strategy was particularly aimed at retaining women workers without offering them the same sort of benefits or demanding the same sort of work commitments traditionally extended to men workers. However, in the early 2000s employers promoted the idea as a way to also solve the increasing youth unemployment problem as well.

By the middle of the 2000s Nippon-Keidanren explicitly called for an end to the words ‘regular’ and ‘irregular’ employee. It released a report on 12 May 2004 titled “Diversifying employment and work types: human capital activation and HR/wage governance”. In the report Nippon-Keidanren argued that work forms were changing in part because of an evolution of employer and employee job preferences. Firms should no longer use the vocabulary of “regular employee” and “irregular employee”. Rather, they should use “long-term employment workers” and “fixed-term employment workers”. Managers need to develop diverse management strategies to reflect the fact that workers want a variety of employment types. Furthermore, the government ought to fix legislation so that employers and employees know exactly when it is appropriate and allowable to use fixed term contracts. Whatever the government’s actions, however, laws should maximize “flexibility between labor and management” (Ohara 2005 143-4). Nippon-Keidanren repeated these themes in its 2005 Labor Issues Report (Ohara 2006 155). On labor policies specifically it demanded, for example, extension of the contract length for dispatch workers and liberalization of work time regulations, especially an exemption for white collar overtime. On legislation of a stand-alone work contracts law Nippon-Keidanren stressed that the highest priority should be given to employer/employee autonomy in establishing work conditions; there should be freedom of contract; work rules should be clarified; dispute resolution rules should be clarified. The 2005 Labor Issues Report came out on an interesting anniversary—the 50th year of the Japan Productivity Center’s centrist “Three Pillars of Productivity”, which stressed cooperative labor relations and a fair division of industrial profits.

Employers used the same vocabulary to justify deregulation, liberalization or anti-regulation for both regular and irregular workers in the 2000s. Indeed, from the same 2005 Labor Issues Report quoted above Nippon-Keidanren wrote: “The government is thinking of amending the Part-time Work Law as well. Wages for non-regular employees should be determined individually in accordance with each worker’s contribution, such as skills or the future role expected of that person, according to circumstances in individual enterprises, and should not be set uniformly by law.”⁴⁸. By 2005, however, most of the regulatory changes requested by Nippon-Keidanren had made it into policy. In second half of the 2000s the major concern of employers was to figure out how to best use new forms of irregular workers, especially contract and dispatch workers.

By the end of 2006 the markets for various fixed term contracts had been substantially liberalized. In its Labor Issues Report for 2007 Nippon-Keidanren noted the increasing concern about irregular workers but said firms should not be forced to convert irregular workers to regular workers, and that as lifestyles change it makes sense to have “regular” and “irregular” workers; irrational discrimination should be rejected but fair treatment should be the guiding principle (Ohara 2008 158-9). The Labor Issues Report also discussed creating different types of trial and apprenticeship programs to employ workers; firms need to figure out how to use diverse employment forms to increase productivity and that there should be a robust enough safety net that both employers and workers and willing and able to seek out these alternative forms of employment (Ohara 2008 158-9). Again, workers should be treated individually and not as groups, and employers should have maximal flexibility in how they use workers.

By 2007 and 2008 more employers were pushing back against excessive casualization of the workforce. There were lots of individual examples of both irregular worker treatment improving and irregular workers being abused (Ohara 2008 169-172). By 2009 the DPJ was in government and employer demands or further liberalization slowed to a trickle.

⁴⁸Nippon-Keidanren’s translation, from: <http://www.keidanren.or.jp/english/policy/2006/091.html>

3.2.3 Unions

3.2.3.1 Rengō's creation and general policy orientation

After decades of division Japan's labor movement finally consolidated into a single national entity in 1989—the Japanese Trade Union Confederation (**Rengō**).⁴⁹ After Rengō's creation it is the only confederation that matters for national labor policy, so it makes sense to limit the description of union behaviors over labor policy to Rengō, and from the 1990s onward.⁵⁰

Before Rengō the two main labor confederations were private sector-dominated Japanese Confederation of Labour (Dōmei)⁵¹ and public sector-dominated General Council of Trade Unions (Sōhyō)⁵², though both contained public and private sector members. Sōhyō's policy orientation was explicitly class oriented. Dōmei's policy orientation was cooperative and incremental. On many policies they shared a common cause. Sōhyō and Dōmei opposed rationalization and endorsed its converse, employment maintenance. They also fought for large wage increases in annual spring negotiations. Their differences on these issues was only the degree to which they should be pursued and the appropriate methods rather than the conceit of the demands. But they were also political competitors. Sōhyō supported the socialist JSP. Dōmei supported the social democratic DSP.⁵³

In 1987 'private-sector' Rengō was established from the merger of Dōmei and two smaller national labor confederations. Public sector-dominated Sōhyō was still Japan's largest single national confederation (33.2%) against private sector-dominated Dōmei (17.1%) and the other two major private sector confederations (13.9%).⁵⁴ Sōhyō suffered a series of crushing political defeats in the 1980s, so it could not amend Rengō's structure or political orientation when it joined at the end of

⁴⁹ *Nihon Rōdōkumiai Sōrengōkai.*

⁵⁰ Rengō is numerically the largest national confederation and monopolizes all labor appointments to government. I do not examine in detail the minor national confederations that formed after the current Rengō was formed in 1989. They include Zenrōren and Zenrōkyō, which still exist, and the remnants of former Dōmei and Sōhyō, which are now gone. Zenrōren asserts political independence but has close ties with the Japanese Communist Party (JCP). Zenrōkyō does not have a political affiliation but supports the Social Democratic Party (SDP).

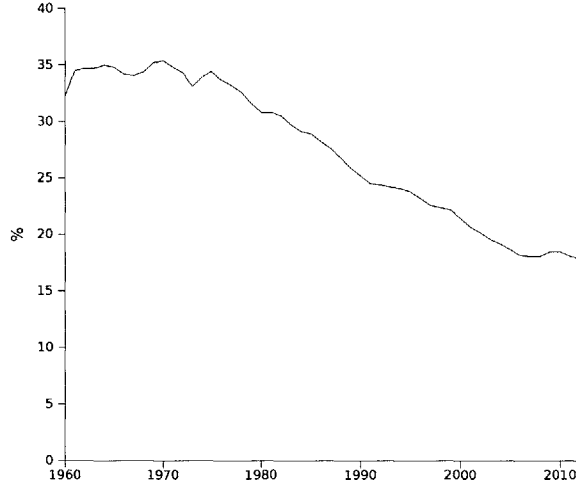
⁵¹ *Zen nihon rōdō sōdōmei.*

⁵² *Nihon rōdō kumiai sōhyōgikai.*

⁵³ There were two other major national labor confederations in the 1980s, Chūritsurōren and Shinsanbetsu.

⁵⁴ Unions belonging to other confederations totaled 31.9%. Non affiliated unions comprised 8.7% of the total. In 1990 after Sōhyō joined to create Rengō it had 62.1% of union members. Data come from the Ministry of Labour/Ministry of Health, Labour and Welfare's annual Basic Labour Union Survey. http://www.mhlw.go.jp/english/database/db-1/labour_unions.html (English).

Figure 3.3: Unionization rate in Japan



Source: MHLW Labor Union Survey.

the 1980s. Within newly formed Rengō former Sōhyō members were in the minority, as were public sector unions in general.⁵⁵ TABLE-3.2 shows the ten largest Rengō unions in 2012.

Rengō was meant to remove the fratricidal politics that depleted so much of the labor movement's energy. Rengō would be the single national voice of labor and would adopt a conciliatory policy tone. Militant class-based and revolutionary unionists simply refused to join. Indeed, though Rengō has been by far the largest labor organization in Japan since it was founded it has never been very class-based. Rengō is labor's representative but its membership is not representative of the working class. Japan's unionization rate in 1989 was 25.9%. In 2011 the number was 18.4%. The unionization rate in small firms is low. The unionization rate among women is even lower.

Rengō's 'omni-approach' to political engagement in the early 1990s—engage with every actor at every level—was intended to geometrically increase the labor movement's voice in the policy making process. In its 1992 annual policy statement Rengō said it wanted to “systematize multidimensional tripartite cooperation at the central and regional level” (Ohara 1993 237). And indeed it did participate more than any labor organization ever had done. Rengō monopolized labor

⁵⁵The ten largest Rengō federations in 1990 held 65.1% of Rengō's total membership (including observers and affiliates). Four of the ten were Sōhyō members and constituted 44.8% of the 65.1%. Only two were public sector federations. They constituted 35.5% of the 65.1%. In 2012 the ten largest federations held 71.5% of Rengō members. Former Sōhyō members constituted five of the top ten, though they accounted for only 37.6% of the 71.5%. Public sector unions constituted 27.8% of the total. Japan Postal Group Union is counted as a public sector union. Japan Postal Group is a private holding company but the government owns 100% of the stock.

Table 3.2: Rengō's largest unions in 2012

Name	Industry	Members
UA ZENSEN	general	1,291,786
Jichirō	municipal workers	836,261
JAW	auto workers	761,483
JEIU	electronics workers	59,9015
JBU	basic industries	349,440
JTU	teachers	273,059
JAM	metalworking	251,965
LIU	life insurance	241,443
JPU	postal workers	231,752
J-R	telcom	221,000

Source: <http://www.jtuc-rengo.org/about/data/rengo2012.pdf>

representation in ministerial deliberative councils, met regularly with the government, opposition parties and employers, and occasionally engaged in mass mobilization. However, by the middle of the decade it was apparent that participation did not necessarily translate into influence.

Rengō's non-political policy goals in its early days were all focused on the problems of regular workers: wage increases, layoffs, overtime rules, company transfers, retirement, etc. It had some success, particularly on issues decided in the ministerial deliberative councils. However, as the policy process began to open up and include more and more political parties and the Prime Minister's Office Rengō found it difficult to access formal policy making directly as it had done previously. Rengō continued to insist on policy deliberation through the labor ministry, even as it became apparent that the labor ministry was being outmaneuvered. However, Rengō was wary of pursuing policies through parliamentary politics because it was very difficult to achieve consensus over which political party to support (Ohara 1991 193, 239, 249-50; Ohara 1997 197).

So Rengō's 'omni-approach' persisted. Rengō signed a number of joint statements with Nikkeiren and the government over the course of the decade, participated in ministerial policy making bodies, and supported change in government. Indeed, these were the only the options available to Rengō. Rengō did not have available the most obvious tool available to unions—industrial action. Strikes and other job actions was devolved to constituent unions. Rengō could organize demonstrations,

but always with prior consent of and regulation by the national police.

Policy participation, the scope of the market and irregular work regulation were important conflicts within Rengō in the 1990s, but most of its energy was devoted to the conditions of regular workers. Regular worker regulations were relatively non-controversial within Rengō, and were the things we expect unions to concern themselves with. In the 1990s Rengō pushed for greater overtime pay, lower taxes, stimulus spending, work-sharing programs, employment subsidies, unemployment insurance, pensions, family and sick leave, etc. Rengō also participated in wage negotiations but only as a coordinating body for its constituent unions. These were all policy battles, and Rengō was successful in some but not in others. Rengō's biggest policy objective in the first half of the 1990s was macroeconomic stability to preserve employment. In the second half of the 1990s the focus shifted to deregulation / regulatory reform. In the main Rengō advocated policy stability for regular workers.

Looking back at the results of the spring wage negotiations in 2000 the Ohara Institute declared in its annual labor review that "...the conventional shuntō [spring offensive] system has collapsed" (Ohara 2001 202). That year some of the big firms/sectors (NTT, electronics, ship building) had a zero base wage increase. Rengō decided that a new strategy was needed (Ohara 2001 194). On 17 November 2000 Rengō released its basic position for the 2001 wage negotiations at its 34th central committee meeting without a clear strategy for the future. They set a low bar, "greater than one percent" base wage increase. Their inclusion of part time workers, however, was notable. For the first time Rengō decided to push for a specific wage increase for part time workers (Ohara 2001 202).⁵⁶

Rengō's decision to include part time workers in its annual wage demands signaled a shift in Rengō's general policy priorities. The same year Rengō stepped up organization activities targeted at part time workers. On 12 January 2001 Rengō's Central Executive Committee met to approve its list of policy demands for the next regular session of parliament. The demands narrowed in on employment security in particular; 'security' was the operative word—not just maintenance but actual security of employment and livelihood (Ohara 2002 251). At Rengō's annual policy meeting

⁵⁶Rengō requested an hourly wage increase of at least ten yen.

in the coastal town of Atami a couple hours southwest of Tokyo the following June there was a lot of criticism that citizens do not connect Rengō's actions with their daily lives (Ohara 2002 251). There was also a push from the chemicals union to fix working condition disparities between regular and irregular workers. In the policy statement that resulted Rengō stated that in the past it had treated policy as an extension of Rengō's other activities, but that since 2000 it had turned its attention more directly to the legislative process. And for the first time Rengō front-ended eliminating the disparity between part time and regular workers.

The unity of regular and irregular worker policy demands characterizes Rengō's policy orientation from about 2000 onward. Rengō's 7th biennial convention in October 2001 adopted as its slogan "A union's role: preserving a fair society in a market economy" (Ohara 2003 202-3). At the convention Rengō's newly elected president Kiyoshi Sasamori laid out a vision for a "New Rengō" that is a "movement that has within its sight all workers", a "social labor movement" (Ohara 2003 207). What this meant concretely in 2001 was that part timers were added to the spring wage demands, that unions were encouraged to include all workers in wage negotiations at the plant level, and that unions take into consideration how all members at a job site are doing in a broad context, rather than focus narrowly on wages and work conditions for union members.

I return to Rengō's policy orientation below when I discuss Rengō's position toward irregular workers. By the mid-2000s it is impossible to separate out the two.

3.2.3.2 Deregulation

Labor support for regulatory reform was nearly as controversial as political party support and policy participation. Regulatory reform, administrative reform and structural reform invariably mean deregulation, privatization and liberalization, but in Japan the terms also mean political and economic democratization: reducing bureaucratic fiat, breaking up iron triangles, shifting surplus from producers to consumers. One pole of the postwar labor movement was comprised of left-wing socialist and communist unions in public employment: local government, teachers and the public utilities (including railways). Another pole consisted of centrist private sector unions in traded sectors. Both poles stood to lose economically from regulatory reform and liberalization,

but private sector unions on balance stood to gain even more in the form of lower taxes and retail prices. For public sector unions regulatory reform could only mean privatization, greater competition and fewer members.

The first oil shock in 1970s resulted in a pact between private sector unions and large corporations to unite and control wage demands for a promise of employment protection (? , 38). This accentuated the political conflict between private and public sector unions. Public sector unions had pushed for large wage increases and confrontation with management. The government sided with private sector unions and their employers, facilitating labor retention through the 1974 Employment Insurance Law in exchange for wage restraint (??, 63). From the mid-1970s through the 1980s private sector unions, employers and the government were able to forge a political coalition in support of regulatory reform. That weakened public sector unions through government retrenchment and privatization. The government's interest was to balance the budget. The LDP more generally wanted to privatize public utilities in order to break public sector unions (?). Private sector employers and their unions wanted lower taxes, lower prices (both retail and for electricity, telephony, etc.), and less bureaucratic guidance. LDP Prime Minister Yasuhiro Nakasone (Nov 1982 - Nov 1987) supported the cross-class coalition through his endorsement of a wide-ranging privatization and deregulation agenda—2nd *Rinchō*. This created a new dividing line in the political economy: between public sector unions and the state bureaucracy on the one hand, and private unions and their employers on the other. The private sector unions' support for reform was linked to their acceptance of employers' 'positive sum' argument on wages and living standards. The best way to increase workers' income is through increasing national income. Private sector unions therefore wanted an environment in which their employers would be able to grow and make profit. Crippling the public sector unions was either a tolerable cost or an added benefit for Dōmei.⁵⁷

Regulatory reform in the 1980s under 2nd *Rinchō*, and particularly privatization of public corporations in the 1980s, especially the railroads, enervated Sōhyō. Not only did it lose members, Sōhyō devoted substantial resources to an ultimately unsuccessful fight against privatization and

⁵⁷Kume writes, "The private-sector unions naturally formed a coalition with management to promote the reform...This is not co-optation, however. The private-sector unions had their own interest in pursuing reform" (? , 93). Either way 2nd *Rinchō* was a tolerable trade-off in the end (? , 232-6)

layoffs.⁵⁸ Once militant public sector unions had been weakened in the 1980s the only alternative in the labor movement was the consolidated cooperative unions under Rengō and its forerunners.

Dōmei's imprint on Rengō can be seen in the platform adopted at Rengō's first unified general assembly in 1990, which included an endorsement of administrative reform, though "based on the citizens' will" (Ohara 1991). Rengō endorsed regulatory reform throughout the 1990s (Ohara 1996 204), however, it struggled to reconcile conflicts between constituent unions on specific deregulation proposals, such as over utilities charges (producers versus consumers) and postal privatization (postal union versus insurance union) (Ohara 1998 189; 194-5). Rengō also linked deregulation specifically with new employment creation.

The major locus of policy making for the deregulation drive in the mid-1990s was the RRCs in the Prime Minister's Office. At its policy request platform meeting in May 1995 Rengō promoted its basic deregulation stance: "On economic regulation: in principle liberalization or abolition" and "strengthen social policy" (Ohara 1996; 194, 203). Rengō went to the RRC on 8 December 1995 and submitted a policy demands document. The document expressed some concerns with the RRC's draft proposal for regulatory reform but Rengō was basically on board with the RRC's enterprise (Ohara 1996 248).⁵⁹ Rengō president Jun'nosuke Ashida said that deregulation is the "key word" for structural reform of the political economic and social systems: "Deregulation is critical for creating new industries and jobs. However, we need to consider how it will affect employment and labor issues." (Ohara 1996 194).

Proposals to 'liberalize in principle' the market for certain labor contracts—dispatch work and fee charging employment placement services—were picked up and promoted by the RRCs in 1995 and 1996. Rengō expressed objections in 1995, however in 1996 the objections were toned down (Ohara 1996 194-5). In 1996 instead of objecting outright Rengō argued that policy makers need to consider public opinion and changes meaning of work when considering deregulation. Rengō president Jun'nosuke Ashida said in a speech at Rengō's November 1996 Central Committee meeting: "In the midst of this recent globalization wave powerful market forces are bound to get stronger and we are concerned that it seems the social side of things are not receiving proper consideration."

⁵⁸In 2010 the supreme court finally settled the largest railway dismissal case resulting from privatization in 1987.

⁵⁹See Also ?, ch. 3 and ? for a discussion of this point.

(Ohara 1996 194-5). Nevertheless, when the government finalized its deregulation promotion plan in 1996 Rengō expressed support. On labor they said simply, “Market principles alone is unacceptable,” and that the government needs social consensus. (Ohara 1996 237). Still, in Rengō’s meetings with the Prime Minister they they emphasized the need for both “employment promotion” and “deregulation promotion” (Ohara 1996 247).

By 1997 Rengō reversed itself on deregulation. In its fifth biennial convention was held in October 1997 Rengō publicly objected to the RRC’s deregulation proposals and committed Rengō to more active opposition to general deregulation. The convention adopted a resolution denouncing labor market deregulation that was happening in ministry of labor under the RRC’s guidelines. On 24 April 1997 Rengō’s vice president Masaharu Shibata presented Rengō’s latest views to the RRC. He said that Rengō wanted a Japanese-style third way for regulatory reform and presented proposals for specific industries, but labor was not a policy point (Ohara 1998 238-9). On central government reorganization Rengō objected to combining the labor ministry with other ministries because it wanted a ministry that is dedicated to labor standards. Rengō was the only member to object in the RRC (Ohara 1998 238-9). It released several opinion pieces regarding reorganization of the ministries. They were mainly concerned about protecting public sector jobs. Rengō’s objections in the RRC little mattered though and central government reorganization was carried through.

Rengō’s participation in the government’s deregulation and regulatory reform drives of early 1990s fit with both Dōmei’s desire to directly access policy making and its preference for regulatory reform in the 1980s. However, Rengō’s participation was different to that of other labor confederations because Rengō was the single large national labor entity after its creation. Rengō’s participation ought to have been more like that of national confederations in the European social partnership model. Furthermore, Rengō’s ability to maintain political relevance in wage negotiations was undercut by the ongoing recession in the 1990s. Employers successfully negotiated wage raises down to nothing by the end of the decade. Policy participation allowed Rengō to be seen doing something. But when the regulatory reform committees moved to liberalize labor markets and undermine public sector unions Rengō came to an impasse over strategy and eventually moved into political opposition.

Table 3.3: Part timer unionization rate

Year	% of union members	% of part timers
2008	6.2	5.0
2009	7.0	5.3
2010	7.3	5.6
2011	7.8	
2012	8.5	6.3

Note: 2011 data unavailable because of Tōhoku disaster.

Source: MHLW Basic Union Survey 2012.

3.2.3.3 Workplace diversity and irregular workers

Irregular worker representation scrambles the old divisions within Rengō: between Dōmei and Sōhyō, private and public sector, manufacturing and service, domestic and international. Indeed, it even upsets the stereotypical image of union members as male regular workers. For example, Rengō's largest union federation is UA ZENSEN.⁶⁰ At the end of 2012 UA ZENSEN was almost as large as the three largest public sector unions combined (the municipal workers union, teachers union and postal union). UA ZENSEN draws members overwhelmingly from service industries (81.0%). The majority of its members are women (57.8%) and half are non-regular workers (50.1%).⁶¹ The next largest private sector union is the industrial Confederation of Japan Automobile Workers' Unions (JAW). The share of union members who are women or irregular workers is in the single digits.⁶² It is hard to read Rengō's policy preferences regarding irregular work from its union composition. What has Rengō actually done?

On dispatch workers Rengō makes no major policy statements until 1995. In 1995 Rengō objected to liberalization being proposed in the labor ministry and advocated stricter enforcement of current laws. In 1996 Rengō shifted its tone and said that dispatch work deregulation itself is not problematic but that social consensus was required. It reversed itself again in 1997 and

⁶⁰Their English name is 'The Japanese Federation of Textile, Chemical, Food, Commercial, Service and General Workers' Unions. The union also used in English Zensen Dōmei, ZENSEN, UI ZENSEN from 2002 to 2012 and UA ZENSEN from 2012. The name changes reflect Zensen's evolution from an industrial union in synthetic fibers and textiles to a general union.

⁶¹See <http://www.uazensen.jp/about/organization.html>.

⁶²See <http://www.jaw.or.jp/intro/intro2.html>

opposed deregulation in principle of dispatch work contracts. In December of that year the labor ministry was in the middle of revisions to the Labor Standards Law. Rengō came out against the revisions but did not mention dispatch worker conditions. In 1998 Rengō began to actively oppose dispatch work expansion and poor work conditions (Ohara 1999 236-7). Rengō mobilized again in 1999 on behalf of dispatch workers (Ohara 2000 203-4). There is a qualitative difference between Rengō's opposition to dispatch worker legislation in 1995-6 and 1998-9. In the former period Rengō's opposition focused specifically on expansion of the market for dispatch work contracts. In the latter period Rengō opposed expansion but also demanded protective legislation for dispatch workers. It is not the case that dispatch worker conditions were not a problem before 1998. The Communist-leaning national confederation Zenroren demanded improvements for dispatch workers already in 1990. Rengō made no such statements at the time.

On fixed-term contract workers Rengō did not make any major policy statements until its fifth biennial convention in 1997. At the convention Rengō came out in force against attempts by the labor ministry, under orders from the RRCs, to liberalize both regular and irregular work contracts as part of a big labor law overhaul. Rengō held mass demonstrations in front of the ministry and at train stations in protest. Rengō collected over 5 million signatures in a petition drive. Their objections were over: 1) equal treatment for men and women concerning late night working hours, 2) expanding discretionary work hours expansion to white collar workers, 3) maintaining the current system for dealing with irregular working hours times, 4) measures to protect older workers and fixed term contract workers to whom employers would be able to extend a contract for three years (up from one) (Ohara 1998 194). The overarching message was employment security. These were all essentially regular worker concerns, because older workers who passed the mandatory retirement age were often extended fixed term contracts by their previous employer. Even Rengō's objections to the fixed term contract revision were not that extension should not be allowed but that measures should be taken to make sure these workers were not abused.

On part time work regulation Rengō was more active in the 1990s, but this is mainly an inheritance of Sōhyō's ideological commitment to gender and status equality. Already in 1990 Rengō wanted a stand-alone part time worker law. It was one of their major policy priorities for the next

few years, though the content of their demands focused more on spelling out exactly the obligations between employers and part time workers than on the content of those obligations. Before 1993 employers were not required to specify who was classified as a part time worker and what that status meant for job security, pay and workplace rules. In 1992 four opposition parties submitted a part time worker bill in parliament and Rengō held a rally for it on 13 May in Tokyo (Ohara 1993 219). Unique among the major union federations, ZENSEN also pushed for wage increases for part timers. In 1996 Rengō rolled out a multi-year unionization drive which included programs to organize part time workers, but it was more of an education drive for its own members, most of whom did not have any relationship to part timers. In 1998 Rengō held rallies and demonstrations in support of a part time worker bill, though these activities were part of Rengō's broader mobilization activities in support of labor legislation. (Rengō initiated a "Fall offensive" in 1998 to match the "spring offensive" for wage increases.)

Rengō's behavior toward irregular workers in the first half of the 1990s is explicable in several ways. Very few Rengō members were irregular workers. The economic recession caused employers to squeeze wages and lay off regular workers, which directly impacted Rengō members. The two minor national labor confederations both demanded policy improvements for dispatch workers, part timers and contract workers, as well as for foreign and women workers. They made specific demands that were in fact later adopted by Rengō. Indeed, the far left unions were a good bellwether in the 1990s of Rengō's policy fights a couple of years later (e.g., discretionary work rules and the white collar exemption to overtime).

My own interpretation, the one offered in this project, is that Rengō's shift to the concerns of irregular workers from the end of the 1990s onward had a great deal to do with changes in the policy making process. Rengō is non-ideological and concerned firstly with protecting its members' well-being. Once legislation started to flow from the RRCs through the cabinet and into parliament, rather than up from the ministerial deliberative councils, Rengō had to engage in mass politics and with political parties to influence legislation. Rengō linked the concerns of both regular and irregular workers in order to gain traction.

By 2003 Rengō included both regular and irregular worker issues in its annual urgent policies

list released ahead of the parliamentary session at the start of the year. In 2003 the demands were: 1) make unemployment benefits more generous and do something to fix the economy and create jobs, 2) fix the pensions system, 3) regulate and protect irregular workers, including a “part timer and fixed term contract employment law” and a “labor contract law” (Ohara 2004 198). Rengō’s annual policy meeting that summer in Atami included employment stability and equal treatment of all workers. Rengō linked legislation for a stand alone part time worker law (irregular workers) and an employment contract law (mainly for regular workers) (Ohara 2004 237).

On 16 January Rengō 2004 held a Central Executive Committee meeting to ratify policy requests for the upcoming 159th regular session of parliament. The policy demands blended insecurity for irregular workers and insecurity for regular workers, both of which ought to be addressed through policy. Insecurity means: over pensions, over health-care, over taxes, over employment, over income, etc. Rengō rolled together policy proposals to protect older workers, younger workers and part time workers (Ohara 2005 255). On pensions reform Rengō proposed including both part time workers and workers in firms with less than five workers in the national pension system. On 16 September 2004 Rengō put out its policy demands for the fall: “[We] challenge the expansion of inequality from Koizumi’s structural reform and endeavor to realize just and secure workplaces and livelihoods” (Ohara 2005 260). Again, inequality of both regular and irregular workers was the central theme.

The following January, 2005, the Central Executive Committee came out with its policy priorities for the upcoming regular session of parliament. The committee focused on the disconnect between a recovery in business bottom lines and family incomes, which had been declining for six years. Rengō also wanted to reverse the Koizumi government’s reforms, blamed by Rengō for a surge in unemployment and precarious employment. Again, Rengō linked regular and irregular workers. Their main slogan was “Increasing inequality and increasing burdens: NO [sic] to Koizumi’s structural reforms” (Ohara 2006 275). The Central Executive Committee drew special attention to: equal treatment for part timers, youth employment and opposition to unilateral wage setting by employers without labor consultation. (Ohara 2006 275). In October Rengō had its 9th biennial convention where it argued labor market dualism was being created by blind adherence to market fundamentalism and competition. Rengō, in contrast, wanted a “Society without inequali-

ties”. The big themes were labor movement expansion, realizing equality of treatment for citizens (in many domains), and a total reform of the taxation and social insurance system. Rengō linked, for example, equal treatment for workers with reducing taxation on salarymen, once again tying regular and irregular workers together.

The Central Executive Committee’s slogan for the 2007 regular session of parliament (ratified 15 December 2006) was “Stop! [sic] the inequality” (Ohara 2008 273). The major policy demands were: 1) establish work rules for all workers, 2) fair tax reform, 3) create a reliable safety net, 4) issues relating to public employee reform (Ohara 2008 273). The committee met again in May to approve Rengō’s priority policies list. The document was divided into three parts with poverty and inequality as the the first part. At Rengō’s 10th biennial convention on 11-12 October recent economic improvement was noted but Rengō took issue with the way improvement came about—through policies based on market fundamentalism and polarization of society into haves and have-nots. Rengō argued its mission should be to “link together all workers” to improve the labor movement and workers’ livelihoods. Rengō wanted in particular to organize SME workers and irregular workers (Ohara 2008 237). By now Rengō’s policy shift was very clearly stated. It wanted policies to protect all workers. The first policy priority was aimed at irregular and SME workers, but Rengō wanted to do more than just stop its membership decline through organizing marginal workers. It also wanted to support workers on the job site and plug them into a broader social movement centered on Rengō. Rengō’s second policy priority was to demand employers to take greater “social responsibility”, and to really press politics and policy to protect workers (Ohara 2008 237).⁶³ Rengō said of its policy shift, “We put in all our strength to arrest the growth of inequality [between large firms and] SMEs and for equal treatment for part timers but in the end we weren’t able to say that we’d completely reached our goals” (Ohara 2008 261); “Rengō has been judged harshly over criticism that it is insensitive to improving the situation of irregularly employed workers” (Ohara 2008 241). Rengō created an irregular workers advice center, which was an expansion of the part time workers call center they had created previously. It links workers not just to Rengō but to also to social welfare NPOs . The advice center is a concrete manifestation of

⁶³Their third big policy focus was strengthening the regions. Attendees at the convention: LDP Prime Minister Yasuo Fukuda, Yoichi Masuzoe, People’s New Party Shizuka Kamei, DPJ’s Ichiro Ozawa, SDP’s Mizuho Fukushima.

new priority Rengō puts on irregular workers (Ohara 2008 241). It serves not just as a helpline for workers, but also as a recruiting tool.

At the beginning of the 2000s Rengō's approach to irregular workers shifted. Irregular workers are not Rengō members and Rengō members are not irregular workers. If Rengō's switch from protecting insiders to protecting the working class is a strategic move to defend Rengō's members we ought to see Rengō revert to an insider bias when it participates in tripartite policy making. If so, it says something about the conditions under which unions are more likely to represent non-union workers. It also says something about the likely form of labor policy under consensus versus competition policy making.

3.2.4 Political parties

Japan's party system exploded in the 1990s. Two parties survive today from 1980: the Japanese Communist Party (**JCP**) and LDP.⁶⁴ The explosion refigured and reduced the main opposition socialist party, killed off the junior socialist party, and precipitated out several minor parties. Many of the minor parties evaporated soon after formation or merged to form a replacement opposition party. Even today the reaction has not settled down. Of the 18 political parties with caucuses in parliament before the lower house election in December 2012 only the LDP and the JCP existed in their original form in 1993.⁶⁵ The parties of the left have changed more than have the parties of of the right, which are still dominated by the LDP. Until 1996 the largest opposition party was the JSP. It collapsed after it was whittled down to fifteen members in the lower house of parliament following its coalition government with the LDP in 1994. It was rechristened the SDP but remains a minor party. Indeed, while the LDP lost members through by party defections and a new electoral system from 1996 onward it nevertheless remained the largest party in the lower house of parliament without interruption from 1955 to 2009. (It was the largest party in the upper house from 1955 to 2007.) The events of the early 1990s weakened the LDP but they weakened

⁶⁴The JCP is consistent in its labor policy proposals during the period under study but it has always been locked out of government. It always favors greater social spending, more regulation of work, and the reduction of class and status differences between workers.

⁶⁵Kōmeitō also existed in 1993 but merged with another party and reorganized in 1998. The party was renamed New Komeito [New Clean Government Party] in English.

the opposition more. A serious replacement for the old JSP did not emerge until 2003. That party was the DPJ, founded in 1996 (and again in 1998). Within its ranks are old socialists, former LDP members, reform-minded independents, as well as new politicians whose first party affiliation was the DPJ. As this short description indicates, the standard left-right political cleavage that defined Japanese politics from at least the 1950s until the 1990s was one of that decade's casualties, as was one party rule under the LDP. The minor non-DPJ/LDP parties remain minor and I do not look at them in detail here.⁶⁶

The best way to understand how political parties approached labor policy is to look at behaviors. Like with employers and unions, something can be said about the hard constraints placed on political parties. Employers need to remain profitable or else they disappear. Unions need to protect their members' jobs or else they disappear. Political parties need to win elections or else they disappear. Both the LDP and DPJ must have had at a minimum a shared desire to win elections and form governments, but their strategies for achieving those goals differed. Below I look at labor policy proposals floated by both parties from the end of the LDP's one party rule in 1993 through the 2000s. I put particular emphasis on electoral platforms released by each party in the six lower house and six upper house elections post-1993.⁶⁷ The electoral platforms are not complete representations of party activities concerning labor policy, those are detailed more closely in case studies of specific policy below. Rather, electoral platforms are an efficient and compact way to describe how the LDP and DPJ approached labor policy broadly—whether they supported more or less regulation, for example. To be certain, the parties might not actually pursue the policies proposed in their platforms. Regardless, as far as observable actions are concerned we can say that the party campaigned in part on this or that labor regulation.

⁶⁶The SDP and a party established by LDP defectors of 2000s vintage formed a coalition government with the DPJ in 2009, and the SDP and the JCP collaborated with the DPJ on legislation from time to time. However, the LDP and DPJ are the only electorally and parliamentary relevant parties for the purposes of this study. The appendix contains a time line of coalition governments from 1994 to 2012, TABLE-7.3. The LDP was a junior coalition partner with the JSP and an LDP defector party in 1994-5. It became the senior coalition party in 1996. The socialists bolted later in the year. The LDP was the only party of government in 1997 and 1998. The LDP formed coalition governments again from 1999. In every coalition government the LDP was the largest party. After 1996 it was much larger than any of its coalition partners. Coalitions from 1999 onward were formed to secure control of the upper house.

⁶⁷Archived party platforms can be accessed online at <http://www.mag.keio.ac.jp/manifesto/> and <http://www.maniken.jp/>.

3.2.4.1 The LDP

The LDP's labor policies were broadly conservative and briefly neoliberal.⁶⁸ Neoliberalism entered conservative political discourse only in the 1980s and initially only in reaction to the fiscal problems that had accumulated in the 1970s and 1980s (?, ch. 3). In this regard it conflicted only with the view that the state should actively engage in economic policy (statism), which by the 1980s was already falling out of favor among conservative politicians. Paternalistic labor-management relations and above all the politics of production dominated LDP labor policy thinking (to the extent there was any) in the 1980s. The political changes of the 1990s allowed neoliberalism to break free from a narrow solution to the government's fiscal deficits. It began to supplant paternalistic labor-management relations as the organizing principle for labor policy within the LDP. As social conflict increased in the 2000s, blamed by the media and opposition parties mainly on socioeconomic polarization brought about by neoliberal reforms, the LDP shifted away from neoliberalism and back to statism.⁶⁹ In policy terms the LDP first showed indifference to labor market reforms, then promoted labor market liberalization for irregular workers and later all workers, then backed off liberalization and even supported some social protection policies.

The LDP largely stayed out of labor market regulation in the 1980s and early 1990s, though it was more involved in industrial policy, which served in many ways as a functional equivalent to passive labor market policies like unemployment insurance (?). Unemployment did not become a political problem until the early 1990s. (FIGURE-7.5 in the appendix shows the unemployment rate for selected age and gender cohorts over time.) By the time the LDP was back in government in 1994 (though under a socialist prime minister) there were two related labor problems: rising unemployment and dismissal of regular workers at failing firms. The policy solution that fit best

⁶⁸Miura describes three strains of conservative thought in regard to social protection and labor policy: statism, cooperatism (something similar to corporatism) and productivism. The subtitle of Miura's 2012 study of labor politics in Japan is "conservative ideas, partisan dynamics and social protection in Japan".

⁶⁹Miura notes that the LDP was not averse to using the state to pursue the national interest or those of the party. Japanese conservatives and European Christian Democrats both think that social conflicts need to be politically managed in order to restore harmony and the natural state of organic balance in society. "I employ the term "cooperatism" to describe the line of thinking that has advocated the creation of social institutions that would generate cooperation between employers and workers and the segmentation of workers into separate occupational communities in order to undermine the basis for collective action...Cooperatism was a reactionary solution to the social question at the time, but productivism provided a positive linkage between the social protection system and the production strategy" (?, 6-7.) The tension between neoliberal reformers and traditional conservatives critically shaped both the LDP's and employers' position on labor policy in the 1990s and 2000s.

with the LDP's previous policy orientation was public works spending, a traditional Keynesian policy solution to aggregate demand shortfall, but the LDP was under pressure to continue the structural reform drive initiated by the non-LDP coalition government formed in 1993, and at any rate it did not hold the Prime Minister's Office again until January 1996 under Ryūtarō Hashimoto. Hashimoto himself was a self-identified neoliberal and reformer. He continued the coalition governments' reforms started in 1993 that would consolidate policy making authority in the Prime Minister's Office ostensibly to push through tough economic reforms.

In 1996 the LDP contested its first election under a new two-tiered lower house election system: 300 single member districts and eleven proportional representation districts totaling 200 members. The LDP's electoral platform ("manifesto" is often used in Japanese) placed employment creation-and-stability as the country's top policy problem. The platform argued that Japanese firms have entered an era of permanent restructuring and that the best way to avoid mass unemployment is to facilitate smooth labor transfer in the context of economic deregulation and demand expansion. To those ends the LDP proposed that fee charging employment services and dispatch work services should be in principle liberalized. Discretionary work times should be expanded. Flex time should be promoted. Furthermore, workers should take on the responsibility to develop skills themselves, especially white collar workers, and the government should facilitate process. The government should also remove protective measures for women in labor law and enforce gender equality, and develop policies aimed at facilitating part time workers and work life balance. The general thrust of the 1996 platform is greater labor market flexibility and an emphasis on individual workers developing their own skills rather than having firms train and retain workers. The LDP wound up with 239 out of 500 seats in the lower house, a net gain but not quite enough to secure a majority.

Hashimoto's term as Prime Minister lasted until the end of July 1998. He resigned to take responsibility for his party's poor showing in the upper house election that took place earlier that month. The LDP's platform for that election put as its first big theme the "Salaryman freedom/liberalization [jiyūka] project".⁷⁰ The employment situation was grim and the focus of national attention, but by now the LDP had officially tried to backed away from public works

⁷⁰The third theme supported various types of employment for mothers.

spending to prop up employment. Rather, economic liberalization should proceed in order to create new firms and new employment. The platform was generally thin on specific regulatory proposals. Hashimoto was fighting an uphill battle since the government had recently agreed to increase the sales tax from three percent to five percent. The introduction of the three percent tax in 1989 had cost the LDP control of the upper house, and Hashimoto's predecessor Noboru Takeshita his job, and history repeated itself here.

Shortly after midnight on 2 April 2000 Hashimoto's LDP replacement as prime minister Keizō Obuchi was admitted to a hospital in Tokyo. Earlier in the evening he had appeared to suffer a stroke while answering a reporter's question after a tense meeting with Liberal Party head Ichirō Ozawa. Obuchi would never again appear in public. With the press in the dark and the legality of succession in question LDP elders hastily convened in secret and emerged with a new Prime Minister, Yoshirō Mori.⁷¹ The meeting between Obuchi's LDP and the Liberal Party resulted in a split and the new Prime Minister Mori now had a weak position in the upper house of parliament. Mori himself, gaffe-prone and unelected, could not overcome this ignoble start and stepped down after just over a year. His successor was chosen by an open party election in which both members and parliamentarians had a say. Jun'ichirō Koizumi was not favored among his elected peers but easily won the party vote in the provinces. Under Koizumi's guidance the Japanese government undertook its third round of major structural reform, including substantial deregulation of labor markets.

Koizumi's unconventional political style (he claimed he would smash the LDP to achieve his policy objectives) made him an object of enmity on both the left and the right. He is credited for undertaking major structural reforms, most notably privatization of the postal system and its financial services. Labor unions pin Japan's increasing socio-economic inequality and polarized labor market on Koizumi and his particular brand of neo-liberalism. In many economic reforms

⁷¹Late in the evening of 1 April Obuchi appeared to show signs of a stroke during an interview after negotiations with Liberal Party leader Ichirō Ozawa ended poorly. He was admitted to the hospital around 1am on 2 April. It is unclear whether or not he was conscious by the time Chief Cabinet Secretary Mikio Aoki was summoned to the hospital shortly thereafter. Within the next 24 hours a 'gang of five' LDP elders had chosen Mori to become the new Prime Minister. Aoki announced to the press that Obuchi had named him acting Prime Minister (as the Prime Minister was permitted to do). There were no witnesses, and it is unclear whether or not Obuchi was capable of doing so by the time Aoki first came to the hospital. Obuchi died on 14 May 2000. See ? for more detail. See also, "Ex-Prime Minister's Death Is Likely to Skew Japan's Elections", New York Times, May 15 2000.

Koizumi and his closest advisors were the prime movers, but he had the strong backing of the business community, which had itself championed many of the policies enacted under Koizumi even before he took office. Indeed, the politically weak Obuchi-Mori administrations, during which time some legislation protective of workers was passed, are perhaps the exception: Obuchi's predecessor Hashimoto instituted the second major wave of structural reform, and the coalition governments before him were generally supportive of the agenda as well.

The LDP platforms under Koizumi mark a shift in concern from retaining older workers to finding jobs for younger workers. The strategy proposed for both groups of workers, however, remained relatively consistent. The government should help workers develop skills that make them attractive to employers, and employers should have a diverse set of labor contracts available to better match their employment needs to workers. The LDP's labor policy position cannot be described as conservative in that the objective was not to retain the the features of the labor market as they were in the 1980s. Rather, it aimed to help firms transform their labor practices either through neoliberal liberalization or else through active governmental support for work sharing, retraining or subsidized employment.

In 2006 Koizumi stepped down as prime minister. This is the year inequality and labor conditions became big topics of discussion, as the media took stock of the Koizumi years.⁷² Koizumi's successor, Shinzō Abe served for exactly one year, resigning in part to take responsibility for a poor showing in the July 2007 upper house election, through which the DPJ became the largest party in that body. The LDP platform for the 2007 election included just a few labor-related policies out of a list of 150. Number 76 on the list promised employment opportunities for younger workers, particularly the long-term unemployed. In order to facilitate irregular workers becoming regular workers the LDP proposed training programs, career consulting, trial employment contracts, a skills/training certificate and qualification system. Number 81 on the LDP's list was fair and balanced treatment (not equal) for all workers, especially part time workers. Furthermore, the LDP proposed stepping up inspections for abusive dispatch and subcontract employment. The LDP also made noncommittal promises on the minimum wage and policy supports for diverse employment

⁷²Also for the first time the “net cafe refugee” and “young working poor” appear in the headlines, as does “pseudo-managers”—those classified as managers to get around paying overtime (Ohara 2008 170).

contracts: elderly contracts, part timer, dispatch, fixed term, etc.

In August 2009 the LDP under Prime Minister Tarō Aso lost control of the lower house of parliament to a DPJ-led coalition. It is telling how the LDP positioned labor policy in its campaign platform. The platform states, “Exactly because of an uncertain economy we need a stable employment system”. The LDP proposed supporting businesses to prevent layoffs, more generally supporting young people becoming regular workers, supporting reemployment for mothers, banning daily dispatch work, revising the dispatch worker law to “make employment easier”, supporting retraining and recruitment services to creating an “employment safety net”. Employment stability was an important election topic, and exploited to great effect by the opposition parties. Rather than pushing liberalization further the LDP adopted a conciliatory tone: workers need to be protected and previous liberalizations need to be reconsidered.

By the 2010 upper house and 2012 lower house elections the pendulum had swung back in the other direction. In both elections the LDP promoted skills development and worker employability, rather than job security and the quality of employment—workers can obtain for themselves secure and quality employment through skills acquisition and a liberalized labor market, though the government has a role to play in promoting training programs that confer portable skills, and through a safety net that allows workers moving between jobs to be able to maintain their livelihood.

The LDP campaign platforms show a party not particularly committed to labor market liberalization. The LDP endorsed liberalization at times, but was willing to backtrack. In none of the elections looked at here does labor policy play a prominent role for the LDP, though as I discuss next, labor policy is repeatedly highlighted by the DPJ.⁷³ When the LDP was electorally safe it was more likely to promote liberalization. When opposition parties posed a serious challenge it backed off or coopted their position. The LDP has a long history of just this strategy (?????). To take one example, by the time Hashimoto called the first lower house election under new electoral rules the major political cleavage had shifted to pro- or anti-reform. This was the inaugural election for the DPJ, which styled itself the “party of reform”, along with every other opposition party. Hashimoto’s LDP adopted the same mantra, but Hashimoto was able to appropriate the message

⁷³Labor policy is also an important issue for the socialist parties and JCP.

and turn it away from breaking up collusive governmental practices to finding effective and efficient solutions to economic stagnation, which under Hashimoto meant greater political control of the policy process and deregulation of the economy, an agenda he argued the LDP was best suited to carry out.

From where, then, does the LDP's sometimes endorsement of liberalization come? Miura argues that we should look to changes in Japanese firms: "The transformation of the Japanese business community accounts for the origin and persistent momentum of neoliberal labor market reform. However, politics does not merely reflect the policy preferences of powerful actors. It also has its own logic and dynamics" (Miura 2012 114). Miura places particular emphasis on the ideological constraints that prevent LDP lawmakers from moving too far in the direction of either a large social welfare state or total neoliberalism. I would emphasize simple electoral competition. After the collapse of one party rule in 1993 reform/retrenchment became the primary political cleavage, but so too did economic revitalization and unemployment. By the time Hashimoto faced another election in July 1998 the unemployment rate had risen to a new postwar high. The LDP in particular was under pressure to propose a solution to the political problem of increasing unemployment since it was ship's captain when the economy ran aground. From a trough of 2.0% February 1992 the unemployment rate increased almost without interruption for the next ten years, and had more than doubled to over 4.0% in the summer of 1998. Labor policy became an issue that could not be ignored so the LDP had to take a stand. Their policy proposals were constrained by the need to both address the problem at hand and be satisfactory to their electoral base—farmers, *petits commerçants*, big business and social conservatives.

3.2.4.2 The DPJ

DPJ parliamentarians can be divided into three groups: political reformers, ex-socialists, and neoliberals, though these divisions matter less today than they did in the party's first years (?). The same neoliberalism-as-political reform chimera that found a den the LDP in the 1990s has found a perch the DPJ since its foundation. The DPJ half-banished neoliberalism after 2003 as a way to differentiate itself from the LDP, and has since been reliably opposed to liberalization, even as it

promotes general government reform.

The DPJ was founded in the months before the 1996 lower house election. Before the election the DPJ had 52 members in the lower house and held that number after the election, placing it a distant third behind the LDP and the short-lived reformist New Frontier Party headed by Ichirō Ozawa and Tsutomu Hata, LDP defectors who helped bring down the LDP in 1993. Both the DPJ and New Frontier Party were founded as anti-LDP reform-minded parties, as were several other new parties formed in the mid-late 1990s. Eventually they would all be consolidated under the DPJ. The DPJ's foundational problem—one that persisted through the 2000s—was how to distinguish itself from the LDP. Its approach early on was to promote aggressive 'reform': economic liberalization, reducing the power of bureaucrats, increasing the role of parliament in policy making. Of course the LDP took up these positions as well, so a vote for the DPJ became simply a vote against the LDP's continued governance. To escape the LDP's shadow the DPJ moved closer to the unions and to put greater emphasis on quality of life issues, including employment conditions. If the LDP took up a position of greater labor market flexibility the DPJ would be against it, but on quality of life grounds.

The DPJ's strategy worked. By 1998 it was the largest opposition party, though the DPJ controlled only one third the number of seats held by the LDP in the lower house of parliament. By 2003 the DPJ was electorally competitive with the LDP, controlling three fourths the LDP's seats in parliament.⁷⁴ In 2007 it gained control of the upper house, and in 2009 they took control of the lower house. Rengō gave its exclusive support to the DPJ starting in 1999, and though some constituent unions, especially public sector unions, continued to support the SDP, in the main unions supported the DPJ. Whether it was Rengō's influence or because it was a way to differentiate the DPJ from the LDP, the DPJ eventually embraced strongly regulatory policies for both regular and irregular workers, as well as policies aimed at reducing the gap between the two groups by enhancing work conditions for irregular workers. In the latter half of the 2000s the DPJ even tried to peel away public sector unions who still supported the SDP as a legacy of Sōhyō's alliance with the JSP. The DPJ still wanted to shrink the number of public employees as part of

⁷⁴The DPJ lower house caucus became the second largest in January 1998 with 99 members. The LDP caucus had 259 members. After the lower house election of 2003 the DPJ caucus was 180 to the LDP's 245

governmental reform but it also demanded that public sector worker rights—for example the ability to organize a union—be brought up to the same standard as private sector workers.⁷⁵

The DPJ established a relationship with Rengō soon after the party's formation.⁷⁶ In 1999 Rengō established its “Rengō Politics Center”. At Rengō's biennial convention that year their position on political parties was officially changed to exclusively support the DPJ. At the convention Rengō chairman Etsuya Washio said, “There are a few concerns over whether DPJ's positions are our positions, however DPJ continues to press reform and we will create a robust support system [for them]. Through that we must express the labor unions' strength and increase our political power” (Ohara 2000 206).⁷⁷ Rengō's political allegiances appeared in 1990 to be by far the biggest threat to the organization's survival. However, by the late 1990s the issue was largely resolved. The DPJ emerged as the largest opposition party and included members of both the old socialist/social democratic parties. For the first time since 1960 the non-communist labor movement had a single political party to support.

For the 1998 upper house election the DPJ was the largest opposition party, though still a minor party. Its platform for the election was more directly neo-liberal and reformist. The DPJ's big three campaign points were: major, drastic structural reform of the economy first, then a more liberal society, and finally getting bureaucrats out of governance. The DPJ promised to promote new job creators, promote people who want to retrain themselves, and use public money to encourage mid-career and older worker hires. The DPJ ‘won’ the election in that the LDP did much poorer than anyone had forecast. The LDP scored only 25.17% of the votes cast in national PR list ballot compared to the DPJ's 21.75%. (There is another ballot for prefectural level districts with magnitude of 1-4.) The combined non-communist opposition vote was above 55% in the national

⁷⁵Central government employees are banned from organizing unions and from striking. The DPJ campaign platforms noted that the ILO has called Japan out on this a number of times.

⁷⁶In 1996 Rengō amended its political support rules to allow endorsement of the DPJ. After the SDP collapsed Rengō support for the DPJ within Rengō increased (Ohara 1998 195). Rengō's biggest issue in 1997 was the continuation of an income tax cut. The DPJ did not agree. The DPJ wanted to have a “dry relationship” with the unions (Ohara 1998 195). As a result some unions started to move back to the SDP. However, at the end of 1997, there was another big shakeup in the opposition parties through which the DPJ absorbed former right-socialist members, enhancing anew the appeal of the DPJ within Rengō (Ohara 1998 195-6). The LDP wanted to cut off contacts with Rengō after their poor showing in the 1998 upper house election, further encouraging Rengō to establish strong links with the DPJ.

⁷⁷In exchange for Rengō's support the DPJ promised to: 1) undertake structural reform that creates jobs and protects employment, 2) create a robust welfare state, 3) establish clear work rules.

ballot. The election result forced the LDP into a “conservative-conservative” coalition with a minor party (ironically headed by Ichirō Ozawa). It also solidified the DPJ as the primary opposition party in parliament.

By 2000 the DPJ had switched to worker protection as a dominant theme. The electoral platform declared: “It is the government’s job to eliminate employment insecurity.” Still, the platform promoted: liberalization of the public employment office, promotion of retraining programs, and a revision of gender protection laws. The DPJ argued in its 2001 platform that the government needs to make sure that while it pursues structural reform it also actively protects employment and the quality of work for all workers. The platform included a long list of specific labor market policies relating to age and gender discrimination, labor disputes, dismissal rules, etc. The platform also endorsed equal pay for equal work. The same themes carried through to the 2003 lower house election, where their first big policy theme is on economic growth and unemployment. The same for the upper house election the next year, where the DPJ pledged to eliminate irrational discrimination between regular and irregular workers and submit a part time worker equality bill to parliament. The DPJ also pledged to give fixed term contract workers access to child and care-giving leave. In the 2005 lower house election irregular worker conditions was a major policy theme again. The DPJ prepared a long list of policies specifically designed to reduce the gap between regular and irregular workers.

The DPJ’s disastrous performance in the 2005 snap election called by Koizumi to push his postal privatization plan caused a fissure between the DPJ and Rengō. The party chairman in the lead-up to the election, Katsuya Okada, resigned to take responsibility, and Seiji Maehara became head of the DPJ. Maehara’s policy position was generally more hawkish and neoliberal, and he called for a re-evaluation of the relationship between his party and the unions. At Rengō’s biennial convention Maehara said, “It is obvious there will be differences in thinking between political parties and unions. The party’s stance in the future will be to thoroughly debate [the issues] and respond in a fair and unbiased way” (Ohara 2006 242). Rengō chairman Tsuyoshi Takagi then spoke at the DPJ convention and tried to strike a conciliatory tone. Still, he said, “I want to have a spirit of ‘friendly rivalry’ even as we hold on to ‘cordialness among compatriots’” (Ohara 2006 242). In

mid-December the two appeared together at a rally against raising taxes on the middle class ‘salary men’, but five days later Maehara came out in support of reducing the public sector workforce, which Rengō opposed.

In April 2006 Ichirō Ozawa, who had joined his Liberal Party to the DPJ in 2003, became party president. He reversed Maehara’s policy to distance the party from Rengō. At Rengō’s May Day rally that year Ozawa declared, “Achieve a change in government, eliminate inequality—this is our chance to remodel Japan” (Ohara 2007 232). In October the DPJ and Rengō released a joint declaration on eliminating inequality and creating a safe society with an eye to the unified regional elections the following year. The relationship between the two organizations continued to improve as the DPJ sought to differentiate itself from the LDP through its opposition to Koizumi’s neoliberal reforms. The DPJ also saw an opening on poverty and inequality issues and piggybacked on Rengō to hammer the LDP’s labor market reforms under Koizumi.

The DPJ took the upper house of parliament in 2007. It was the first time the opposition had ever defeated the LDP in an election. Their election platform that year put “citizens’ livelihood first”. Of their seven banner proposals number one was “Protect employment, rectify the inequality.” The platform highlighted inequalities between regular and irregular workers. For example, the platform noted that part timers numbered more than 12 million, “However, even if their work times and job content is essentially the same as regular workers, because of their different employment status they are not accorded the same treatment...” The DPJ went so far as to propose increasing the minimum wage to 800 yen an hour with an eye to an average national minimum wage of 1000 yen an hour.⁷⁸

In 2009 the DPJ took control of the lower house of parliament again on a promise to put livelihoods first, which included, for example, inclusion of irregular workers in the unemployment insurance system and a ban on dispatch work to manufacturing, as well as other restrictions on their use. However, by 2010 the DPJ’s labor policy agenda began to fall apart. They had previously released an annual “policy index” of hundreds of policy proposals. That practice was suspended in 2010 and the upper house election campaign was essentially a plea for more time to acclimate

⁷⁸Minimum wages differ by prefecture.

to office. The DPJ lost control of the upper house that year, and in 2012 their campaign was essentially a referendum on both their time in the Prime Minister's Office and their handling of the triple disaster that struck northeastern Japan in March 2011. In that election the DPJ lost 174 seats while the LDP gained 176 seats and an outright majority in the house.

It is not clear whether the DPJ will survive the terrible wounds inflicted by the 2012 election. It is still the largest opposition party but after the election had only 54 seats to the LDP's 294. As far as labor policy is concerned the DPJ finds itself again reacting to the LDP. If the LDP decides to press ahead with labor market reform the DPJ will be opposed. If, however, the LDP embraces a conservative statist vision of the economic and labor policy and reverses some of its previous liberalizations it will give economic liberals in the party the chance to press their policy proposals, again to differentiate the DPJ from the LDP. When the two parties compete for swing voters they occupy an overlapping policy space that is generally against labor market deregulation. Competitive elections in Japan have a strongly centripetal force for the two largest parties.

3.2.5 Governmental actors

I briefly discuss the labor ministry and the RRCs here. They are more institutions than actors. The labor ministry houses the consensus-based deliberative councils. The labor bureaucrats can influence the deliberation process, however, in contrast to other ministries the labor bureaucrats generally try to broker deals between labor and management rather than force a predetermined outcome. The RRCs are part of the prime minister's new policy making toolkit, and always do the same thing: draft regulatory and administrative reform proposals.

3.2.5.1 The RRCs

Neoliberalism was given an institutional form in the regulatory reform committees (RRCs) that operated continually in one form or another from the conclusion of the 2nd *Rincho* in 1983 through 2012. Regulatory reform, administrative reform and deregulation were essentially synonyms in Japan in the 1990s and 2000s.⁷⁹ The various incarnations of the RRC all uses one or another of

⁷⁹The literal translation of deregulation from Japanese is 'regulatory relaxation' (*kisei kanwa*). Kume, "The term 'administrative reform' is rather misleading, because it was a multifaceted package of policies, the common ideology

these terms. (See the TABLE-7.4 in the appendix for the full name of each RRC.) Their provisional (the ‘*rin*’ in *Rinchō*) nature was removed in 1994 when a permanent reform office was established in the Prime Minister’s Office, however, the specific name of the policy body changed over time. I use the shorthand RRC because of this frequent name change.⁸⁰ The full name of each RRC is in the appendix to this chapter. RRC members were appointed by the prime minister and there were no particular statutory restrictions on committee composition (e.g., social partners, ministries, cabinet members). In practice the RRCs were always comprised of private sector business interests and neoliberal scholars.

I treat the RRCs separate from the parties of government and interest groups, though appointments were made by the Prime Minister’s Office, rather than in the ministries or party. The parties of government could informally pressure the RRCs but the committees were largely able to set their own agenda. LDP prime ministers, particularly Jun’ichirō Koizumi, used the RRCs (as well as a financial policy committee) to push potentially unpopular reform policies by appointing like-minded committee members. The prime minister’s committees were often at loggerheads with LDP parliamentarians and other stakeholders.⁸¹

The first iteration of the RRCs was established within the Prime Minister’s Office in 1994 on the recommendation of a reform commission chaired by Keidanren president Gaishi Hiraiwa.⁸² Hiraiwa’s commission specifically endorsed an administrative body separate from the ministries to promote reform that had oversight capacity. In 1994 the the Prime Minister’s Office was occupied by the Morihiro Hosokawa, the charismatic reformist politician at the head of the seven party coalition that had booted out the LDP. Hosokawa had a reputation as a champion of deregulation and shrinking the size of government. In 1995 JSP Prime Minsiter Tomiichi Maruyama continued Hosokawa’s reform/deregulation vision, as did subsequent LDP prime ministers.

The RRCs promoted the following major labor contract policies:⁸³

of which was *laissez-faire* liberalism. Small government, deregulation, and privatization were the political banners of this reform” ?, 190-1.

⁸⁰The original *Rinchō* was three years and as a result the RRCs each were granted three year terms.

⁸¹Koizumi used policy committees within the Prime Minister’s Office to formulate big reform projects such as postal privatization and public works reductions. The policy process sidestepped the policy institutions of the LDP, and thereby opposition to structural reform within the party (?).

⁸²The Hiraiwa Report argued that economic regulations should be eliminated and social policies should be minimal.

⁸³See also ?, 126. The list comes from the annual RRC deregulation proposals which are available at the Cabinet

- Employment and jobs
 - Liberalize employment matching and recruitment services
 - Privatize the public employment office
- Regular worker regulations
 - Relax various work time rules (discretionary work hours, white collar exemption)
 - Legislate regular worker firing rules
 - Relax regular worker firing rules
 - Abolish distinction between regular and irregular worker (labor ‘big bang’)
- Irregular worker regulations
 - Abolish industrial minimum wages
 - Liberalize and expand dispatch work
 - Increase fixed term contract length

After Koizumi stepped down in 2006 the RRCs declined in importance. Their behavior did not change; they continued to advocate the same deregulation and liberalization policies. However, they lost the political backing of the prime minister. The three prime ministers after Koizumi each lasted only a year each. They rejected or ignored the RRCs’ proposals completely liberalize all labor contracts in 2006 and 2007.

Indeed, Koizumi’s immediate successor Shinzō Abe set up committees in the Prime Minister’s Office to directly address the widening income inequality blamed on Koizumi’s labor market reforms. So, for example, when the RRC came out with a sweeping labor market reform proposal in May 2007 just a couple of months before a critical upper house election widely seen as a referendum on the Koizumi era it was simply ignored.⁸⁴ The RRC’s proposal that labor laws provide excessive protection for workers and as a result firms are forced to switch from to irregular employees.

Office of Japan’s website: <http://www.cao.go.jp/>.

⁸⁴The proposal was called, “Path to a labor market that encourages activity and exits inequality: a fundamental reform of labor legislation” (Ohara 2008 275).

The RRC had proposed revising the dispatch worker law and wrongful dismissal rules, as well as liberalizing restrictions on fixed term contracts. It also attacked the minimum wage and other labor market regulations. The next day Rengō's secretary general Nobuaki shot back: "...they are rolling back the work rules and safety net...and we'll be damned if we let that happen"; "The thought that strengthening worker rights shelters workers is mistaken"; it is "...a gigantic challenge to all workers" (Ohara 2008 275-6). Rengō further criticized the RRC's always-deregulate approach. The RRC backed off their position in their first interim report issued at the end of May, but stepped up again in their second interim report issued at the end of December 2007 under "items to consider". By now Yasuo Fukuda was prime minister, Abe having resigned to take responsibility for losing control of the upper house to the DPJ. Fukuda also ignored the RRC's proposals so they died.

Scholars of Japanese labor politics give the RRCs a critical role for Japan's recent labor market changes. They are right in that the RRCs represented a new way of doing labor policy that sidesteps the tripartite deliberative councils. As an institutional innovation the RRCs are therefore interesting. As actors the RRCs are less interesting. They were narrowly focused deregulation proposal machines. Before the 1990s the prime minister did not have the resources or capacity to propose the sort of legislation that the RRCs were so good at generating. They had to rely on the ministries or ad-hoc organizations within the chronically understaffed Prime Minister's Office, such as 2nd *Rinchō*. The RRCs sang only one song and if the prime minister did not like the tune he would not listen. Hashimoto and Koizumi were great fans. Abe less so. Furthermore, the RRCs had nothing to contribute to debates over regulatory expansion. All they could do was propose deregulation. As the case studies show, they were important actors in dispatch work expansion, which involved deregulation and liberalization. They were entirely absent from the development of part time worker regulations because the starting point was a regulatory void.⁸⁵

⁸⁵ Another important policy organ within the Prime Minister's office was the Council on Economic and Fiscal Policy (CEFP) [*Keizai zaisei shimon kaigi*]. It was proposed by the regulatory reform committees in the 1990s and was supposed to come online in 2001 but Mori, the prime minister at the time, did not want to antagonize the finance ministry so it languished until Koizumi took office. The CEFP is chaired by the prime minister and staffed with academics and business leaders similar to the RRCs. Relevant cabinet ministers also attend. Koizumi promoted the council as soon as he came to office. Koizumi declared it the vital for his reform agenda (Nihon Keizai Shinbun 19 May 2001). The CEFP set annual guidelines for big reform projects, like postal privatization. It also took control of the budget from the finance ministry. It is more important for big structural reforms of the economy. The RRCs were more important for labor policy. The two overlap, however, and function in the same way, so conceptually the CEFP should be thought of as a type of RRC.

3.2.5.2 The labor ministry

I reserve the labor ministry for last.⁸⁶ The labor ministry is not an autonomous actor in the same way as are labor unions, employer associations and political parties. It is also not equivalent to the RRCs. Scholars of Japanese labor policy describe the labor ministry as trying to balance between the competing interests of workers and employers rather than trying to assert its own prerogative (??????). Japan's labor bureaucrats have their own opinions about labor policy but the labor policy institutions constrain their ability to set the policy agenda, and even more so to push through their preferred policy. This is partly a result of the issues requiring a regulatory response. During Japan's high growth period the labor ministry was tasked mainly with regulating wages, working conditions and labor supply. From the 1980s onward the regulation of work contracts became more important and on big policies the labor ministry is hemmed in first by statutory tripartite deliberative council consultation rules and second by political instructions from the labor minister, cabinet and parliament. In short, the labor ministry is more of a forum for deciding policy than an autonomous actor. Still, the labor ministry is not irrelevant to policy decisions. It appoints members to deliberative councils and sets the deliberation agenda. It can try to tilt the balance of policy in the councils one way or the other. It is not in control of the policy process from start to finish, however. To the extent the ministry has policy preferences, they are for balance between labor and management on important policy issues. The labor ministry wants to protect its policy domain from outside actors but the deliberative councils are meant to deliberate (?).⁸⁷

It is impossible to discuss policy making in Japan without addressing the role of bureaucrats. I want to avoid rehashing the debate about whether or not bureaucrats matter to policy outcomes. The case studies show that at least for irregular work contract regulations the labor ministry does matter, particularly for defining the policy problem to be solved. What, exactly, do labor bureaucrats want, though. The usually deductive theories of bureaucratic preference do not work well here. There is no budget at stake so it cannot be that the labor ministry tips regulations

⁸⁶The labor ministry was the Ministry of Labour until 2001, when it was combined with the Ministry of Health and Welfare to form the Ministry of Health, Labour and Welfare. To avoid using two acronyms I use 'labor ministry' to indicate both.

⁸⁷The labor ministry can choose to ignore its own deliberative bodies, but it puts the ministry in a bad position and the ministry avoids it whenever possible.

in favor of more funding for labor policy.⁸⁸ However, individual paychecks are at stake. The labor ministry is above all concerned about two things: protecting the ministry's role in policy making, and getting policies through its own deliberative councils. When the ministry's own deliberative council fail to produce policy it reflects poorly on the bureaucrat in charge and can damage promotions. Bureaucrats therefore exert tremendous energy to forge a compromise between labor and management representatives. The labor ministry was willing to break the consensus norm only when the Prime Minister's Office threatened to bypass the ministry altogether in pursuit of specific policy outcomes, and when LDP labor ministers threatened to withhold otherwise routine senior bureaucrat promotions.

The labor ministry can shape policy outcomes in two ways: by defining the policy problem / scope for policy deliberations, and by selecting the members of deliberative councils. The former is important. The latter is less important. There is no good reason that dispatch work should have been legalized in 1985 but that the labor ministry decided there was a labor market problem in the 1970s that needed to be solved. It could have chosen to not do so. There was some pressure from the business community but as with most labor policies the LDP was largely checked out of the process. The labor ministry is not free to define anything at all as a policy problem. The problem has to be stated as one relevant to the labor ministry and amenable to a policy solution. Additionally, once policy making institutions changed in the 1990s the labor ministry lost a lot of its agenda-setting power. It had to react to proposals coming out of the Prime Minister's Office, all of which were in the direction of liberalization/deregulation.

As to deliberative council appointment, again the labor ministry had less discretion than other ministries. Of the twenty or thirty members in a typical deliberative council one third must be labor representatives, one third must be management representatives and one third the ministry selects from the public. There is never any mystery as to who will fill the labor and management seats. Only major mainstream unions and business interests get seats at the table, and usually the two sides get to nominate exactly whom they want. The public interest representatives will always hold the ministry's line, but under the consensus norm that does not matter very much.

⁸⁸This happens in the early construction of unemployment insurance and employment subsidies.

They have to get the approval of labor and management representatives who themselves are good middle-of-the-road representatives of their respective organizations. In practice the labor ministry's policy preference only acts to tilt the consensus outcome closer to either labor or management's position.

Frank Schwartz's detailed study of governmental deliberative councils in Japan includes a chapter on a contentious statutory reduction of the work week decided in labor ministry in the 1980s. He writes that the reduction, "It0...was a relatively self-contained, bureaucratically led process that involved a limited set of narrowly focused interest groups. It was bureaucratically led because it fell squarely within MOL's jurisdiction and involved policies with few distributive benefits of interest to politicians" (? , 117). Schwartz himself observes, "Although MOL was bound by law to consult a formal advisory body, the Central Labor Standards Council, on revision of the [Labor Standards] act, it was not obliged to follow the *shingikai's* advice. Nevertheless, the council's public-interest representatives and ministry bureaucrats together mediated between union and employer delegates to arrive at a comprehensive plan that became the basis for a legislative bill" (? , 116).

I think this is the best way to understand "bureaucratically led" labor policy making. The labor ministry acted as both the forum and referee for two competing teams. It might choose the game or make calls to tip the outcome but the real action was between the players.

3.3 Looking ahead

In this chapter I described the institutions and actors that determine labor policy. In the next three chapters I analyze the politics of irregular work contract regulation in detail. The standard story is that irregular work has become less and less regulated over the past thirty years.⁸⁹ The standard story is wrong. Regulations that protect and restrict irregular work occasionally increase, but these improvements invariably occur when the rules governing work contracts and work conditions are processed through competitive parliamentary politics, *not* when (regular employee) union representatives have a formal say in policy making.

⁸⁹For recent examples in English see ??????. For recent examples in Japanese see ?.

Chapter 4

The dispatch worker law

Table 4.1: Chronology of Dispatch Worker Law (DWL)

- 1985** DWL passed in parliament
- Positive list system of 13 occupations
 - Ministry sets max contract at 3 years
- 1986** DWL enacted
- Positive list expanded to 16 occupations
- 1996** Labor ministry revises positive list
- Positive list expanded to 26 occupations
- 1999** DWL amended
- Shift to negative list system of 5 occupations
 - Contract length: 3 years for 26 occupations; 1 year for other occupations
- 2003** DWL amended
- Manufacturing removed from negative list
 - Contract length: no limit for 26 occupations; 3 years for other occupations
 - Some protective measures added
- 2012** DWL amended
- Short term dispatch work banned
 - Other protective measures added

The evolution of Japan's dispatch worker law¹ (DWL) illustrates well how the center of policy

¹The law's official title is *Rodōsha haken jigyō no tekiseina unei no kakuho oyobi haken rōdōsha no jūgyōjyōken no seibi nado ni kansuru hōritsu* [Act for Securing the Proper Operation of Worker Dispatching Undertakings and Improved Working Conditions for Dispatched Workers].

making dictated how interests are aggregated and reflected in policy outcomes.² In the the case of dispatch work regulation, policy migrated from the the deliberative councils, where unions had a formal say but unorganized workers were excluded, to the Prime Minister's Office, where all labor representatives were excluded and liberalizing employers were delegated policy making authority. However, as a competitive two party system began to take shape in the late 1990s and 2000s, opposition parties representing the interests of unions and the working class as a whole found ways to check the liberalization process and eventually reverse it. What started out as a very insider-friendly ministerial policy process moved to a political process under the prime minister with no veto players representing labor interests, but then gradually evolved into a system in which a broader range of worker interests could shape or even veto policy through parliament.³ FIGURE-4 shows the growth and decline of dispatch work over time.

The evolution of the dispatch worker law can be divided into five periods which correspond to the evolution of Japan's party system and policy process:

1. Period 1: 1980 - 1993: Consensus-based policy making dominates. Through the ministerial deliberative councils dispatch work is legalized. Unions limit the expansion of dispatch work to additional sectors of the economy. No attempt is made to address the working conditions of dispatch workers. (*Very insider friendly. Not outsider friendly at all.*)
2. Period 2: 1993 - 1999: Policy making begins to shift from consensus-based policy making to political parties under liberalizing coalition governments with a strong reform mandate. The government tries to force liberalization through the deliberative councils but is rebuffed, so policy making is transfered to the Prime Minister's Office. This culminates in the 1999 conversion in law from a positive list of permitted sectors to a negative list of prohibited sec-

²Dispatch work is often called 'agency work' or 'temp agency work'. It is a form of indirect or triangular employment. Workers are employed by a dispatch agency and the work contract is between the agency and the worker. There is another contract between the agency and the company receiving the dispatch worker. In the original Japanese legislation the dispatch agency has the responsibility to ensure work conditions and pay since it is the counter-signatory to the work contract. This meant, for example, that if the agency failed to pay the worker the firm at which the worker's services were used had no obligation to pay. For general overviews of dispatch work see ????; ???.

³Margarita ? thinks Japan is moving toward a Westminster-type system in which there are no formal legislative vetoes outside the ruling party. The discussion here, I think, makes clear that top-down policy making from the Prime Minister's Office with no concessions along the way is a very rare occurrence. It requires a single party to have a majority in both the lower and upper house.

tors. Manufacturing remains prohibited. Work conditions for dispatch workers are improved as part of a compromise because the policy debate is happening partly in the deliberative councils and partly in parliament. (*Somewhat insider friendly. Somewhat outsider friendly.*)

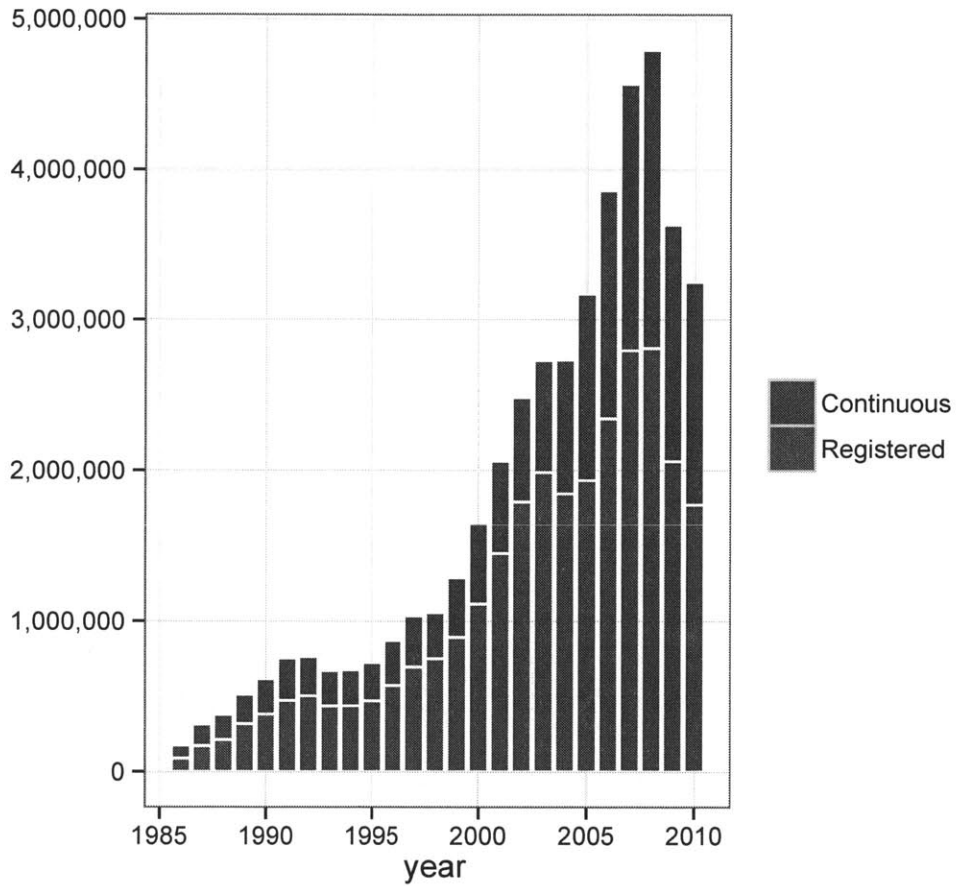
3. Period 3: 1999 - 2003: Political process dominates. Coalition government under the LDP is able to maintain a stable lock on policy making and opposition parties are electorally weak. More liberalization, including dispatch work to manufacturing. Deliberative councils completely bypassed. Unions and opposition parties attempt to pass measures in parliament to improve working conditions of dispatch workers but fail. (*Not insider friendly at all. Not very outsider friendly.*)
4. Period 4: 2003 - 2009: Political process dominates. DPJ becomes meaningful opposition capable of holding up legislation. Gridlock results. Legislative initiative shifts to improving working conditions for dispatch workers and reintroducing manufacturing to the list of banned sectors but the LDP and opposition parties can't agree on specific reform. (*Somewhat insider friendly. Somewhat outsider friendly.*)
5. Period 5: 2009 - 2012: Political process dominates but some slippage back to deliberative councils. DPJ-led coalition from 2009-2010 controls both houses of parliament but in-fighting means policy stasis. In 2010 LDP gains control of upper house so DPJ has to compromise in order to get passage of DWL reform. (*Somewhat insider friendly. More outsider friendly.*)

Below I walk through how the policy making forum determined policy outcomes during these five periods.

4.1 Period 1: Consensus-based policy making with strong insider bias

The 1947 Employment Security Law (ESL) established public employment placement agencies and banned in principle private fee-charging employment placement and manpower supply agencies

Figure 4.1: Number of dispatch workers in Japan



Note: Continuous: all dispatch workers continuously employed by the dispatch agency (*jōyō koyō/kei*); Registered: dispatch workers registered with a dispatch agency who are employed only for specific projects (*tōroku kei*). This survey is different to the monthly labor force survey and collects annual data from dispatch agencies directly from 1986 onward.

Source: Worker Dispatching Agencies Survey, Ministry of Labour [Ministry of Health, Labour and Welfare] of Japan.

(dispatch worker agencies, temp agencies).⁴⁵ The public employment agencies are not well-suited to matching high-skilled workers to employers who required the worker's skills for only a short period of time, such as for short-term IT projects. Pressure grew to do something about dispatch work after the first oil shock when illegal dispatch agencies began to grow. In July 1978 the government's Administrative Management Agency (in charge of policy coordination) requested the labor ministry investigate private employment placement services.⁶ In October that year the labor ministry's employment stability section chief set up a private five person consultation group to deliberate on short term labor demand for highly skilled workers with an eye to legislate dispatch work.⁷ In April 1980 the ministry's consultation group delivered its recommendations in a report calling for in the introduction of private dispatch agencies. The the next month the ministry handed the issue off to the Central Employment Stability Deliberative Council⁸ to come up with guidelines for legislation. (See FIGURE-3.1 in the discussion of the deliberative council process in chapter 3 for a general overview of the normal deliberative council process.)

Deliberations on legislation guidelines were called off in May 1982 because consensus could not be reached with or among the unions. Public sector-dominated union confederation Sōhyō vocally opposed dispatch work legalization in 1981 and 1982 in the deliberative council and elsewhere, though private sector-dominated Dōmei was basically quiet on the issue. Sōhyō linked dispatch work to labor-force 'rationalization' in its 1981 platform. In its 1982 platform Sōhyō pointed out that unions are granted a monopoly on short-term labor supply activities, and that it should be used instead of private companies (Ohara 1983 2.1).⁹ In contrast, Dōmei's platform adopted in

⁴The ESL was amended in 1952 to allow labor contracting businesses.

⁵? provides a good short summary in Japanese of the DWL's early development. ? contains most of the primary documents from this period. Akira Takanashi was involved from the beginning with drafting the DWL.

⁶*Gyōsei kanri chō*, "Minei shokugyō shōkai jigyō nado no shūdō/kantoku ni kan suru gyōsei kansatsu kekka hōkoku" [Administration Inspector's Report on findings related to private employment placement services, etc., guidelines and supervision].

⁷*Rōdōshō shokuan kyokuchō* [Employment Stability Section Chief, Ministry of Labour]. The consultation group was called the "Labor-force Supply and Demand System Study Group [*Rōdōryoku jūkyū shisitemu kenkyūkai*]. The consultation group was chaired by Shinshū University professor Akira Takanashi.

⁸*Chū shokugyō antei shingikai*. The deliberative council called together an ad-hoc subcommittee rather than use one of the deliberative council's standing subcommittees. It was named Investigation Team on Worker Dispatching Enterprises Issues [*Rōdō haken jigyō mondai chōsakai*].

⁹This and other similar citations refer to: Ōhara Rōdō Mondai Kenkyūjo. 1980-2012. *Nihon Rōdō Nenkan [Japan Labour Yearbook] vol. 50-84*. Tokyo: Rōdō Junpōsha. Volumes from the 1980s are available online and can be accessed at: <http://oohara.mt.tama.hosei.ac.jp/rn/index.html>. Citations for Labour Yearbook entries from the 1980s refer to the section number so that it can be located either online or in the print version.

January 1982 mentioned dispatch work in the context of workplace IT demands (Ohara 1983 2.2). In 1983 Dōmei's platform did not make a statement on dispatch work (Ohara 1984 2.2). All of the main employer associations during the period called for the introduction and expansion of dispatch work agencies (Ohara 1985 Tokushū). Centrist labor confederation Chūritsurōren called for a resumption of deliberations in the labor ministry in November 1983, and they were started again the next month (?).

While employers enthusiastically endorsed the legalization of dispatch work agencies unions were divided. As The Ohara Institute's annual Labor Yearbook put it in their 1985 special section on dispatch work, "In regard to positions, labor unions' response runs the gamut from approval to opposition (Ohara 1985 0.1). Sōhyō categorically rejected any legislative attempt but private sector confederations expressed limited support so long as protections for regular workers were included. The labor ministry's primary concern was to prevent illegal dispatch work from growing, and to ensure the smooth functioning of the labor market. The ministry therefore endorsed legalization (?). Since the legislation was a ministry initiative passage was all but assured in parliament once the ministry drafted legislation, so the real negotiations were between the ministry and the representatives of labor and management in the deliberative council.

Sōhyō's opposition to the ministry's proposed legislation was primarily motivated by ideological commitments but there were also material concerns. Unions are permitted to do something similar to dispatch work and dispatch work agencies would infringe on union activities (?). Sōhyō was also concerned that dispatch workers would replace regular workers and undermine employment stability more generally. The ministry was able to arrange a compromise whereby dispatch work would be permitted in thirteen highly specialized occupations (translation, broadcasting, accounting, notary, etc.). This was a white or 'positive list' system.¹⁰ The ministry also liked the idea of a positive list because it thought the asymmetrical relationship between employer and employee would be minimized where the employee had very specialized skills and lots of training (?). The ministry also agreed to include statements in its proposals that dispatch workers were meant to fill short

¹⁰The original study group proposal suggested having dispatch workers be regular employees of the dispatching agency to reduce abuses, as was the case in the West German legislation that the study group examined. The positive list system was introduced as a substitute way to reduce abuses but the trade-off was removal of the continual employment requirement.

term gaps between labor supply and demand, and that they should not be used to replace regular workers.

In February 1984 the Central Employment Stability Deliberative Council's ad-hoc subcommittee on dispatch work released its compromise proposal for dispatch work legislation. In March the deliberative council created a standing subcommittee to develop guidelines for legislation.¹¹ The subcommittee completed its work on 17 November 1984 and the guideline was passed up to the labor minister.

On 16 January 1985 the ministry gave its draft legislation outline to the deliberative council for comment. The deliberative council released its consensus response 15 February 1985 confirming its basic approval of the legislation while also expressing concern that measures be taken to avoid dispatch workers replacing regular workers, and requesting that concrete measures be taken to ensure the well-being of dispatch workers, and to figure out a way for them to be integrated in to social insurance systems. The labor ministry was given discretion over approved dispatch work sectors; they were not specified in the draft bill.

The dispatch worker bill was introduced by the government in parliament on 19 March 1985. The government bill was generally in line with the deliberative council's consensus view but some parts differed. Minor concessions were made in both houses of parliament, including restrictions on sending dispatch workers overseas and requiring the labor ministry set a time limit for dispatch work contracts. The bill passed both houses with support from the LDP, Kōmei and Democratic Socialists, and was promulgated on 5 July 1985, to go into effect 1 July 1986. The labor ministry specified a maximum dispatch length of 3 years, and also expanded the list of approved occupations to 16 from 13 immediately after enactment.

The legalized dispatch worker system was obviously beneficial to employers. Unions were unhappy about the dispatch worker system in general, preferring direct contracts with employers, but did not formally block the proposal in the deliberative council because the legislation as implemented was not seen as a threat to core union sectors or activities.¹² Unions also did not

¹¹The subcommittee was The Worker Dispatching Enterprises etc. Subcommittee [*Rōdō haken jigyō nado shōiinkai*]. The report was "Plan for legislation concerning worker dispatching enterprises".

¹²The union-monopolized manpower supply services were not in industries for which dispatch work was permitted.

subsequently move to amend the conditions of work for dispatch workers. The category of work was numerically small and there were no major unions represented in the high-skilled service sectors for which dispatch workers were permitted, such as announcers, translators, escorts, advertising, etc. Indeed, the original DWL was designed to work in conjunction with the traditional employment system. It did not carve out specific protections for dispatch workers in regard to social insurance programs. It did not have a robust system of protections against dispatch worker abuse because it was assumed dispatch workers, due to their skill-set, would have bargaining power in contract negotiations. Sōhyō continued to call for improvements in work conditions for irregular workers, including dispatch workers, in 1987 and 1988, as part of class-based struggle. Rengō's forerunner as well as Dōmei included similar statements in their 1987 platforms, but without Sōhyō's revolutionary quality. Dōmei's position was that the existing system of worker protections should be strengthened by more actively including worker consultation on the job site, rather than resorting to statutory changes.

The DWL remained basically unchanged for ten years after its enactment in 1986. During that time the number of dispatch workers grew from 87,000 to 290,000, still far less than one percent of the total labor-force. Despite these small numbers, revision of the DWL would become a major political flash-point over the next two decades.

4.2 Period 2: From consensus to conflict

In 1993 the LDP lost control of the lower house of parliament for the first time since its formation in 1955. The loss was the result of party insurrection, after which LDP Prime Minister Kiichi Miyazawa called a snap election. The LDP lost its majority and a seven party coalition government was formed. The non-LDP coalition lasted less than a year but managed to push through electoral reform that fundamentally realigned the party system. By the time the dust settled in 1994 the LDP was back in power, but with their former adversaries the Japan Socialist Party (JSP) and a minor reform party, Sakigake. The LDP regained the prime minister's chair in January 1996 under Ryūtarō Hashimoto, who called a lower house election in October 1996. The socialists were crushed and Hashimoto formed an LDP-only cabinet. In less than a year Hashimoto's LDP had regained

an absolute majority of the lower house through party defections back to the LDP. Hashimoto was forced to resign after the electorate punished in the 1998 upper house election for raising the consumption tax, but he left a lasting imprint on policy making.

Hashimoto had a strong mandate to reform the Japanese economy. The excesses of Japan's asset bubbles in the late 1980s had been fodder for the tabloids for years, and corruption in the bureaucracy, particularly in the Ministry of Finance, dominated the news cycle throughout 1995. Hashimoto set about revitalizing the Prime Minister's Office, concentrating resources and policy making authority in what was previously a weak policy making institution. He established several reform and deregulation committees and staffed them with pro-reform business and economic leaders. (See chapter 2 for more detail.) The RRCs in particular would come to play an important role in expanding the scope of the worker dispatch law.

The RRCs leaned on the labor ministry to propose a near complete liberalization of the dispatch worker industry. Specifically, the RRC wanted the labor ministry to move from a positive list of approved occupations to a negative list of banned occupations. The ministry's first reaction was to try to diffuse pressure by pointing out it was considering expanding the list of approved sectors, but the RRC stepped up pressure in late 1996 and early 1997. The ministry balked initially but then agreed to consider the proposal. The deliberative council in charge of the dispatch worker law dragged its feet for for nearly a year. The Prime Minister's Office responded at the end of 1997 by including the RRC's proposal for a switch to a negative in an emergency economic measures package. Under increasing pressure the labor ministry deliberative council proposed legislation along the lines being asked for by the Prime Minister's Office in May of 1998. The pressure from above broke the deliberative council's consensus process and demonstrated that political parties could direct the labor policy from the Prime Minister's Office.

Who wanted dispatch work agency liberalization? The business community pushed for expansion of the positive list as far back as 1986 (?). However, in the 1990s the tenor of their demands changed.¹³ They argued dispatch work should be expanded as part of the general transformation of the workplace, and to help firms control overall labor costs. As the employment situation worsened

¹³See chapter 2 for a discussion of the employer response to the economic problems of the 1990s.

in the mid-1990s employers also argued that liberalization could help contain unemployment. Their argument departed from the original justification of the DWL—to help labor mismatches in highly skilled occupations (?). Employers limited their specific proposals to expansion of the positive list until 1995. Even as late as November 1994 Nikkeiren’s deregulation request list included an expansion of the positive list rather than a switch to a negative list (Ohara 1995 116). The same is true of Keidanren’s request list of the same month (Ohara 1995 118). The Tokyo Chamber of Commerce, however, was pushing for total liberalization (Ohara 1995 119). By the next year Nikkeiren and Dōyūkai had switched its demand from expansion of the positive list to adoption of a negative list (Ohara 1996 128). Their requests were channeled through the RRCs, which invited employer and industry associations to submit deregulation requests.

There was broad sectoral support among employers for dispatch work expansion. Large firms in general wanted dispatch workers to help with clerical and IT jobs. Small firms wanted dispatch workers for similar reasons, and had even more reason to prefer the dispatch worker system since they had a harder time finding high-skill short-term workers through the public employment offices. Furthermore, big foreign companies like Manpower Japan had been pushing for a liberalization of temporary work contracts in line with the system in place in the United States. Manufacturing employers had long short-term labor to deal with temporary upticks in demand, the *shagaikō* system (??).

Unions also wanted reform of the DWL, though in the opposite direction to employers (Ohara 1995, 1996) (??). Rengō expressed concern about employers unilaterally canceling contracts. Rengō wanted the current system to be strengthened to avoid abuses before any expansion of the positive list be considered. Switching to a negative list was of course out of the question for Rengō. Dispatch work, however, was relatively self-contained and not a high priority. Rengō did not prioritize opposition to the DWL revision in 1995 or 1996 and indeed expressed limited support for the RRCs’ general deregulation agenda (Ohara 1996 184-5).

The original DWL required the labor ministry undertake periodic study and revision of the law, which began in the deliberative council in 1989. That resulted in a recommendation to revise the law within five years, with no consensus reached on the content of reform in the deliberative

council. The labor ministry continued negotiations on revisions to the DWL based on the idea of solving short term labor mismatches in highly skilled professions, however the 1989 recommendation included discussion of dispatch agency work to solve the problems associated with re-employing older workers. Like employers associations, the ministry in the 1980s and early 1990s had begun to consider legislative changes that would facilitate the development of an external labor market, especially for women and older workers. After Japan's asset bubbles burst the labor ministry and the government came under increasing pressure to maintain full employment for older workers. In 1994 the government passed legislation banning company mandatory retirement below 60 years of age. At the same time the government liberalized dispatch agency work for 'retired' workers who had passed mandatory company retirement but were not old enough to collect pensions. For older workers the positive list of approved occupations was replaced with a negative list of banned occupations: dock work, construction, security and manufacturing.¹⁴ The legislation of this policy change took place in the familiar labor ministry deliberative council but the origin of the policy change was in fact an early policy making body housed in the Prime Minister's Office.¹⁵ Labor representatives in the deliberative council preferred to have companies maintain the same employment contract for regular workers until the pensionable age of 65. However, they were willing to make the trade-off with mandating a raise in company retirement age to 60 with an extension of the DWL for older workers given the macroeconomic environment in the early 1990s.

After dispatch work was liberalized for older workers in 1994 employer associations began to demand total liberalization of dispatch agency work. The labor ministry was already in deliberations to expand the positive list from 16 occupations to 26 occupations. Legislation that would permit the expansion was passed up for introduction to parliament in March 1995. The labor ministry did not want to move further than the currently proposed expansion and labor representatives would not allow a further expansion.

Employers meanwhile included requests for more aggressive dispatch work liberalization to the Prime Minister's newly created RRC, which established a working group on deregulation in May

¹⁴These changes were made to the Act on Stabilization of Employment of Elderly Persons [*Kōreisha nado no koyō no antei nado ni kansuru hōritu*]. The law's main purpose is to provide employment subsidies for firms to retain and rehire older workers.

¹⁵*Koyō shingikai* [Employment Council].

1995. In December 1995 the RRC included liberalization of dispatch agencies in its big deregulation proposal.¹⁶ Hashimoto became Prime Minister the next month, in January 1996, and the month after the RRC invited the labor ministry to public hearings to exert pressure on the ministry to adopt its proposal. The labor ministry responded by sticking to its deliberative council plan to expand the positive list from 16 to 26 occupations and refused to consider liberalization since the expansion of the positive list was still under discussion.

In the immediate conflict between the RRC and the deliberative council the latter won. The RRC wanted the labor ministry to consider liberalization and the labor ministry refused. The RRC did not have a formal mechanism to compel the labor ministry to adopt its proposal and it was clear that the switch from a positive to a negative list would not get the support of labor representatives in the deliberative council. However, in March 1996 a newly created RRC in the Prime Minister's Office effectively reversed the labor ministry position by declaring the positive list system would be eliminated. Still the ministry did not move.¹⁷ The labor ministry continued negotiations in the deliberative council on expansion of the positive list. In November the expansion was approved by the deliberative council and positive list increased to 26 occupations in December 1996 without any indication that the labor ministry would revisit the issue.

Undaunted, in December 1996 the Hashimoto cabinet approved the RRC's annual deregulation plan which included revision of the DWL to a negative list. Hashimoto ordered the labor minister Yutaka Okano to implement liberalization of dispatch agency work.¹⁸ Unable to resist a direct order from Okano the the labor ministry reversed itself and announced it would deliberate on liberalization even though the positive list expansion had just taken effect.¹⁹ The labor ministry's

¹⁶Miura ? says that the conversion from a positive to negative list was first publicly proposed in May 1995, by the RRC. However, the Tokyo Chamber of Commerce was already pushing for an expansion of the positive list before Miura's date, and dispatch work was liberalized for older workers in 1994, with deliberations that began in 1989. (See Yomiuri Shinbun on 12 November 1993.) The first major deregulation report of the 1990s, the 1993 Hiraiwa Report, said that dispatch work falls into the category of "social regulation" (rather than economic regulation), and that those regulations should "be minimized based on the principle of personal responsibility." The negative list was in Nikkeiren's annual Labor Issues report by the end of 1995. Miura's point is that the RRC pushed the negative list onto the agenda. Whether or not they first put the idea on the table, employers already wanted to expand the scope of dispatch work, either through adding occupations to the positive list or switching to a negative list, and everyone had adopted the negative list position soon after it was officially proposed by the RRC.

¹⁷Yomiuri Shinbun 26 March 1996, evening edition, page 2.

¹⁸Asahi Shinbun 16 November 1996 morning edition page 11.

¹⁹Asahi Shinbun 10 January 1997 morning edition page 04.

appropriate deliberative council called a private consultation group to develop a report on revision in early 1997. It proposed a negative list system with a one year contract length that was meant to be a starting point for deliberations, however as the year progressed the deliberative council could not reach a consensus between labor and management representatives. In September 1997 Bunmei Ibuki became labor minister and again put pressure on the ministry's bureaucrats to produce draft legislation that could be submitted to parliament. Further pressure from above came from the Prime Minister's Office, which announced in November 1997 as part of an economic package that the government would begin debate on dispatch agencies in the parliamentary session beginning in January 1998. The RRC followed up in December 1997 with a recommendation that the labor ministry follow its proposals as closely as possible.

Under incessant attack the Prime Minister's Office and the cabinet, the public interest and management representatives of the deliberative council released a draft guideline for DWL revision in December 1997 that included a negative list system. Unable to reach a consensus with all parties, the deliberative council attached both labor and management representatives' opinions to the revision guideline.²⁰ Labor representatives attended the meeting at which the guideline was approved but voted against sending the proposal and two commentaries out to the labor ministry, which would normally then draft a legislative outline and send it back to the council for approval. The labor representatives were outvoted. The labor ministry was then scheduled to submit an outline of the draft legislation revision to the deliberative council for final approval on 18 May 1998 but labor representatives boycotted the session.

The labor boycott of deliberations was a serious concern to the ministry because they were needed in order to have quorum for the council meetings. The labor minister is not required to follow the deliberative council's recommendations for legislation but that reflects poorly on the ministry and can damage promotion prospects, so ministry bureaucrats expend as much energy as possible to ensure the deliberative councils produce.²¹ Eventually labor representatives were

²⁰The same had been done in the draft guideline circulated within the deliberative council in September which was also rare.

²¹Legislation originating from the government is required to have consultation with the deliberative councils. In most cases the deliberative council's recommendations are followed, but the requirement is just that they be formally consulted.

coaxed back by the ministry in exchange for certain concessions. Importantly, there was an explicit assurance that manufacturing would be included in the new negative list. However, the fundamental shift from a positive to a negative list was not altered. The labor minister submitted its outline again to the deliberative council, but then submitted a revised version on 5 August 1998 with additional concession for labor representatives in the form of a mechanism to prevent dispatch workers in the manufacturing sector.

Having lost the deliberative councils unions attempted to slow down the legislation in parliament and through protest activities. Rengō's primary concern was that dispatch workers would be allowed in manufacturing, and once this was taken off the table they turned to further reducing the scope of the liberalization. The government introduced the DWL revision to parliament in October 1998. Rengō's central executive committee put out a set of demands on 22 October concerning protective measures for dispatch workers: 1) employers who retain a worker for more than a year have the obligation to extend a work contract and should be penalized if they do not, 2) protections against unilateral contract termination need to be established, 3) protections for dispatch workers' personal information should be established, 4) dispatch workers need access to social insurance programs, 5) sexual harassment claims should be made easier to file. Concerning the switch to a negative list Rengō argued: 1) there are already systems in place to help with job matching and labor shortages, 2) "registered" type dispatch work should be banned (Ohara 1999 198).

Rengō approached the DPJ and other opposition parties (SDP, formerly JSP and Kōmei) to amend the DWL bill in parliament. Rengō had seven specific demands and all but one were endorsed by the DPJ, that "registered" dispatch workers be banned. The opposition parties then negotiated with the government coalition in the relevant parliamentary committees. All of the opposition amendments were successful since the LDP did not have a lock on the upper house of parliament and the opposition threatened to block the bill.²² Rengō organized demonstrations and petitions over the legislation, and were able to pull in large numbers by the fact that other labor regulations were being changed at the same time.²³ Rengō decided to log-roll its extra-parliamentary activities and linked DWL revision to these other labor-related regulation changes. Rengō also attacked

²²See ? for an analysis of the debate in parliament.

²³See the chapter on FTC regulation below. In 1998 the Labor Standards Law was also revised.

the DPJ for not supporting it on banning “registered” type dispatch workers, which would have effectively killed the industry.

Once the unions were forced to engage with the opposition parties, they switched strategies and tried to secure more protections for dispatch workers that were lacking in the original legislation and the RRC’s proposals. The opposition parties, particularly the socialists and former socialists in new parties, used amendments in favor of dispatch workers as a way to criticize the government’s liberalization policies. In the end more protections were agreed to, such as specifying penalties for abuses of the employment contract, though the shift to a negative list was not altered. In fact, the DPJ was not interested in blocking the shift to a negative list. Manufacturing remained prohibited.²⁴ Rengō’s strategy in the deliberative council was to reduce the impact of dispatch work by restricting its usage. After debate moved to parliament Rengō tried to restrict the use of dispatch workers by placing new obligations on dispatch agencies and receiving companies. The ancillary effect was a final bill that had more protections for dispatch workers than the one that emerged from the deliberative council where Rengō had the opportunity to bargain for the exact same protections.

The revision went into effect in in December 1999.

4.3 Period 3: The capacity for political conflict decreases

The previous period saw a shift in the locus of policy making from the deliberative councils to the Prime Minister’s Office and to parliament. The LDP was out of government for eleven months and out of the prime minister’s chair for thirty months. When LDP president Hashimoto returned his party to the prime minister’s office he discovered a new set of policy making bodies. Hashimoto had a stronger reform mandate and more tools to set policy than any of his predecessors. What Hashimoto did not have was a lock on parliament. Political instability continued.

In July 1998 the LDP lost control of the upper house of parliament, which also must pass most legislation in order for it to be enacted. Hashimoto resigned to take responsibility and his replacement as head of the LDP, Keizō Obuchi, eventually struck a deal with a neoliberal reformist party

²⁴The other prohibited industries were dock workers, construction, security services and medical care.

after months of negotiations.²⁵ Obuchi died only a year after taking office, and his replacement, Yoshirō Mori dissolved the lower house in right away to seek a mandate for government. The LDP failed to gain a majority and this time the liberalizing minor party with which it had formed a coalition was in the opposition. Mori was forced into a coalition with a conservative micro-party²⁶ and religiously-affiliated party Kōmei. The LDP-Kōmei coalition proved durable and large enough that opposition parties could not trip up the government within the houses of parliament.²⁷ The opposition parties also had to contend with the LDP's appropriation of their reform mantra.

During this period the Prime Minister's Office continued to develop the new policy tools. LDP Prime Minister Jun'ichirō Koizumi was especially adept at using the Prime Minister's Office to shape policy. Koizumi expanded the use of RRCs in the Prime Minister's Office and staffed them exclusively with business executives, employer association representatives and academics who shared a pro-liberalization agenda. The Prime Minister's Office also allowed temporary work and dispatch agencies a direct say in policy making through appointments to the RRCs, which they were not able to do through the labor ministry's deliberative councils (? , 125).

Because Koizumi was able to form a durable center-right parliamentary coalition he was able to push through the most contentious revision yet to the dispatch worker law: removing manufacturing from the list of banned sectors. Unlike the previous period of legislative revision in the late 1990s, when opposition parties and unions were able to force some concessions from the government, in this period the government was able to push through further liberalization of dispatch agencies without amendment from the opposition parties and against Rengō's intransigence.

Employer associations kept up pressure for liberalization of dispatch work agencies in the late 1990s and early 2000s. In 2001 the economy was back in recession and major bankruptcies gave Koizumi cover to order the labor ministry to consider expanding the maximum dispatch period from

²⁵The LDP did not have a majority in the upper house from the election in July 1998 until January 1999 when it formed a coalition with the Liberal Party. Kōmei joined the coalition in October 1999. The Liberal Party left the coalition at the beginning of April 2000. Those who wanted to stay in coalition with the LDP formed the Conservative Party, which, after some internal changes was eventually absorbed by the LDP in November 2003. The Liberal Party was absorbed by the DPJ in October 2003.

²⁶The Conservative Party [*Hoshu-tō*].

²⁷With a large enough majority the government can exclude opposition parties from committee assignments that might prevent legislation from reaching the floor.

one to three years to improve the employment situation.²⁸ (See FIGURE-7.5 in the appendix for unemployment figures. The unemployment rate reached a postwar high (over 5% in the early 2000s.) In September 2001 the labor ministry began deliberations. As usual, in December 2001 the RRC released an interim report proposing to remove the ban on dispatch work to the manufacturing sector, and to raise the dispatch period to three years. This time the labor ministry acted in accord with the RRC recommendations and deliberated on DWL revision in line with the RRC's proposals.²⁹ Unions objected to the RRC/labor ministry changes and countered with a requirement that receiving companies directly employ contract workers if they are used for longer than the contract period. Deliberations continued into 2002 and the RRC increased pressure by proposing that the dispatch length ceiling be removed altogether.

The labor ministry tried to get a compromise between the employer and labor positions. They proposed: 1) raising the maximum dispatch length from one year to three years, 2) removing the dispatch length maximum altogether for the 26 occupations on the positive list, 3) permitting dispatch work in manufacturing with a one year cap, 4) relaxing the ban on pre-interviews for dispatch workers. Rengō demanded that: 1) in instances in which the employer wants to use a dispatch worker for more than a year that receiving companies get the consent of the workers, 2) it be illegal to use dispatch workers after a firm has restructured, 3) regulations to prevent employers from serially renewing short term (1 month) contracts be enacted, 4) restrictions on using dispatch workers in manufacturing and regulations be implemented to prevent fake subcontracting. These were all aimed at making it harder to replace regular workers with dispatch workers. The final proposal included Rengō's demands but there were essentially no enforcement mechanisms, and the basic dispatch worker liberalization was retained.

²⁸Koizumi endorsed an RRC proposal to expand dispatch work in August 2001. In September 2001 Koizumi announced as part of an emergency economic legislation package that unemployment benefits and the maximum contract length for older workers would be extended. The labor ministry announced 14 September 2001 that it would begin deliberations. See *Asahi Shinbun* 14 September 2001 evening edition page 2.

²⁹The contract length extension for older workers was approved by parliament in December 2001. At a "town hall" style meeting on 16 December 2001 the labor minister Chikara Sakaguchi (Kōmei; Dec 2000 - Sept 2004) said that his ministry would set to work right away on an extension of the dispatch worker contract length. On 21 December 2001 the RRC issued its latest proposal which called for a removal of the contract limit altogether. See *Yomiuri Shinbun* 17 December 2001 morning edition page 2. Sakaguchi was a strong proponent of dispatch work expansion throughout his entire tenure as labor minister. He is also by far the longest serving labor minister (Ministry of Labour or Ministry of Health, Labour and Welfare) in the postwar period, and served as labor minister during the non-LDP coalition government under Hosokawa.

The DWL revision was approved by the cabinet in March 2003. It passed in both houses of parliament without any real amendment in June 2003. Rengō attempted, as in the previous period, to water down the legislation as it went through the legislature by adding adding penalties for abuse and generally raising the cost of dispatch work. However, unlike before, the government had a stable coalition in both houses of parliament. Without a formal mechanism to amend legislation the only way to get the government to change course would be to make the DWL revision costly at the next election, called by Koizumi for October 2003.³⁰

Indeed, during the legislative session that considered the amendment to the DWL the government also proposed major changes to dismissal rules for regular workers and regulations concerning discretionary work rules. (See the chapter on fixed-term contracts below.) Rengō and the opposition parties concentrated their efforts primarily on these labor law changes in 2003, rather than on the DWL. It is interesting, however, to note how Rengō approached both dismissal rules and dispatch agency liberalization in its policy planning and lobbying efforts. Rengō argued that in both instances the government was launching an assault on the rights of workers and on worker livelihood. They linked both issues to regular *and* irregular workers: while the liberalization of dispatch agencies worsens the conditions of dispatch workers, it also harms regular workers who are might be substituted out. Similarly, dismissal rules that give employers the ability to fire regular workers enables and encourages them to use cheap irregular workers who aren't offered the same sort of pay and benefits (Ohara 2004 239).

In the 1990s Rengō tried to stop liberalization of dispatch work in the deliberative councils. It was quite explicit in its motivations. Dispatch workers might undermine the position of regular workers. Labor unions demanded the original legislation include an explicit statement to that effect in the 1980s. Once they lost control of the process in the deliberative councils they needed figure out a way to work through parliamentary politics. It is not at all obvious that the opposition parties would be eager to support the unions. The DPJ's first electoral platform was fairly neoliberal and fairly aggressively reformist. The DPJ, like the other opposition parties that sprouted during the

³⁰The press had already announced the lower house would be dissolved in 2003. The Yomiuri titled an article on Koizumi's first press conference of the year, "Dissolve the lower house, general election 'this year'—Koizumi denies what every already knows". See Yomiuri Shinbun 7 January 2003 morning edition Politics page 4.

1990s, campaigned on “out with the old”. As the main political cleavage shifted to pro/anti-reform, alliance with the unions risked being seen as the protection of vested interests. Even an alliance with the socialists was problematic since they had alienated many supporters in the labor movement by agreeing to form a coalition government with the LDP in 1994. As the DPJ moved to the left in the late 1990s to distinguish itself from the LDP it had to figure out a way to maintain support from Rengō while also attracting urban voters and women voters, many of whom are irregular workers.

The transformation of policy making from deliberative councils to parliamentary politics facilitated Rengō’s to transform itself from a representative of insiders, both in the labor market and in policy making, to a voice for labor as a whole. Though the deliberative councils gave Rengō a formal seat at the table it also encouraged Rengō to think of labor policies in terms of its members rather than for all workers. Rengō lost the fight against liberalization of dispatch agency work in the late 1990s and early 2000s. The Prime Minister’s Office and the RRCs directed the labor ministry’s deliberations and the governing coalition was strong enough to push through the legislation without concessions. The process convinced Rengō that political engagement was necessary and called into question the viability of the deliberative councils as a forum for tripartite policy making (???)

4.4 Period 4: Opposition parties regain the capacity for conflict

In 2003 major legislation was passed concerning dispatch agencies, fixed-term contracts, discretionary work time regulations, and dismissal rules. These were the the major labor policy achievements of Koizumi’s tenure as prime minister. Koizumi came into office promising structural reform without sacred cows. He twice campaigned against his own party’s resistance to reform, including a dramatic snap election in 2005 over postal privatization which secured Koizumi a bullet-proof majority in the lower house of parliament.

However, the LDP remained in coalition to secure the upper house. Indeed, with the brief exception of July 1998 to January 1999 (during which time the DWL was revised), the LDP was in coalition from its return to government in 1994 until the DPJ took power in 2009. (See TABLE-7.3 in the appendix.) Additionally, in 2003 the DPJ emerged as a serious electoral threat to the LDP

when it scored more votes in that year's lower house election PR list. Though Koizumi enhanced the ability to direct policy from the Prime Minister's Office his party now had to contend with both coalition dynamics and an electorally credible opposition. The DPJ scored more votes in both the district and PR ballots in the upper house election the following year. The postal 2005 privatization election was a humiliating defeat for the DPJ but it managed to take control of the upper house in 2007.

The RRCs continued to be engines of reform, but after 2003 their labor policy proposals were not assured passage. The ministerial deliberative councils could be cowed into a desirable result but political will to push through neoliberal reforms waned in parliament. The RRCs proposed wholesale labor market liberalization at the end of 2006 which would abolish the difference between regular and irregular workers entirely. Koizumi's economic advisor and chief architect of structural reform, economist Heizō Takenaka, and RRC labor subcommittee head economist Naruhiro Yashiro suggested to Koizumi's successor Shizō Abe a "labor big bang", a "Japanese-style Dutch Revolution" in labor markets (??). The proposal fell on deaf ears.

Koizumi's successors proved less persuasive in their advocacy of continued deregulation, and were equally poor containing intra-party power struggles. The media also began to attack the political legacy of Hashimoto and Koizumi, and in 2006 "*kakusa mondai*", the inequality problem, became a media obsession (???). The LDP reacted by offering revisions to the dispatch worker law that promised greater participation in social programs, but this was written off as window dressing.³¹ LDP did not try to go through the ministerial deliberative councils, but rather floated policy trial balloons through parliament in order to draw attention to their attempts. However, they failed to garner particular support in the media and opposition parties saw an opening to paint the LDP and Koizumi's legacy as contributing social strife through widening labor market inequality. These events contributed in 2007 to the DPJ's success capturing the upper house of parliament (?).

Now the governing coalition's legislative strategy had to change. Without consent of the DPJ

³¹See, for example, "*Ronjin, ronkaku: rōdōsha haken hō no minaoshi: Matsuda Yūichi VS Kamo Momoyo*" [Debate, polemicist: Dispatch worker law revision Yūichi Matsuda vs. Momoyo Kamo], *Yomiuri Shinbun* morning edition 6 December 2007, page 2.

the LDP could not get anything done. The DPJ used obstructionist tactics in the upper house in 2007 and was able to parlay dissatisfaction with the LDP into a victory in the lower house in 2009. As part of their campaign platform, they promised to re-regulate dispatch work, and also to consider measures that would force employers to directly employ temporary and dispatch workers.³² The LDP countered with similar proposals, finding that an effective opposition party had made it particularly difficult to push through aggressive liberalization programs. Once ‘normal’ party politics finally emerged in Japan the poor condition of dispatch workers morphed from a necessity for businesses to weather structural adjustment into a major political tug-of-war. The LDP wanted to avoid being tarred as anti-worker, and the opposition DPJ sought to describe the government as uncaring. Rengō, not wanting to be left out of the policy debate, pushed to be a legitimate spokesperson for the concerns not just of unionized regular workers but also of dispatch workers. Once dispatch workers became an electorally relevant issue policy actors from across the aisle clamored to be a legitimate representative of worker interests.

In December 2006 the RRC proposed further liberalization of dispatch agency work. The labor ministry began deliberations the next year but again employer and labor representatives could not come to an agreement. Without political backing from the prime minister the issue died. In 2008 the labor ministry convened a group to develop guidelines by which employer and labor representatives could negotiate, the result of which was eventually a proposal to ban short term (30 days) and on-call dispatch work. That legislation was submitted to parliament in November 2008. In the meantime opposition parties drafted legislation to ban on-call and short term dispatch work, and to ban all pre-screening interviews by receiving companies. The Social Democratic Party, communists and a micro party wanted to ban dispatch work in the manufacturing sector, to which the DPJ would not commit. Rengō was internally divided on dispatch work to manufacturing despite their formal opposition, and without their backing the DPJ demurred. After anti-poverty activists organized a “dispatch worker village” over the 2008-9 new year holiday the DPJ endorsed a ban on dispatch work in manufacturing, and finally the opposition parties agreed to submit legislation in the upper house in early 2009, but it did not go far before the lower house was dissolved (?).

³²See the section on the DPJ in chapter 2.

Indeed, during this period the minimum wage law was strengthened (2006), the part time worker law was strengthened (2007; see next chapter), and a labor contract law was passed (2007; see chapter 6). In addition, an overtime revision which would have exempted most white collar workers was gutted in parliament (2007). Even the long-time chairman of the RRC discussed here, Yoshihiko Miyauchi, was replaced in January 2007 after twelve years at the post. Normal parliamentary politics (read “an electorally credible opposition party”) proved unfriendly to neoliberal labor policies despite Koizumi’s legacy on policy making and the policy agenda within the LDP.

4.5 Period 5: Ambiguous policy process under the DPJ

Institutionally, the period of DPJ government from September 2009 to December 2012 is similar to the previous two periods. The Prime Minister’s Office had the capacity to direct policy from above and the DPJ was constrained by electoral and coalition considerations. However, the DPJ’s inexperience limited its policy leadership. The DPJ was further hobbled by its inability to manage coalition partners, political scandal, and the natural and nuclear disasters that struck northeastern Japan in March 2011. In little over three years the DPJ went through three prime ministers and lost control of the upper house. As a result, the DPJ relied on the ministerial deliberative councils to help formulate labor-related legislation despite its strong commitment to political leadership. The DPJ had committed to a major overhaul of the DWL and already had a detailed bill in hand when it formed a government in 2009 but consultation through the deliberative council allowed the bill to be diluted.³³

The DPJ’s first government, under Prime Minister Yukio Hatoyama, appointed Akira Nagatsuma labor minister.³⁴ In October 2009 Nagatsuma decided to consult the labor ministry over the draft DWL revision submitted by the three party governing coalition when they were in control of the upper house in June 2009. (Legislation pending in parliament when a session ends must be

³³The DPJ’s 2009 lower house election platform promised to ban dispatch work to manufacturing, dispatch periods of less than two months, and in principle ban sports and daily dispatch work. The DPJ promised to establish more protections for dispatch workers and guarantee equal treatment. It declared Japan needed to “correct deregulation that has gone too far” and that the dispatch work should return to a positive list. Workers in fields not on the positive list should become regular workers. See: <http://www.dpj.or.jp/policies/manifesto2009>.

³⁴See also ?, ch. 7 for more detail.

resubmitted unless it is officially continued over.) Nagatsuma had not appointed new members to the labor deliberative councils and the ministry was hostile to the government's draft legislation, which had originally been submitted as a counter-proposal to their own bill. The ministry's 2008 legislation only banned short-term dispatching, on-call dispatching, and permitted pre-interviews. DPJ's coalition partners wanted a ban on dispatching to manufacturing, a ban on pre-interviews of dispatched workers (women in particular were discriminated against in this process), and additional protections for dispatched workers.

The labor ministry drafted a compromise in December 2009 between its previous legislation and the DPJ government's original upper house bill, and included permitted pre-interviews. The DPJ's coalition partners strongly objected to allowing pre-interviews and refused to sign off unless it was deleted. The DPJ obliged but Nagatsuma, who had helped draft the original opposition bill, checked out of the process in protest. The bill was introduced in parliament in March 2010 but not debated. There was not enough time in the legislative calendar before the upper house election in July, and in June the SDP pulled out of the coalition. Once the DPJ lost the upper house election it needed to find an agreement with the LDP in order to pass anything.

Progress stalled on DWL revision until December 2011 when the DPJ and LDP worked out a compromise bill, which was finally passed in March 2012. Under the revision short-term dispatching was banned, receiving companies were obliged to consider, though not guarantee, equal treatment with regular employees, and they are required to offer direct contracts to dispatched workers if they knowingly violate restrictions on dispatch work. The bill did not include a ban on manufacturing, though it also did not lift the ban on pre-interviews.

Rengō's behavior during the most recent DWL revision was rather surprising.³⁵ The bill proposed by the DPJ and its coalition partners in 2009 was more re-regulatory than the bill that came out of the deliberative council in 2010. The deliberative council signed off on Nagatsuma's bill on 17 February 2010. The bill contained provisions for dispatch worker pre-interviews. On 17 March 2010 the DPJ and its coalition partners convened a policy meeting. Coalition partners SDPJ and People's New Party (PNP) already made clear it would not accept pre-interviews in

³⁵See Asahi Shinbun 18 March 2010 for details.

the DWL revision. The meeting lasted fifteen minutes. The provision was stripped from the bill by the cabinet, embarrassing Nagatsuma. Afterward the heads of Nippon-Keidanren and Rengō criticized the decision. Both had closed ranks around the deliberative council decision and objected to politicians amending the bill after it had been agreed upon by the social partners. Rengō did not even register that the intervention improved the conditions for dispatch workers. Rather, it seemed to be concerned with establishing a precedent that political parties could alter and outcome agreed upon in the deliberative councils.

4.6 Discussion

The dispatch worker law illustrates how the the policy making process patterns the behavior of policy actors. In the 1980s unions were content to allow dispatch workers in some sectors of the economy and were not particularly interested in working conditions for non union members when they were able to ensure that dispatch work did not threaten core union interests. Employers as well, though wanting to push dispatch work further than the original legislation, could not do so because unions would have vetoed the proposal. However, when the parties of government became interested in the issue they were able to drive policy outcomes in favor of those actors who were part of the governing coalition. Later, though, parties were forced to amend their proposals as opposition parties became relevant in parliament and in elections. Additionally, once unions lost control of the policy making process they shifted their complaints to working conditions for non-union members as a way of slowing down undesirable legislation. With the emergence of an effective two party system further liberalization is more difficult because at least one party will oppose liberalization and there are multiple veto points in parliament. Whichever parties form a government, they are restricted only by coalitional and electoral constraints, and their own ability to steer policy. This is a marked contrast to before 1993 when politics and parties did not matter for labor contract policy and labor and management had reciprocal vetoes in the deliberative councils.

This is a dynamic that I find repeated in the regulation of part time and fixed-term contract workers. Unions opposed deregulation and supported regulation in deliberative councils only when it threatened their members. When engaging in parliamentary politics, however, unions steadfastly

opposed liberalization of all forms of irregular work because their claim to legitimacy in public is pinned to being a bulwark of the working class against the liberalizing tendencies of employers rather than as the guardian of entrenched economic interests. The deliberative councils encourage labor representatives—who are always union representatives from Rengō or its constituent members—to think about labor policy in terms of their own members. Union members are almost never irregular workers, so liberalization of irregular work contracts is considered in terms of its effects on regular workers.

Once Rengō was locked out of policy making by the RRCs it adopted a different approach. Beginning in the early 2000s it tied the condition of irregular workers to the that of regular workers. Rather than making a trade-off between the two groups Rengō fused them together. In order to win elections parties have to appeal to a broad audience. The parties of the far left—the socialists and communists—do not have a broad appeal. The centrist parties—the DPJ and LDP—however, can contest the middle ground on quality of life issues, employment policy and economic policy. Rengō has positioned itself in this space to remain an important policy actor.

Rengō's transformation is picked up again in the next chapter on part time work regulation. In contrast to dispatch work, which was completely illegal before 1986, part time work contracts began very unregulated, so all of the battles were over increasing regulation.

Chapter 5

The part time worker law

Table 5.1: Chronology of Part Timer Law (PTL)

1993 PTL legislated

- Employers required to give formal notice about employment and work rules
- Employers should endeavor to promote *balanced* treatment between part time and regular workers

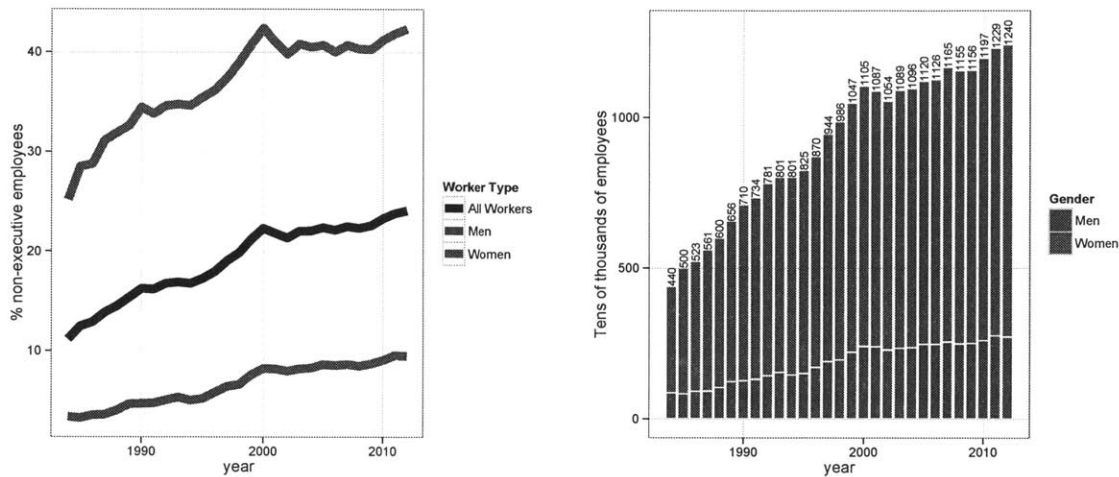
2007 PTL revised

- Employers are obliged to have *fair* treatment of part time and regular workers
- Employers must have *equal* treatment for part timers who are equivalent to regular workers

Traditionally, part time workers were offered the same sort of general work contract as regular employees.¹ Internal firm practices determined whether a worker was *de facto* a full time or part time employee. Until the 1990s employers were not obliged to specify how an individual employee was categorized in either work contract or elsewhere, but the distinction between part time and regular employee mattered. Jurisprudence and the basic labor laws required employers treat regular full time workers a certain way regarding company benefits, career opportunities and dismissal rules that were not applicable to part time workers (?). The courts and government define part time workers as those working less than the normal number of hours worked by full time employees in a

¹Before the 1980s the vast majority of all workers, part time workers included, were employed on open-ended contracts. For example, in 1960 90.0% of employees had open-ended contracts. In 1970 the figure was 91.7%. Among women in 1971 86.5% of employees had open-ended contracts (Ohara 1972, 83). In general fixed-term contracts were limited to day laborers and seasonal workers.

Figure 5.1: Size of the part time worker population



Note: The figure on the left shows the share of employees who are part time workers. The figure on the right shows the number of part time workers (*pāto* and *arubaito*).

Source: Labour Force Survey, Ministry of Internal Affairs and Communications of Japan.

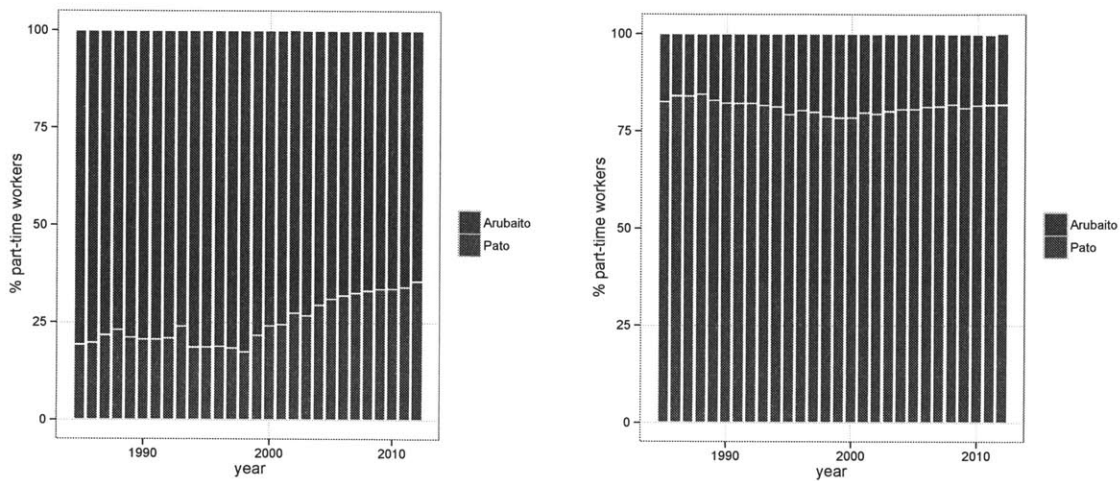
workplace. Part time work, therefore, does not have a numerical definition, and indeed many part time workers work ‘full time’.²

Most part time workers are women, students or men who have passed company-mandated retirement age. Until the 1980s part time workers were almost by definition not expected to be heads of household. They primarily worked in support services for regular workers, for example, as secretaries or as seasonal employees in manufacturing (??). Part time workers were not automatically enrolled in unemployment insurance, the national pensions system or even the national health insurance system available to people who do not receive coverage from their employer.³ Tax law permitted spouses earning less than a certain amount to collect their wages without paying income tax, but the exemption was only available to the second income in a household (???). After the first oil shock in the mid-1970s employers began to rely on part time workers more for primary productive tasks (??). The trend accelerated in the 1980s, as did pressure to create a legal frame-

²Japan’s monthly labor force survey reports actual hours worked and 35 hours is sometimes used as a cutoff for part time work. The statistics bureau’s large employment status survey relies on firms to define part timers; *arubaito* are classified as students who have a job but then aggregated into the part timer count. All the labor ministry surveys define part time workers as those working fewer hours than regular workers (?).

³They would be covered by their husband or father. See, for example, ??.

Figure 5.2: Relative proportions of *pāto* and *arubaito* by gender



Left = men ; Right = women.

Note: *Arubaito* here are part timers who work seasonally or on a temporary basis, such as students. *Pāto* are part timers who are continually employed.

Source: Labour Force Survey, Ministry of Internal Affairs and Communications of Japan.

work to deal specifically with part time workers. The need to regulate part time labor became more pressing in the 1990s and 2000s, as it became apparent that more and more households were headed by part time workers.⁴ FIGURE-5.1 shows the number and share of part time workers since the early 1980s. FIGURE-5.2 shows the ratio of men and women in the two types of part time work.

The major bone of contention over part time workers concerns the extent to which employers should be required to treat part time and regular workers the same, particularly in regard to pay. The political left proposes “equal treatment” between part timers and regular workers doing essentially the same job. A stronger policy—equal pay for equal work—would require employers to compensate all workers the same for the same amount of similar work, regardless of the total amount of work performed. The political right has proposed various forms of “fair treatment” or “balanced treatment” between part time and regular workers but downplays the issue, with the exception of the quasi-denominational Kōmei Party, which generally backs better pay for part time

⁴Chin (2008) argues that a turning point came in 1997 when the absolute number of regular workers began to decline, even though the number and share of irregular workers continued to increase.

workers. The business community is always and consistently vocally opposed to any regulation that interferes with managerial discretion, including the legislation of part time work. Before Rengō's formation in 1989 the left wing of the labor movement supported equal pay for equal work on ideological grounds. Rengō itself at first wanted simply clearer rules and procedures for the treatment of part time workers with equal treatment of secondary concern. It fully endorsed equal treatment, including equal pay, as it pivoted to organizing irregular workers at the end of the 1990s and into the 2000s.

1. Period 1: 1980 - 1993: Consensus-based policy making dominates. The labor ministry tries to get a compromise between employers and unions concerning legislation but cannot find common ground. Unions propose equal treatment but do not push. Employers do not want any regulation. Eventually pressure from political parties breaks the stalemate. The labor ministry comes up with “balanced” treatment as a compromise. (*Insider-friendly. Not very outsider-friendly.*)
2. Period 2: 1993 - 1999: Consensus-based policy making dominates. No serious attempt to revise PTL. In 1994 ILO adopts its convention 175 on part time work. In 1996 a landmark court case says part time workers who perform essentially identical tasks to regular workers must have the same pay. In 1998 a ministerial committee proposes finding a way to measure “balanced treatment”. (*Insider-friendly. Not very outsider-friendly.*)
3. Period 3: 1999 - 2003: Consensus-based policy making dominates. PTL revision goes nowhere. Attempts fails because the labor ministry cannot bridge the gap between labor and management representatives. During this time (~2001) Rengō explicitly targets part timers for organization and proposes its own legislation for part time workers. The issue is not on the radar of any parties of government. (*Insider-friendly. Not very outsider-friendly.*)
4. Period 4: 2003 - 2009: Consensus-based policy making dominates but is directed by political parties. Renewed political pressure breaks the stalemate between labor and management representatives in the deliberative councils. In 2006 parliament passes a resolution promising legislation but does not give concrete guidelines. In the deliberative council some protec-

tive measures, including “equal treatment” for some part time workers, are settled on and legislation is passed in 2007. (*Insider-friendly. Outsider-friendly.*)

5. Period 5: 2009 - 2012: Ambiguous and contentious political process. The DPJ-led coalition wants to legislate part time and contract work together, something the labor ministry had resisted. The government does a poor job overseeing the process and runs out of time before the LDP regains the lower house. (*Somewhat insider-friendly. Somewhat outsider-friendly.*)

The socialists and communists in parliament demanded equal-pay-for-equal-work legislation for part time and women workers going back to the 1960s, but the first meaningful legislation for part time workers was the 1993 Part Time Worker Law (PTL).⁵ The initial iteration of the PTL did not really do much to address the inequalities between part time and regular workers, but it did create a statutory obligation for employers to declare into which category every employee fit. Even before the ink was dry on the 1993 legislation there were calls for revision from unions and parties of the left, but it was not until 2007 that a major change to the PTL was approved by parliament. The 2007 revision offered some promises of equal pay for part time workers, as well as an avenue to becoming a regular employee, but the percent of part time workers covered by the revision is in the single digits.

Part time work regulations developed at a more languorous pace than did those for dispatch work. The latter required deregulation and as a consequence involved the prime minister’s RRCs. The former required creating new regulations and therefore fell outside the purview of the RRCs. Instead, the development of a PTL was left to the consensus-based deliberative councils. There has been relatively little legislative action regarding part time work because when the tripartite deliberative councils could not come to a consensus the process shut down. In contrast, the RRCs kept up pressure to expand dispatch work even when the deliberative councils could not reach a consensus.

⁵The full name is “Act on Improvement, etc. of Employment Management for Part-time Workers” [*Tanki rōdōsha no koyō kanri no kaizen nado ni kan suru hōritsu*].

5.1 Period 1: Consensus-based policy making dominates

Around 1980 the share of part time workers in the labor force surpassed 10%.⁶ As late as 1965 there were more men in part time work than were women, but by the end of the decade women became the majority of part time workers, even though their share of total employment was less than a third at the beginning of the 1980s. Part time work was a useful means for firms to absorb new women entrants to the labor market, and it also served as a way to deal with short term fluctuations in the business cycle (?????). In Japan's *trentes glorieuse* years of rapid economic growth prime age male unemployment stayed well below 2 percent and firms were eager to offer regular work contracts. After the first oil shock firms were restricted in their ability to fire regular workers and so resorted more and more to irregular work contracts, especially part time and fixed-term contracts. It took about twenty years for the share of part time workers to double from 5% around 1960 to 10% in 1980. It took just about fifteen years for the share to double again to 20% around 1995. At the end of 2012 the number was just below 30%.⁷

With the number of part time workers on the rise in the 1980s, the government, opposition parties and unions began to formulate legislation that would define and delineate the rights and responsibilities of part time workers *vis-à-vis* employers, since they fell outside of the regulatory system designed for regular employees. In 1982 the government's Administrative Management Agency directed the labor ministry to study the issue so the ministry set up a "part timer project team" to work on the issue.⁸ In 1983 the main opposition party in parliament, the JSP, submitted a part time worker bill. Employers and members of the ruling LDP objected to a legislative solution to part time workers so instead in 1984 the labor ministry issued administrative guidance on the matter.⁹ The ministry: 1) defined part time workers as continuously employed workers who work

⁶See FIGURE-5.1. All employment figures come from the Labour Force Survey, Ministry of Internal Affairs and Communications of Japan.

⁷In 2012 women were 78% of all part time workers. 42% of non-executive women workers were part time workers. The figure for men was 9.5%. See FIGURE-5.2.

⁸The team was called "*Pātotaimu purojekuto*". This and other government documents in this chapter are collected in volumes prepared by the labor ministry. Ministry of Labour/Ministry of Health, Labour and Welfare, *Shiryō rōdō undo shi* [Labor movement documents]. Tokyo: Rōdō Gyōsei Kenkyūjo (1980-2012).

⁹The labor ministry circulated its "Part time labor policy guideline" [*Pāto rōdō taisaku yōkō*] in December 1984. The guideline was completed by the subcommittee on part time work under the Central Labor Standards Deliberative Council on 31 October 1984.

fewer hours as regular employees, 2) requested that employers give written notice of employment, and 3) specified some protections for part timers in terms of training and promotion. However, the ministry's guidelines did not oblige employers to comply and the guidelines did not carry any sanctions (Ohara 1985 3.1.6).¹⁰

In October 1987 a consultation group set up for the labor ministry issued a report calling for a PTL.¹¹ In response the labor minister called a group of specialists in June 1988 to prepare discussion guidelines for formal deliberations on legislation.¹² However, the specialist group's report released on 22 December 1988 stopped short of calling for legislation. It proposed instead that labor ministry's guidelines issued in 1984 be more fully implemented and strengthened. The group's about-face came as a result of strong employer objections to moving beyond administrative guidance to legislation (Ohara 1989 5.1.9.2).¹³ Again the labor ministry resorted to its main unilateral tool, administrative guidance, essentially revising and reiterating its previous guidelines.¹⁴

The normal procedure for labor policy deliberations starts with the labor minister either establishing a private consultation group or asking an outside body to study a relevant issue.¹⁵ Their reports/guidelines then become the basis for discussion in the ministry's deliberative councils. The deliberative council will produce an outline for ministerial action, including legislation guideline when appropriate. The labor ministry will then draft an outline of the legislation and pass it back to the deliberative council for final approval. After that the legislation goes to the cabinet for approval and into parliament. With the exception of some consultation groups in the first step of the process all the deliberation takes place in tripartite consensus-based committees. Employers

¹⁰Administrative guidance refers to a set of rules, ordinances, etc. that the government often issues to instruct firms to behave in a certain way. They are not regulations because they do not have an enforcement mechanism (??).

¹¹The consultation group was called the "Female part time labor policy consultation group" [*Joshi pātotaïmu rōdō taisaku ni kan suru kenkyū kai*]. It was chaired by Akira Takanashi of Shinshū University, the same person who led deliberations on the dispatch worker law. The consultation group was housed under a labor ministry-sponsored organization called the Young Women's Association, today the Japan Association for The Advancement of Working Women. The report was called "On the future status of part timer policies" [*Kongo no pātotaïmu taisaku no arikata ni tsuite*].

¹²The consultation group was called "Part time labor problems specialist committee" [*Pāto taimu rōdō mondai senmonka kaigi*].

¹³The report issued was called "On future policies concerning part time work (medium-term policies)" [*Kongo no pātotaïmu taisaku no arikata ni tsuite (chūkan teki seibi)*].

¹⁴Ministry of Labour of Japan's June 1989 Public Notice 39, "Guideline relating to matters that ought to be considered in relation to part time workers' treatment and working conditions" [*Pātotaïmu rōdōsha no taigū oyobi rōdōjōken no kaizen ni tsuite kōryō subeki jikō ni kan suru hōshin*].

¹⁵Many laws also require the sponsoring ministry to evaluate legislation after three years in the same way.

refused to sign onto part timer legislation in the 1980s. The labor ministry avoided deliberation altogether rather than get bogged down tripartite discussion.

In July 1989 the LDP lost its majority in the upper house of parliament. In June, during the run-up to the election the LDP released its own piece on part time labor, which advocated clarifying existing rules and regulations.¹⁶ However, it stopped short of calling for legislation. That year all four major opposition parties jointly submitted a part time worker bill to parliament and newly formed Rengō issued its own draft of part time worker legislation (Ohara 1993 214, 243). The opposition parties continued to demand legislative action over the next few years. The name of their bill in 1992 is telling: “A bill to ensure equal treatment and fair working conditions between short time and regular workers”.¹⁷ It set out fairly strict rules for treating part time workers who are functionally full time workers the same in pay, benefits, etc. It also included penalties for non-compliance and enforcement through the labor inspectors. The bills had no hope of parliamentary success, but the issue was clearly gaining steam. The government indicated its commitment to part time worker treatment in its Seventh Basic Labor Policy Plan issued around the time of the next upper house election in July 1992.¹⁸ With the government and opposition parties now committed to some sort of legislation the labor ministry once again set to work on a bill.

In July 1992 the labor ministry established another consultation group.¹⁹ The consultation group released its report on 7 December 1992. The “basic thinking” in the report was that part time workers are no longer just an auxiliary supply of labor, that they are no longer just women, and that part time workers should be valued and have opportunities for career development. Unlike the labor ministry’s 1988 consultation group, the 1992 incarnation proposed legislation. Nevertheless, the report did not push strongly for enforceable regulation and skirted how to deal with part time workers who really are working full time.

The day after the report was released the Tokyo Chamber of Commerce came out with a strong condemnation, and other employer associations were not far behind (Ohara 1993 119). This time

¹⁶The report was called “On part time labor policy (interim report)” [*Pātotaimu rōdō taisaku no arikata ni tsuite (chukan hōkoku)*].

¹⁷*Tanki rōdōsha no tsūjō no rōdōsha to no kintō taigū oyobi tekiseina shūgyō jōken no kakuhō ni kan suru hōritsuan yōkō.*

¹⁸*Dai nana ji koyō taisaku kihon keikaku.*

¹⁹“Part time labor study group” [*Pātotaimu rōdō kenkyukai*].

the labor ministry held firm and passed the consultation group's report to the deliberative council for legislation. The deliberative council obliged and part time worker legislation was passed out to parliament in March 1993.

Still, the legislation did not include a requirement that part time and full time workers be treated the same or in a similar way. The ministry's bill in fact did not contain any new employer obligations that would modify the way part time workers were used. In parliament the LDP was on the verge of party insurrection that would lead to a successful no-confidence vote. As a result, the opposition parties managed to get the following line inserted into the PTL: employers must "consider balance with regular workers in regard to actual work conditions" of part time workers (?). The law was approved by parliament in June 1993 and went into effect in December 1993.

The PTL passed just before LDP Prime Minister Kiichi Miyazawa called and lost a lower house election in response to a no-confidence vote, ending nearly forty years of unbroken LDP government. Employers opposed the legislation but with so much political pressure they were unable to hold up the process in the labor ministry. Nevertheless, the resultant legislation was incredibly weak, with nothing resembling "equal treatment" appearing in the opposition parties' bill. The compromise settled on in parliament, "balanced treatment", was so vague that even the labor ministry did not know how to describe and measure it. Labor unions preferred to have a stronger law but were more focused on preserving regular worker jobs as firms moved to downsize in response to the ongoing recession and financial crisis.²⁰ The legislation reflected Rengō's ambivalence and employers' opposition to a PTL.

5.2 Periods 2-3: Stasis in the deliberative councils

Neither employers or unions were happy with the original PTL legislation, but neither was either group particularly invested in changing the status quo. Despite pressure from international organizations and the courts the labor ministry produced no amendments to the PTL from 1993 to

²⁰The major policy fights between unions and employers in the late 1980s and early 1990s were a reduction in the work week, overtime pay and dismissal rules. Even more important: after the socialists joined with the LDP the main political cleavage moved from left/right to pro/anti-reform, and there were not many voices calling for more regulation of the economy.

2007.

In 1994 the International Labour Organization (ILO) ratified its convention on part time workers (C175), which called for equal pay protections and opportunities for part time and full time workers. Japan declined to ratify. In 1996 the Nagano District Court ruled that twenty eight part time workers on perpetual two month contracts who were paid substantially less than regular workers performing the same tasks for the same amount of time at auto parts company, Maruko Keihoki, ought to be compensated at the same or similar rate as regular employees (?). The court in effect endorsed equal pay between part time and regular workers performing essentially the same tasks, but its reasoning did not rely on any equal pay provisions in Japanese labor law as there are none. The closest comes from “balanced treatment” in the PTL.²¹

In the second half of the 1990s the labor ministry set about figuring out how to measure “balance” and assembled committees to that end.²² In March 2001 the labor ministry created a consultation group to come up with a way to revise the the PTL. Employers of course objected to additional regulation and the unions were skeptical that the labor ministry would move from “balanced treatment” to “equal treatment” in any revisions. In July 2002 the consultation group issued its report. The report discussed both equal and balanced treatment. Rather than thinking in terms of balance or equal treatment between part time and regular workers, the consultation group report argued that if two workers are doing the same job with the same responsibilities then they should be treated the same unless there is a rational reason to distinguish between the two.

Before Rengō’s formation the hard left elements of the labor movement were ideologically committed to equal pay for equal work. Once Rengō emerged it crowded out other voices to the left, and Rengō itself stuck to a non-ideological policy line. Rengō did not forcefully advocate for irregular worker improvements in the 1990s, though smaller union confederations continued to demand equal treatment between irregular workers (part timers, dispatch workers and contract workers). Rengō made a big shift at the turn of the millennium and for the first time in 2001 front-ended the

²¹In the Maruko Keihoki case the court did not need to make a distinction between equal treatment and equal pay for equal work because the plaintiffs worked the same hours as regular employees, so it is unclear if the court endorsed a broader equal pay for equal work between workers who have different hours on the job.

²²The consultation group was called “Improvement of part time labor employment management technical consultation group” [*Pātotaimu rōdō ni kakawaru koyō kanri kaizen gijutsu kenkyūkai*], often called the “Measurement group” [*Monosashi-ken*].

elimination of disparities between part time and regular workers in its annual policy demands. The shift was ratified at their seventh biennial convention in October 2001, during which time Rengō also committed itself to organizing irregular workers in earnest. Rengō's newfound interest in part time workers was a top-down decision. Some constituent unions did not want to include irregular workers, though others had been moving to represent irregular workers for a decade.²³ In October 2001 Rengō put out an outline of a unified part time and contract worker law that demanded equal pay for similar work.²⁴ This commitment hardened Rengō's position in the deliberative councils, but employers and the ministry itself were unwilling to support an equal treatment proposal.²⁵

5.3 Consensus-based policy making dominates but is directed by political parties

In September 2002 the labor ministry deliberative council in charge of part time work²⁶ started deliberations based on the consultation group proposal from July 2002. The labor ministry's intent was a legislative revision to the PTL. Deliberations failed to progress because of union demands for an equal treatment clause and employers being against any sort of regulation (cf. Chin 2008 78). On 27 February 2003 the deliberative council released its draft guideline.²⁷ They were not able to close the distance between labor and management representatives, and multiple proposals were submitted, including the labor representatives' strong position in favor of equal treatment. In August the labor ministry released updated administrative guidance on part time workers rather than attempt a compromise revision to the PTL since neither employer or labor representatives were willing to move from their positions.²⁸

²³See chapter 3 and chapter 7.

²⁴“Bill outline for part time and fixed-term contract labor” [*Pāto · yūki keiyaku rōdō hōan yōkō*].

²⁵A typical statement from Nippon-Keidanren from an opinion piece issued 21 January 2003 from their online archive: “...we are absolutely against regulating with one-stroke legislation...” and “...regulating with laws, etc., is not appropriate.”

²⁶The labor ministry's Labor Policy Deliberative Council's Employment Equality Subcommittee.

²⁷[*Kongo no pātotaimu rōdō taisaku no hōkō ni tsuite (hōkō)*].

²⁸It is worth noting the parallel with the dispatch worker law. Employers and the RRCs were able to push a reform agenda onto the labor ministry, and then eventually bypass the ministry altogether. Had they been forced to go through the normal consensus-based deliberative councils they would not have been able to get the desired outcome. Rengō was not strongly committed to improving dispatch worker conditions until after 2001, though it opposed expansion to protect union jobs.

The DPJ called for revision to the PTL in its first election in 1996, though it was still committed to neoliberal labor market reforms until Jun'ichiro Koizumi became prime minister in 2001. After that the DPJ moved left, and in the political "Manifesto" lower house election in 2003 the DPJ emerged as a serious electoral contender. In its 2003 election platform the DPJ firmly put its support behind part time and other irregular workers. The platform promised to: enact equal treatment for part timers, expand childcare and care-giving leave; set a target date for eliminating discrimination between regular and irregular workers that doesn't have a rational reason; specifically ban paying part time workers less simply because they are part time workers; require workers with fixed-term contracts of over one year to be eligible for child and care-giving leave. The DPJ held these positions in every election afterward. The LDP responded in the next lower house election, called by Koizumi in 2005 to push through postal privatization, with a promise to introduce a "short hours regular worker" system, improve conditions for part timers and make it easier for them to become regular workers, fully enforce and strengthen part time worker policies. In contrast to the DPJ the LDP endorsed "balanced treatment".

In June 2004 the DPJ introduced legislation to amend the PTL.²⁹ The bill was submitted again in 2006. In the July 2007 upper house election the DPJ gained control of the upper house of parliament. In its campaign platform the DPJ noted that part timers now number more than 12 million, "However, even if their work times and job content are essentially the same as regular workers, because of their different employment status they are not accorded the same treatment..." The DPJ pledged to once again introduce legislation to guarantee equal treatment. The LDP's election campaign in 2007 was led by prime minister Shinzō Abe, who also spotlighted the poor working conditions of irregular workers. Abe, however, promised to vigorously enforce "fair" and "balanced" treatment, rather than "equal" treatment.

Nevertheless, Abe's administration provided the pressure needed to break the deadlock in the labor ministry's deliberative councils over PTL revision.³⁰ Just before Abe became prime minister,

²⁹The original name was "A Bill Revising Part of the 'Act on Improvement, etc. of Employment Management for Part-Time Workers' [PTL]". It was then changed to, "A Bill to Ensure Equality of Treatment etc. between short time workers and regular workers".

³⁰Abe was Chief Cabinet Secretary, the number two in the Prime Minister's Office, in the year before he became prime minister. He actively participated in crafting the government's policy strategy.

in June 2006, parliament approved a revision to the gender equality law. A supplemental resolution attached by opposition parties³¹ stipulated the government should take steps promote balanced treatment.³² The statutory requirement in the supplemental resolution applied pressure to the labor ministry to move forward on a PTL revision. The cabinet followed up on 7 July 2006, when the last of Koizumi's basic annual policy agendas was approved.³³ It also committed the government to revision of the PTL. Abe assumed office a little less than two months after. He included as part of his government's policy vision (the "Re-Challenge" agenda) a further commitment to doing something about the inadequate provisions in the original PTL.³⁴

On 20 September 2006 the relevant labor ministry deliberative council started on a revision to the PTL.³⁵ The main points to be discussed were ensuring balanced treatment as well as conversion of part timers to full time status, but the labor side wanted to talk about extending coverage to "full time part timers" on fixed-term contracts. The labor ministry objected to the labor representatives bringing up the issue. Their logic was that the deliberative council should be discussing regulations for "short time workers" with regular work contracts, and "full time part timers" on fixed-term contracts was outside the scope of the law; the issue should be brought up in the context of fixed-term contracts and the labor contract law (?). Management representatives of course objected to the entire process of revising the PTL. The deliberation period was contracted—only five months or so until the final report. There were no consultation groups convened or re-convened in order to help guide the process; the deliberations used the conclusions of the ministry's 2002 consultation group that included only public interest representatives. On 23 October 2006 the public interest representatives in the deliberative council released the main discussion points to be resolved. It was clear that a big revision of the law in line with what the labor representatives wanted was out of the question. On 26 December the deliberative council finalized its outline of a revision to the

³¹Inserted 14 June from the lower house Health, Labour and Welfare committee.

³²Gender equality and part time work are tightly linked together. It was not uncommon in the 1980s for part time work to be discussed in the womens' issues deliberative councils. Furthermore, there is a conceptual parallel between the conditions under which discrimination is permitted between genders and labor between contracts.

³³The official name of the annual policy agendas put out by Koizumi in English were "Structural Reform of the Japanese Economy: Basic Policies for Macroeconomic Management". [*Keizai unei oyobi shakai keizai no kōzō kaikaku ni kan suru kihon hōshin*]. They were often called the "Big-boned policy" [*Hone-buto no hōshin*]. The relevant year is 2006: <http://www5.cao.go.jp/keizai-shimon/cabinet/2006/decision0707.html>.

³⁴<http://www.kantei.go.jp/jp/singi/saityarenzi/>.

³⁵The labor ministry's Labor Policy Deliberative Council's Employment Equality Subcommittee.

Figure 5.3: Article 8 of the revised (2007) PTL

“With regard to a Part-Time Worker for whom the description of his/her work and the level of responsibilities associated with said work (hereinafter referred to as “Job Description”) are equal to those of ordinary workers employed at the referenced place of business (hereinafter referred to as “Part-Time Worker with Equal Job Description”) and who has concluded a labor contract without a definite period with a business operator, and whose Job Description and assignment are likely to be changed within the same range as the Job Description and assignment of said ordinary workers, in light of the practices at said place of business and other circumstances, throughout the entire period until the termination of the employment relationship with said business operator (hereinafter referred to as “Part-Time Worker Equivalent to Ordinary Workers”), the business operator shall not engage in discriminatory treatment in terms of the decision of wages, the implementation of education and training, the utilization of welfare facilities and other treatments for workers by reason of being a Part-Time Worker.”

Note: Translation provided by The Ministry of Justice of Japan’s law translation service.

PTL.³⁶ The legislation for revision was submitted to parliament in Feb. 2007, and passed in May 2007.

There were a number of smaller issues considered by the deliberative council concerning training, promotions, access to fringe benefits, etc., but the biggest point of contention was whether or not the revision would endorse equal treatment. In every domain the result was more regulation and protections for part time workers, but the increases were minor. In particular, the revised PTL did not include “equal treatment” between part time and regular workers. Instead, it set out criteria under which discrimination between part time and regular workers is prohibited: 1) when the workers have the same work tasks and responsibilities, 2) when the part time work contract is open-ended (not fixed-term), 3) when the workers are required to accept the same job assignments, transfers, etc.

The last provision was motivated by the labor ministry’s previous attempt to measure “balanced treatment”: the ministry argued previously that even if workers perform essentially identical tasks

³⁶The proposal was called, “On future part time worker policies” [*Kongo no pātotaimu taisaku ni tsuite*].

discrimination can be justified because part time workers can refuse overtime, transfers to other locations, reassignment to other positions, etc. The labor ministry estimated that perhaps five percent of part timers would fall under the new ‘equal treatment’ provisions, though in reality the new provisions affected less than one percent of part timers according to a labor ministry investigation after the PTL was revised (? , 74-77).

The revised PTL satisfied no one. Employers objected to new regulations. Unions objected that the regulations did not go far enough (?). Yet within the confines of the consensus-based policy process this was an entirely predictable outcome. Employers and unions were too far apart to find a proposal that moved from the status quo. The Prime Minister’s Office might have forced an outcome from the deliberative councils earlier in the 2000s, but that would have required political leadership either from the cabinet or from some policy making entity—like the RRCs—in the Prime Minister’s Office. Abe and Koizumi before him were not particular fans of increased labor market regulation. (Unemployment was at an all-time high during this period.) Nevertheless, Abe and the LDP were compelled to do something to head off the electoral challenge brought on by the DPJ’s move to to the center-left. After 2003 the LDP had to seriously consider that it might lose an election, and in 2006 Koizumi’s reform legacy looked like a liability. Still, Abe and his party were not committed to major reform of the PTL, so Abe forced a channel through the logjam in the labor ministry, but did not direct the labor ministry to move very far from its original position, and the minimally revised PTL came out as a result.

5.4 Period 5: Ambiguous and contentious political process

A new opportunity to expand equal treatment for part timers came in September 2009 when the DPJ formed a government under Prime Minister Yukio Hatoyama, but nothing ever materialized.³⁷ On 30 December 2009 the Hatoyama cabinet approved the government’s long-term growth plan which called for the introduction of “equal pay for equal work”³⁸ as a way to implement their

³⁷The DPJ controlled the upper house in coalition from July 2007 to July 2010. The DPJ controlled the lower house in coalition and formed a government from September 2009 to December 2012. Unified government existed from September 2009 to July 2010.

³⁸*Dōitsu (kachi) rōdō dōitsu chingin.*

“decent work”³⁹ program. Hatoyama resigned six months later and his successors performed about the same: Naoto Kan from June 2010 to September 2011 and Yoshihiko Noda from September 2011 to the end of December 2012. Political instability in the Prime Minister’s Office and a ‘twisted parliament’ after the LDP retook the upper house in July 2010 made it difficult for the DPJ to steer policy from above, as was seen with the revision to dispatch work regulations. Nevertheless, the agenda for the labor ministry was apparent from the beginning: find a way to legislate stronger “equal treatment” rules with an eye to equal pay for equal work.

On 15 September 2011 a consultation group convened by the labor ministry to evaluate the PTL after three years released its analysis.⁴⁰ The report endorsed strengthening the regulations for equal treatment for workers doing the same job as regular workers, as well as conversion to full time regular workers for those who are on fixed-term contracts, as well as training, social insurance, etc. That month the relevant labor ministry deliberative council began to consider the consultation group’s proposals and released its basic approach. The negotiations were contentious (?) and lasted through the middle of 2012.

Unable to find points of consensus between labor and management representatives (with the ministry supporting the labor position this time), the deliberative council’s public interest representatives released a summary of the points of disagreement in March 2012 and resolved to move forward despite no clear agreement between labor and management. The major sticking points were: 1) what constitutes “rational basis” for disparate treatment between part time and full time workers, 2) should fixed-term contract workers be included under the equal treatment provisions of the PTL, 3) (how) should equal pay for equal work be applied to part time workers, 4) under what conditions should part time and contract workers be converted to full time regular workers?⁴¹ Discussion wrapped up in the spring and the deliberative council circulated its final recommendations 21 June 2012. It called for a substantial expansion of equal treatment in both pay and work conditions, as well as the beginnings of an equal pay for equal work provision. However, the regular

³⁹The English word is used.

⁴⁰The consultation group was “Study group on the future of part time labor policy” [*Kongo no pātotaimu taisaku ni kan suru kenkyūkai*]. The chairperson was Kōichirō Imano of Gakushūin University. The report was “Study group on the future of part time labor policy report” [*Kongo no pātotaimu taisaku ni kan suru kenkyūkai hōkokusho*].

⁴¹There were also disagreements concerning training, work conditions, etc.

session of parliament was too far along to draft legislation, and the DPJ lost the lower house at the end of December 2012. The second Abe administration (Dec 2012 -) has not indicated that it wants to pursue a new PTL revision.⁴²

5.5 Discussion

The difference in the deliberative council's PTL revisions in 2007 and 2012 is night and day. The deliberations over the 2007 revision were forced by the Prime Minister's Office, but the PM himself was not invested in the issue. Employers did not want any increase in regulation while unions wanted a strong equal treatment clause for both part time and contract workers. The labor ministry was committed to the status quo—balanced treatment—and interpreted the labor unions' proposals as inappropriate logrolling. Though the 2007 revision included an anti-discrimination provision it wound up applying to less than 2% of part timers,⁴³ and “equal treatment” did not appear in the legislation. Furthermore, it did not, as written, apply to part timers on fixed-term contracts. These were actually not far off of what the LDP preferred, though they were far from what the opposition parties wanted. In parliament the opposition parties were able to extend some of the PTL's provisions to contract workers, and outside of parliament Rengō kept up pressure on the government over the treatment of part timers. Regardless, labor representatives' formal veto was partially suppressed in the deliberative council by the need to produce some sort of legislation and there were no formal vetoes in parliament through, for example, opposition control of the upper house. The only check on the tyranny of the majority in 2007 was the potential electoral cost of the proposed legislation, or indeed inaction. That the revision happened indicates how far on the continuum between status quo and root-and-branch revision the LDP was willing to venture. While Rengō was unhappy with the 2007 legislation it nevertheless moved closer to their ideal point than the status quo. Any positive revision should have been preferable to Rengō than the status

⁴²Deliberations have not resumed in the labor ministry as of October 2013. Abe has a much larger labor reform proposal that is in line with the 1995 New Era proposal floated by the employer association Nikkeiren in 1995 whereby most workers would be subject to the external labor market. For a description of the New Era proposal see ?.

⁴³In the 2012 deliberations the estimate was 1.4%. See: *Kore made no rōdō seisaku shingikai koyō kintō bukakai no kentō keii* [Developments in the discussion thus far in the Labor Policy Deliberative Council's Employment Equality Subcommittee], <http://www.mhlw.go.jp/>.

quo. Employers preferred the status quo to any positive revision. The outcome was the closest positive alternative to the status quo possible, and therefore the least dispreferred alternative for employers relative to the status quo.

The difference between 2007 and 2012 lies in party politics. The labor ministry could not break the stalemate between labor and management representatives in its consensus-based deliberative councils. Indeed, the two sides have always been so far apart on the issue that it took incessant socialist pressure and a hobbled LDP in the early 1990s to get any sort of legislation approved at all. A major plank of the DPJ's platform is the improvement of irregular worker conditions. Policy development under the DPJ government moved in a way similar to the LDP administrations in the decade or so before—when the Prime Minister's Office wants to take the policy lead it can force outcomes from the consensus process or develop policy itself, as Koizumi did to great effect with the RRCs and the Council on Economic and Fiscal Policy. That the prime minister and cabinet can direct policy might seem so obvious a statement as to be silly, but cabinet ministers exerted very little control over their ministries until the electoral and administrative reforms of the 1990s. Furthermore, the executive branch was understaffed and lacked in-house policy expertise. Though the LDP generally took a hands-off approach to labor policy during its long period of one party rule, when it did try to force an outcome from the deliberative councils it became a major scandal, as with the statutory reduction in the work week and changes in overtime rules in the 1980s (???). This is part of the reason revision of the dispatch worker rule was so politically contentious in the 1990s. The Prime Minister's Office attempted to control and then circumvent the normal consensus-based policy process.

The DPJ pledged to legislate stronger protections for irregular workers once it came to office and pushed the labor ministry to act not just on part time workers but also on fixed-term contract workers and dispatch workers. The history of the dispatch worker law illustrated the new top-down policy making process that developed in the Prime Minister's Office. The PTL's history shows that the old way of making policy, through ministerial deliberative councils, has not been entirely overturned. Rather, it continues to function in the absence of political leadership, and can furthermore be recruited to produce politically directed outcomes, as was also the case with the

2012 revision to the dispatch worker law and attempted revision of the PTL.

The evolution of the part time worker law upsets the narrative that irregular workers in Japan never find regulatory favor, but it is entirely explicable in terms of the policy making process. Every revision of part timer rules has been in the direction of more protections. However, in a qualitative sense part time workers are not much better off today than in 1982 when the labor ministry was first ordered to study the issue. In the consensus-based deliberative councils unions were not strongly committed to non-unionized part time workers, and employers were adamantly opposed to any regulation. As a result, legislation languished. When finally a breakthrough occurred in 1993 it was on terms acceptable to both actors. The original PTL did not move much past old ministerial directives to which employers and unions had already assented in the 1980s. Left to function in this way it is unsurprising that all the labor ministry's attempts at revision in the twelve or so years after 1993 failed. Employers held firm in their position, and though unions moved to more completely embrace equal treatment for part timers after 2000, all this did was add distance to the gulch between them and the other party required to move legislation forward—employers. Once the DPJ moved to the center-left and started attacking the LDP's neoliberal labor policies in the 2000s (with the full support of Rengō) the LDP blinked. The LDP remains a center-right party, however, and staked out a policy position well to the right of the DPJ: minimal increases in part timer protection are acceptable but a strong equal treatment provision is not acceptable. Increased political control of the policy process left the labor ministry little choice but to push ahead with revision under Abe, at times over employer objections and times over those from unions. The story repeated after the DPJ took power, now with the direction tilted in favor of much greater protection for part timers. Of course, by the time the labor ministry produced the desired outcome in the deliberative councils the DPJ had lost the upper house and was about to lose the lower house as well. Had legislation gone forward it would have undoubtedly been contested in the LDP-controlled upper house, again an indication that political conflict now drives labor policy.

Chapter 6

Fixed-term contract regulations

Table 6.1: Chronology of fixed-term contract (FTC) legislation

- 1947** Labor Standards Law (LSL) legislated
 - Fixed-term contracts permitted up to 1 year
- 1998** LSL revised
 - Fixed-term contracts permitted up to 3 years for high skill and older workers (60+)
- 2003** LSL revised
 - Fixed-term contracts permitted up to 5 years for high skill and older workers
 - 3 years for other workers
 - Employees can terminate longer contracts after one year
- 2007** Labor Contract Law (LCL) legislated
 - Fixed-term contracts are moved from LSL
 - Statutory rules for renewal notification
- 2012** LCL revised
 - Employers must offer indefinite contract after five years
 - Employers must have a reason for offering a fixed-term contract
 - Employers must renew contract if it is expected by the employee

Of the three main types of irregular work contract, fixed-term contracts (FTCs) are by far the least regulated. Japan's civil code of 1986 permitted employer and employee to enter into an FTC without any restrictions or obligations other than that a single contract length could not be more than five years. The 1947 Labor Standards Law (LSL) shortened the maximum length for a single

contract to one year. FTCs could be drawn for any length of time below the one year limit, and they could be serially renewed. Furthermore, employers were not restricted in their use of FTCs so that an employer could hire two workers performing identical tasks and offer one a contract without a fixed-term and the other a contract with a fixed-term that must be renewed over and over to maintain continual employment. Either party could choose to not renew the contract and workers with an FTC did not have automatic access to pensions, promotions or health insurance at work.¹

In 1998 the LSL underwent its first major revision. The maximum FTC contract length was expanded to three years for workers with highly specialized skills, and for workers 60 years and older. The LSL was again amended in 2003 to permit a maximum contract length of three years for all workers, and five years for specialized and older workers. In 2007 a stand-alone Labor Contract Law (LCL) was legislated. Before 2007 there was not a clear, unified law to govern work contracts (which are based in civil law but regulated by the LSL). The LCL mainly ratified existing case law but also included a separate section relating to FTCs. The LCL was amended in 2012 to oblige employers to offer indefinite contracts to FTC workers who have had their contract serially renewed for more than five years and placed restrictions on when an FTC can be offered.

The 2012 LCL revision was the first statutory limitation of FTCs, however case law had previously added some restrictions to their use. In 1974 the courts ruled that employees on FTCs that had been serially renewed with the expectation of indefinite employment, and who performed the same tasks as regular workers, could not be terminated through non-renewal. In 1986 the court extended this protection to workers on serially-renewed FTCs who did not perform the same tasks as regular workers. The 2007 LCL codified the jurisprudence on FTC renewal by specifying that employers are obliged to offer FTCs of a length appropriate to complete the task for which a worker is hired. For example, if an employer expects a job to last for a year they must offer a contract for a year. If they offer a two month contract they must serially renew the contract for an entire year. Similarly, if the task is indeterminate (as in for a job that a regular employee on an indefinite contract would take), an employer is required to renew the contract indefinitely.

FTCs have never been legislated in a stand-alone law as happened with dispatch and part time

¹Workers have access to company pensions, company health insurance and unemployment benefits depending on the number of hours worked and length of employment.

workers. Rather, it has been discussed in the context of general labor contract reform, such as revisions to work rules procedures, termination of employment contracts, working hours, overtime, etc. These other issues affect regular workers and consequently receive more attention from policy makers. Indeed it is difficult to even measure the number of workers on fixed-term contracts. The main monthly labor force survey relies on self-reports to determine the type of employment: part timer (*pāto* and *arubaito*), dispatch worker, “contract worker or commissioned worker” (*keiyaku shain* and *shokutaku*), “other” and “regular employee”. It is generally understood that “contract worker” means fixed-term contract worker, usually working full time. *Shokutaku* workers are regular workers who have reached mandatory retirement age at a company and who are then re-employed on a fixed-term contract until they can receive a pension. About half of all part timers are on fixed-term contracts but are counted as *pāto*; *arubaito* workers (translated as “temporary workers” in the labor force survey) are usually part time students on a fixed-term contract. Dispatch workers might be on an FTC or not. An FTC worker might therefore fall into any of the non-regular employee categories.

Taking the most conservative measure of FTCs, the labor force survey’s “contract worker or commissioned worker” category, the share of FTCs in non-executive employees has about doubled from about 4% to 7% from 1980 to 2012. Of course the bulk of FTCs are not in this category. Most FTCs are instead recorded as part time workers in the labor force survey. Expanding the measure to include *arubaito* about doubles the number of FTCs from over 7% to over 14%. The labor ministry conducted series of one-off surveys to get a better estimate of FTCs than the labor force survey.² It asked directly whether employees were on fixed-term or indefinite contracts. The 2005 FTC survey found that 24.5% of all employees were on FTCs (36.3% of men and 63.7% of women). More than half of all FTCs were part time workers. In 2009 the labor ministry conducted another survey and found 22.2% of all employees were on FTCs. The figure was largely the same in 2011 (22.5%). Over 85% of FTCs in 2011 were for less than a year.³

Whatever the data limitations it is clear that employees on fixed-term contracts make up a

²The surveys are attached to the monthly labor force survey. The labor force survey does not include employees in very small firms.

³Just under half were for between six months and a year.

Table 6.2: Percent of employees with fixed-term contract by contract length in 2010

	Has FTC	< 1 mo.	1-3 mo.	3-6 mo.	6-12 mo.	1-2 y.	2-3 y.	≥ 3 y.	No f.-term	Unclear
Total	24.6	0.2	1.9	3.7	8.5	7.6	0.9	1.7	74.4	1.1
Regular employee	-	-	-	-	-	-	-	-	100.0	-
Non-regular employee	63.9	0.6	5.0	9.6	22.2	19.8	2.3	4.4	33.3	2.8
Contract worker	94.3	0.3	1.7	6.7	27.9	43.6	4.1	10.0	-	5.7
Commissioned worker	90.8	0.1	0.7	3.4	32.8	38.8	4.2	10.8	7.2	1.9
Seconded worker	28.0	-	0.4	0.3	4.3	7.3	5.4	10.3	67.5	4.5
Dispatch worker	78.8	0.3	18.6	24.7	13.8	12.6	4.0	4.8	19.4	1.8
“Registered dispatch”	91.2	0.4	22.1	32.8	14.1	12.5	4.0	5.3	6.2	2.6
“Regular dispatch”	64.7	0.3	14.6	15.5	13.4	12.7	4.0	4.2	34.4	0.8
Temporary worker	90.2	43.6	46.7	-	-	-	-	-	-	9.8
Part timer	56.5	-	3.5	10.1	22.5	16.0	1.6	2.8	40.9	2.5
Other	62.8	-	5.3	6.6	24.0	21.7	1.7	3.6	35.3	1.9

Source: 2010 General Survey on Diversified Types of Employment, Ministry of Health, Labour and Welfare of Japan.

sizable portion of the labor force, and a large portion of part timers, dispatch workers and other forms of irregular work.⁴ TABLE-6.2 shows the percent of employees with fixed-term contracts in 2010. Well over half of irregular workers are on FTCs, and over half of those FTCs are for less than a year.

Below I examine the evolution of FTC regulation in Japan. In doing so I also discuss in passing other politically contested labor policies, such as regulations on over time, work rules and dismissals. These are all policies related to regular workers but they were all debated at the same

⁴In 2013 the statistics agency began to include a direct question about contract length in its monthly labor force survey in line with the one-off surveys previously conducted. Workers are divided into three categories: day laborers (actually less than one month), temporary employees working at a job between a month and a year, and “long-term employees”. Within the third category workers are divided into those with fixed-term and indefinite contracts. Again, part time workers might be in any of these categories, but there is at least a direct measure of FTCs: the sum of day laborers, temporary employees and “long-term” employees with fixed-term contracts. In the first half of 2013 the share of employees with FTCs was 26.1%. 8.5% of workers were on contracts of less than a year. 36.7% of women were on FTCs. 27.88% of women were “long-term” employees on fixed-term contracts—*pato*. *FIX NUMBERS TO NON-EXEC*. In the same period 36.2% of employees were irregular workers; over 70% of them were on FTCs. Over a third have contracts of less than a year.

time as FTCs because they were all contained within the LSL and eventually the LCL. Labor unions and opposition parties have successfully blocked policy changes adverse to regular workers, such as codifying an employer's right to dismiss workers and the ability to resolve wrongful terminations through a cash settlement rather than reinstatement, which is the only option currently available. The contrast with FTC regulation is particularly striking in this regard. In 1998 the maximum length for a single fixed-term contract was increased to three years for some workers, in line with proposals coming out of RRCs housed in the Prime Minister's Office. At the same time the RRCs attempted to push through a relaxation of overtime pay.⁵ Both changes had the backing of employer associations, and had support from the labor ministry. The unions fought hard in both the deliberative councils and in parliament through the opposition parties to prevent the overtime revisions and largely succeeded. They were essentially silent on FTC expansion. The same happened in 2003 when the LSL was once again revised. As before, issues affecting regular workers—overtime regulations and dismissal rules—were debated at the same time as a proposal to raise the FTC limit to three years for all workers and five years for special workers. As before the RRCs and employers supported the changes. Again the unions and opposition parties prevented a big liberalization of rules concerning regular workers and again there was not much of a fight over FTCs.⁶ In 2007 union and employer differences prevented FTC revision when it was included in the LCL. The labor ministry had grand plans for LCL but was unable to get anything that satisfied both parties so it simply endorsed the status quo. In contrast, once the DPJ took control of government in 2009 FTC regulation came to the front of the line. In contrast to PTL revision during the same period FTC rules were substantially revised in 2012.

FTC regulation shows the same pattern of change that was described for the DWL and PTL. Employers always oppose more regulation. Unions want to prevent policy changes that hurt regular workers but are less concerned about protections for irregular workers when they can negotiate

⁵The proposed revision to the LSL included a way to cap total overtime, relaxation of overtime limits on women workers, averaging an employee's hours over an entire year, and the expansion of "discretionary work" rules. The discretionary work rules revision was the biggest bone of contention as it would allow managers and workers to agree to count a certain task as taking a certain amount of hours regardless of the actual amount of hours worked. Unions feared that white collar workers would be pressured into agreeing to low-ball the amount of hours required for a task and therefore not be able to claim overtime.

⁶The DWL was also revised in 2003 to allow dispatch workers in manufacturing.

through the consensus-based deliberative councils. When policy making shifts to political parties and parliament policy is more likely to be favorable to irregular workers, but only when there is effective electoral competition. Furthermore, after the deliberative councils lost their monopoly on policy making Rengō became much more concerned about fusing together the interests of regular and irregular workers, and in doing so transitioned to a broad workerist organization.

1. Period 1: 1980 - 1993: Consensus-based policy making dominates. The labor ministry proposes FTC maximum increase from one year to five but can't move forward because employers and unions don't agree. (*Very insider friendly. Not outsider friendly at all.*)
2. Period 2: 1993 - 1999: Policy making moves to the RRCs and the PM's office. RRCs start issuing specific changes to the LSL from 1995. The labor minister tries to preempt the RRC by issuing its own set of LSL revisions. Many of the proposals are aimed at regular workers. Extension of FTC limit to five years is included. In the deliberative councils unions bargain the limit down to three years for special workers. No protections are added to FTCs. Revised LSL passes in 1998. (*Somewhat insider friendly. Not outsider friendly at all.*)
3. Period 3: 1999 - 2003: Political process dominates. Coalition government under the LDP is able to maintain a stable lock on policy making and opposition parties are electorally weak. Revisions to the LSL directed from the PM's office. Unions can't stop the process in deliberative councils. 2003 revision to LSL extends the limit to three years for all workers, and five years to special workers. Unions are able to revise the LSL to get protections for regular workers they could not get in the deliberative councils even though the opposition is not strong in parliament. (*Not very insider friendly. Not very outsider friendly.*)
4. Period 4: 2003 - 2009: Political process breaks consensus process. Labor ministry under pressure from employers, unions, RRCs, ruling coalition and opposition parties to legislate LCL. RRCs backed by PM want deregulation of regular worker contracts. Labor ministry can't reach compromise between employers and unions over draft LCL so it produces a weak bill that mainly restates already settled rules. DPJ is now a credible opposition party and takes control of upper house before LCL can get through parliament. Rengō demands revisions

to the LCL in parliament that protect both regular and irregular workers. DPJ agrees and Rengō gets almost everything requested. (*Insider friendly. Somewhat outsider friendly.*)

5. Period 5: 2009 - 2012: Political process dominates. DPJ government directs the labor ministry to revise the LCL to require workers on FTCs be converted to indefinite contracts. Rengō strongly supports the revision and wants it to go further, including a ban on FTC use without just cause. Opposition LDP controls the upper house but eventually supports the legislation with an eye to the lower house election in December 2012, which it wins. (*Insider friendly. Outsider friendly.*)

6.1 Period 1: No clear consensus on reform in the deliberative councils

The 1986 civil code established that employment contracts of a fixed-term could not be made for more than five years.⁷ That was the only restriction specifically placed on FTCs. Fifty years later the LSL was created to set out comprehensive guidelines for working and contract conditions for labor contracts.⁸ It reduced the maximum length for a single FTC to one year to avoid excessively binding workers to an employer. During the high growth period FTCs were most commonly used to hire out workers for seasonal work and to re-hire employees who had passed a company's mandatory retirement age. The LSL allowed indefinite employment contracts to be terminated by either party with two weeks' notice, depending on the circumstances. FTCs could not normally be terminated by either party without a specific compelling reason. Until the 1980s the majority of irregular workers such as part timers were still offered indefinite contracts because they could be easily terminated.

As early as the 1950s courts had restricted the employer's right to dismiss workers. The supreme court finally ratified lower court rulings in the landmark 1975 Nihon Salt Manufacturing Case, which came in the wake of widespread employment adjustment after the first oil shock. The

⁷For general introductions to FTC regulation in Japan see ???.

⁸The civil code uses the phrase "employment contract" [*koyō keiyaku*]. The LSL uses the phrase "work contract" [*rōdō keiyaku*]. There is no legal distinction between the two; dependent employment is indicated by a different word.

court established the “doctrine of the abuse of the right to dismiss” (abusive dismissal) which prevents employers from dismissing workers without rational reason, and later rulings formulated four criteria that should be used to determine when an employment contract can be terminated by an employer for economic reasons.⁹ This case law only applied to regular workers on indefinite contracts, however, in the 1974 Toshiba Yanagi Factory case the court ruled that workers on serially renewed FTCs with an expectation of continued renewal who perform identical duties to regular workers on indefinite contracts are analogous to the regular workers, and by analogy the doctrine of abusive dismissal should apply.¹⁰ Another court case in 1986 extended the doctrine of abusive dismissal to FTC employees who perform similar but not identical tasks to regular workers, but allowed companies to not renew FTCs before resorting to dismissal of regular workers.¹¹

In the early 1980s the labor ministry brought together a large consultation group to examine major revisions to the LSL.¹² There was not any substantial discussion of FTCs. The committee looking into part time work debated protections for serially renewed part time workers, many of whom were on serially renewed FTCs, but the negotiations did not go anywhere because there was too much distance between labor and management representatives.

On 16 January 1990 the consultation group established a committee to specifically develop clearer regulation for irregular workers, particularly part time and dispatch workers.¹³ FTCs were folded into the discussion because the original LSL one year cap, which was meant to protect manual

⁹The four requirements are: 1) that it is necessary to reduce the number of employees, 2) employers have exhausted all other options before considering dismissals, 3) that the criteria for selecting who will be dismissed are fair, and 4) that the employer explain their reasoning to workers or their representatives. There are three relevant points to make. First, the four rules only apply to regular workers. Second, criterion 2 has been interpreted to mean that employers should let go irregular workers before they consider dismissing regular workers. Third, employers are only obliged to communicate with worker representatives; they do not need to reach an agreement.

¹⁰The employer had serially renewed two month contracts for workers doing essentially the same tasks as regular workers between 5 and 23 times then stopped. The employer said and employees understood that they would be employed for a long time. Because the contracts were basically the same as regular employee contracts, and because everyone expected the employment relationship to last the court concluded that it was appropriate to apply the doctrine of abusive dismissal.

¹¹For more detail on these court cases and other court cases before the 1980s see, in Japanese, ? and in English, ?.

¹²Labor Standards Study Group [*Rōdō kijun kenkyūkai*]. A consultation group of that name was first called in 1969. It was re-established in 1982 and concluded in the mid-1990s. The consultation group had three committees: labor contracts, work times and wages. The consultation group’s proposals formed the germ of many important labor policies in the 1980s. The first committee proposed a part timer law, a dispatch worker law and new procedures for revising work rules at a job site. The second committee put out a proposal on reducing the work week (from 48 hours to 40). Their proposal produced the most political conflict during the 1980s. For details on this and other developments in the labor ministry concerning FTCs see ?.

¹³Committee on Work Contract etc. Legislation [*Rōdō keiyaku nado hōsei bukai*].

laborers from labor bondage, now mainly applied to women part time office workers and older workers who had reached the mandatory retirement age. In September 1993 the committee issued a report calling for a revision of the LSL's labor contract provisions.¹⁴ Among the committee's many proposals included a relaxation of of one year cap on FTCs.

After the consultation group's report was issued the labor ministry's Central Labour Standards Council set about to revise the LSL.¹⁵ The main issues were discretionary work rules, overtime rules and FTCs. The labor ministry was unable to find common ground between labor and management representatives on any of these issues so LSL revision languished.

6.2 Period 2: RRCs target FTC expansion

In March 1995 the cabinet of JSP Prime Minister Tomiichi Murayama approved a Deregulation Promotion Five Year Plan and the next month created an RRC to specifically deal with deregulation.¹⁶ The five year plan included 1091 deregulation items. Its major labor-related proposals included: deregulating employment matching/recruiter services, liberalizing dispatch work, relaxing discretionary work times regulations, increasing the limit on FTCs and removing restrictions on women workers. The labor ministry preempted the cabinet by a day releasing on 30 March 1995 a long list of labor market regulations to be considered by the ministry, including PTL legislation, FTC expansion, DWL revision, etc (Ohara 1996 353). These topics had all been discussed in the labor ministry's consultation groups, for example the expansion of the DWL's list of approved sectors, but discussion on a range of issues in the deliberative councils had been shutdown by disagreement between employers and unions. The ministry's move, therefore, did not amount to much since it did not propose a way to resolve any of the outstanding issues.

The creation of the RRCs and the cabinet's endorsement of their agenda put new pressure on

¹⁴ "Labor Standards Law Study Group Report: concerning future labor contract legislation" [*Rōdō keiyaku kenkyūkai: kongo no rōdō keiyaku hōsei no arikata ni tsuite*]. See ? for details. Their 1993 proposal outlined a comprehensive labor contract law. It defined the relevant parties, described how a contract should be concluded (including raising the maximum contract length to five years for FTCs), work conditions in the contract, contract dissolution, as well as rules for modifying the contract.

¹⁵ *Chūō rōdō kijun shingikai*. After 2001 The Labour Policy Deliberative Council [*Rōdō seisaku shingikai*]. All labor ministry deliberations occurred in these deliberative councils and their subcommittees.

¹⁶ *Kisei kanwa suishin 5 ka nen keikaku*.

the labor ministry to produce legislation, but the labor ministry did not try to force a legislative outcome for nearly a year after the cabinet's deregulation plan was announced. Murayama was from the Japan Socialist Party, and the JSP was the junior partner in the coalition. The RRC released its first deregulation opinion paper on 7 December 1995 calling for dispatch work expansion and liberalization of private employment services. Murayama had committed his cabinet to deregulation but he did not endorse full-scale economic reform.¹⁷ Whatever Murayama's commitment to reform, in January 1996 the LDP regained the prime ministership under Ryūtarō Hashimoto, though still in coalition with the JSP. The JSP suffered a crushing defeat in the October 1996 lower house election and left the cabinet, but remained in coalition with the LDP. Hashimoto backed the RRC's labor market deregulation proposals and instructed his ministers to lean on the bureaucracy. Soon after, the RRC released its second deregulation opinion paper. It included a number of proposals that became points of contention in the 1998 LSL revision—overtime and discretionary work time rules, regulations on work for women, and an increase in the FTC limit from one year to three or five years.

With the prime minister backing labor market reform the labor ministry instructed the relevant deliberative council¹⁸ to come up with legislation that would be ready by the end of 1997. The labor ministry wanted to retain control of the process, however, and complained loudly when the RRC was reauthorized for another three year term in March 1997 (Ohara 1998 342-3). The labor ministry argued that by dictating policy outcomes from the Prime Minister's Office the consensus mandate in the ministry's deliberative councils was short circuited. Nevertheless, the cabinet set an end of July 1997 deadline for a revision to the LSL. It was to include revisions to overtime and working time rules (including discretionary work times), changes to gender-related protections, and a revision of the FTC cap.

FTC revision was not in the original RRC deregulation proposal of December 1995, but em-

¹⁷The day after the RRC released its report Murayama was quoted as saying, "To compete fairly we must carry out the necessary deregulation, but that does not mean deregulation by any means necessary. There are regulations that need to be retained." (Yomiuri 8 Dec 1995 Tokyo evening edition page 2). In contrast, Rengō President Jin'nosuke Ashida was quoted as saying on 7 December 1995, "Rengō has requested that deregulation be actively pursued to create new industries and jobs. We regard highly this structural transformation of the Japanese society" (Yomiuri 8 Dec 1995 Tokyo morning edition page 1).

¹⁸The Central Labor Standards Deliberative Council.

ployer associations had been requesting a revision since the early 1990s. The proposals ranged from complete liberalization (Tokyo Chamber of Commerce) to a limited expansion (Dōyūkai) to an increase from one year to five years (Nikkeiren) (??). Their main concerns were to retain officially retired workers and high skilled specialists for medium-term projects. The labor ministry's consultation group proposed an increase in the FTC cap from one year to five in its May 1993 report. Deliberations had begun in 1993 over LSL revision based on the consultation group report but did not move forward because unions and employers disagreed on every substantive point. When the labor ministry revived deliberations in November 1996 labor representatives in the council again resisted but this time the labor ministry pushed ahead anyway. The RRC's December 1996 proposal included the FTC expansion, but its proposal was between three years and five years without any particular usage restrictions.

Negotiations over LSL revisions continued in the labor ministry through the first half of 1997 but again fell apart in July. The focal point of conflict was discretionary work time rules.¹⁹ Labor representatives in the deliberative council opposed FTC expansion with two arguments: it might lead to labor substitution, and it might increase employment insecurity. Labor representatives also expressed concern that minor revisions now would lead to bigger revisions later.²⁰

It became obvious that the labor ministry would not meet its legislative deadline in July 1997 if the deliberative council proceeded as normal (?). Talks over a draft LSL revision guideline were ended and the public interest representatives were forced to release their interim report with side-by-side commentary from labor and management representatives. The deliberative council was supposed to come up with guidelines for legislation that would then be passed to the labor minister to draft legislation that is then sent back to the deliberative council for approval, after which it is sent up and over to the cabinet. (See FIGURE-3.1 in chapter 3.) In the normal course of events the public interest representatives draft a single consensus document to pass up to the labor minister but in this case the public interest representatives simply forged ahead noting the different opinions.

¹⁹Unions argued that it would basically exempt all white collar workers from being able to claim overtime. See ?, 130-131

²⁰From daily newspaper Yomiuri 4 August 1997 morning edition page 2, "Because of this, the labor representatives reacted sharply, [claiming that the revision] will affect employment stability and that future revisions are likely to remove the upper limit. On the other hand, management representatives countered that the provisions now and in the future ought to be expanded."

The labor ministry was not happy about the outcome of deliberations. One public interest representative was quoted blaming the unions: “Even though the labor representatives get that the workforce is changing they just repeat the same policies decided within Rengō and discussion can’t move forward.”²¹ Other public interest representatives faulted the RRC: “These outcome of these deliberations has been fixed from the beginning”.²² Another public rep said, “The top-down process makes a joke of the deliberative council’s rules up to now”.²³ A labor representative backed up this interpretation: “It was like the deliberation’s conclusions had been decided from the start. We won’t approve of a process that is based from the beginning on deregulation.”²⁴

The labor ministry attempted to negotiate a compromise throughout the summer and into the fall with an eye to finalizing the LSL revision guideline by the end of November. During these negotiations labor representatives were the major roadblock (??). Management representatives all fully supported the deregulation agenda of the RRCs and the labor ministry was compelled to produce legislation in line with the RRC proposals. Of the eight or so areas of revision proposed to the LSL, the ones on which unions refused to concede ground were all related to regular worker working times: discretionary work rules, overtime pay rules and calculation of an average work week. Unions also objected to removal of gender protections for women and to the FTC expansion but were willing to negotiate on these points.²⁵ On FTCs labor representatives objected to any change in the current rules but the labor ministry proposed a middle ground between the labor and management positions which made it hard for either party to refuse. The one year limit was kept but an exception was made for older workers and high-skilled workers, who could have a three year contract.

In November the deliberative council began to circulate the final draft of its revision guideline for the LSL. All of the controversial parts remained. FTCs were to be kept at one year with the exception to three years for some workers. The FTC change was a down-the-middle compromise: management wanted further liberalization and labor wanted none. On 11 December 1997 the

²¹Asahi Shinbun 31 July 1997 morning edition page 1.

²²Yomiuri Shinbun 4 August 1997 evening edition page 3.

²³Yomiuri Shinbun 4 August 1997 evening edition page 3.

²⁴Yomiuri Shinbun 4 August 1997 evening edition page 3.

²⁵On gender protections the unions were in a hard spot. The LSL contained bans on women working long hours, late at night, and in certain occupations like mining, and the government had just passed a gender equality law (?).

relevant deliberative council approved the guideline and sent it to the labor ministry. The next day the RRC released another proposal on deregulation in line with its previous proposals, including a raise on the FTC cap to three or five years for all workers. On 21 January 1998 the labor ministry gave the deliberative council its draft legislation for approval. This is ought to be simply a formality since the deliberative council's guideline forms the basis of the draft legislation. Labor representatives again vehemently protested. Again the public interest representatives drafted a report that did not have the council's consensus (??).

Unions were unable to prevent LSL revision from moving forward in the consensus-based deliberative councils so they turned their attention to parliament. The SDP (JSP until 1996) was still in formal coalition with the LDP at this time.²⁶ The DPJ had emerged as the largest opposition party in the period after the October 1996 election (it was founded in September 1996), and it was with them that Rengō worked to make changes to the LSL revision that labor representatives could not secure in the deliberative councils.

The LSL revision was introduced to parliament on 10 February 1998. During the bill's initial explanation on the floor of the lower house on 21 April the main points of contention were an upper limit on overtime work hours, regulations on late night employment for women and the expansion of discretionary work time rules.²⁷ In committee the labor ministry defended the FTC expansion as both a compromise between labor and management and in line with expert recommendations. The opposition parties questioned the labor ministry representative over the FTC expansion but never demanded serious amendment. In contrast, Rengō worked with the DPJ to put out a legislative revision, with all the content essentially aimed at preventing work hour deregulation for regular workers (?). There was no discussion among the political parties about changing the FTC expansion when it came down to negotiations over revisions to the LSL bill. While the DPJ questioned the government and ministry representatives in parliament it never proposed changing the provisions in the LSL concerning the FTC limit.

In the end the LSL revision was successful. It passed both houses of parliament with support

²⁶The LDP was in coalition with the JSP/SDP and Sakigake from 1996 until June 1998 but neither minor party had representation in the cabinet after November 1996.

²⁷A record of parliamentary debate for these dates can be found at: <http://hourei.ndl.go.jp/>.

from all the major parties except the communists. The provisions that generated the most conflict were all amended in line with Rengō's position. Parliamentary debate aside, none of the political parties tried to change the FTC revision. Additionally, Rengō dropped its demands in regard to FTCs after the legislation moved from the labor ministry to parliament. The FTC change was in reality not very substantial. FTCs were already completely unregulated aside from the one year limit for a single contract. The 1998 revision made it possible to offer three year contracts to some workers, but for specialized workers a longer contract could only be offered when the employer was starting a new activity.²⁸ A labor ministry survey in 2001 found that only about five percent of FTCs fell under the new conditions.

Rengō's president said after the LSL revision was passed that while Rengō did not get everything it asked for it could live with the revision.

6.3 Period 3: Political conflict dominate LSL revision

The battle over the 1998 LSL revision carried over to the revision in 2003. The RRCs continued to propose labor market deregulation, including deregulation of work time rules. They also continued to demand an expansion the FTC limit to five years. Their even more controversial proposal in 2003, however, was a codification of jurisprudence on regular worker dismissals and the introduction of a monetary dispute resolution mechanism for wrongful dismissal.²⁹ Like in the previous period, the consensus-norm in the deliberative councils broke down and again the battle moved to parliament. Again the revisions aimed at deregulating regular worker contracts, proposed by the RRCs and pushed through the deliberative councils, were amended by opposition parties in parliament. Again as well FTC expansion made it through the legislative process. However, this time unions and opposition parties amended the FTC provisions to provide some protections for employees on fixed-term contracts.

In the first decade after Japan's asset bubbles collapsed the issues that most occupied policy

²⁸Meaning a renewal from an already existing one year contract to a three year contract was not allowed.

²⁹When an employer is found to have wrongfully terminated an employment contract the plaintiff is reinstated to their former position. The proposal in the 2003 revision would permit employers to offer a monetary payment instead. Unions objected that the monetary resolution mechanism would permit employers to fire any worker and simply give a cash payout.

makers were about preserving regular worker jobs, particularly male workers and older workers. By 2000 the focus had shifted to securing jobs for irregular workers, women workers and younger workers.³⁰ In June 2001 the unemployment rate breached 5% for the first time since occupation's end. The political response to rising unemployment and declining job offers for younger workers on the right was to make the external labor market more flexible (see chapter 2), but even in 2000 the social and economic consequences of deregulation were becoming apparent. Around this time the Rengō to actively recruit and organize irregular workers. Rengō proposed unified legislation for part time and fixed-term workers in 2001 and vocally connected labor policies aimed at regular and irregular workers.

In April 2001 Jun'ichirō Koizumi became Prime Minister. In May 2001 Koizumi established an employment and restructuring committee.³¹ It immediately began to call for labor market liberalization, including for FTCs and dispatch work. Koizumi also pledged in May 2001 that another of his policy committees was studying FTC liberalization.³² Koizumi's RRC followed up over the summer with a host of labor-related policy proposals: an FTC limit increase, discretionary work time expansion, dispatch work liberalization, retirement bonus tax changes, pensions reform, dismissal rules codification.³³ The RRC requested specifically that the FTC contract ceiling be raised to five years from one year, and that deliberations begin immediately. The RRC also instructed the labor minister to issue a ministerial ordinance expanding the scope of occupations for which a three year contract could be offered.³⁴

On 19 September 2001 the relevant subcommittee in the ministerial deliberative council com-

³⁰2000 and 2001 were the worst years for job offers among high school and university graduates.

³¹Headquarters for Industrial Structural Reform and Employment Measures [*Sangyō kōzō kaikau / koyō taisaku honbu*].

³²He stated in the lower house budget committee on 14 May 2001 that the first Council on Economic and Fiscal Policy [*Keizai zaisei shimon kaigi*] would examine FTC changes so "...firms can hire workers when needed without taking them on for life" (Yomiuri Shinbun 15 May 2001).

The next month the Council released its first annual economic policy guideline for the government. It called for FTC liberalization.

³³The Council for Regulatory Reform [*Sōgō kisei kaikaku kaigi*] was the first RRC under Koizumi. It started on 1 April 2001, 25 days before Koizumi took office. Its first provisional report was issued on 24 July 2001, "Interim Report on Regulatory Reform in Six Priority Areas" [*Jūten roku bunya ni kan suru chūkan torimatome*].

³⁴The labor ministry issued an ordinance in December 2001 to expand the list of approved sectors for which a three year contract could be offered. It also relaxed the requirements, permitting workers who have several years of job experience to qualify as high-skilled workers. The previous regulation required the employee have a specific qualification like a post-graduate degree.

menced discussions on a new revision to the LSL, including FTC expansion. By now the Prime Minister's Office had settled on: 1) raising the maximum contract length in principle from one year to three, and 2) raising the maximum contract length for high-skilled and older workers from three years to five, also reflected in the RRC's first annual regulatory reform proposal in December 2001. The RRC demanded FTC legislation in time for the parliament session starting in January 2003.³⁵ In July 2002 the the subcommittee released its its first report on LSL revision. It included FTC changes in line with those proposed by the Prime Minister's Office. The report also included a codification of law on dismissal rules for regular workers and another attempt to expand discretionary work time rules. The report was debated in the deliberative council subcommittee over the next several months. Labor representatives argued that the proposed FTC change would increase employment insecurity for both regular workers and irregular workers. They pointed in particular to concerns over new university graduates being offered FTCs instead of indefinite contracts and the potential for employers to substitute fixed-term workers for regular workers.

By 2001 labor and management representatives and their national organizations had fixed their positions on labor contract regulation. For example, Rengō put out draft legislation on a part timer/FTC law in 2000, and a unified labor contract law in 2001.³⁶ Rengō wanted a strict on year cap on FTCs with no renewal, an obligation to extend an indefinite contract for serial renewals, equal pay and treatment, a requirement to justify why an FTC is being extended, etc. In contrast, Keidanren and Nikkeiren both proposed increasing the FTC ceiling to three or five years and opposed any restrictions on FTC use. On dismissal rules for regular workers Rengō supported codification of existing case law. Employers wanted the LSL to specify that employers have the right to fire workers. The draft LSL revision proposed by deliberative council subcommittee in July 2002 extended the FTC contract length, removed some restrictions on FTC use, included a statement that employers have the right to fire workers, and even included the monetary resolution mechanism for wrongful termination that the RRC had proposed (but that employers did not support).

³⁵The RRC's July 2002 proposal also called for the introduction of a monetary dispute resolution mechanism. This was the first time the monetary mechanism had been proposed. None of the employer associations were actively calling for such a system.

³⁶A summary can be found on Rengō's website: http://www.jtuc-rengo.or.jp/roudou/seido/part_yuuki/

On 26 December 2002 the subcommittee submitted its final guideline for LSL revision to the whole deliberative council, which approved the report that day and sent it to the labor ministry.³⁷ The guideline was not substantially altered from its July 2002 form. Labor representatives managed to add language requiring the labor ministry to give instruction to employers about FTC contract renewal, but the addition only required ministerial guidance, not statutory rules. On 13 February 2003 the labor ministry sent its draft legislation to the deliberative council for comment. The monetary resolution mechanism had been removed but the other provisions were kept. The draft legislation did not include any specific rules about serial FTC renewal or obligations for employers to notify employees on FTCs about renewal. These were to be handled by ministerial guidance. On the 18 February the deliberative council approved the draft legislation. From there LSL revision moved to parliament (? , 130)

The day the deliberative council approved the draft LSL legislation Rengō came out in opposition. Rengō's objected to the dismissal rules language and to the FTC expansion.³⁸ Rengō's mobilization strategy unified both objections: the LSL increases insecurity for all workers so all workers should be concerned about the LSL revision. Rengō organized mass demonstrations and petitions throughout the country in the late spring and went so far as to take out advertisements on television. It also cooperated to an unprecedented degree with the opposition parties, particularly the DPJ. The result was amendment to both dismissal rules and FTC rules.

In March 2003 the government introduced its LSL legislation to parliament and referred it to the appropriate lower house committee.³⁹ The lower house committee opened debate on the legislation in May and immediately the opposition parties pushed for amendment. For the opposition parties the LSL revision was a way to present an alternative to the Koizumi agenda. Outside parliament the DPJ participated in joint rallies with Rengō against LSL revision. Inside parliament the opposition parties led by the DPJ agreed on the outlines of their own LSL bill. That bill would have required FTCs be kept at one year for most workers, with a special exemption to three years for some

³⁷That day the Labor Policy Deliberative Council also approved proposals for revision of the Employment Security Law, the DWL, and the Employment Insurance Law, all of which were revised in 2003.

³⁸The language in the dismissal rules appeared to require employees show a termination was wrongful rather than employers show a termination is legal.

³⁹The Committee on Health, Labour and Welfare.

workers.⁴⁰ With the opposition parties united and media backing their position the government bill was modified to remove the phrase that employers have the right to dismiss workers. The FTC expansion was preserved, but the opposition parties amended the bill to allow workers on contracts longer than a year to terminate the contract after one year.⁴¹

With Rengō's main objection taken care of, debate in the upper house centered on FTC regulation and work times. The opposition parties again amended the bill, requiring the government to study how to extend childcare and family leave to workers on FTCs. The government was also obliged to devise measures to prevent labor substitution in the near future (?). There was also a supplemental resolution attached to the bill that required the government to come up with comprehensive labor contract legislation in three years.⁴² The opposition amendments together added the following to the FTC expansion: employers are required to notify an employee at the beginning whether there is a possibility for renewal and under what conditions, required to give advance notice in some situations if a contract will not be renewed, provide written justification for non-renewal upon request. Furthermore, employees on contracts of greater than one year are allowed to terminate the contract after the first year; employers are not given the same right. These procedures for non-renewal were put into law for the first time, however no penalties were attached.⁴³

On 27 June 2003 the LSL revision was approved by both house of parliament. It took effect on 1 January 2004. The day the revision passed leftist daily newspaper Asahi issued its assessment: did not really do anything to or for regular workers but made it easier to hire irregular workers.⁴⁴ Asahi's summary is correct. The rule changes for regular worker contracts were just codification of existing precedent.⁴⁵ All the controversial elements of the revision were either removed in the deliberative councils or amended in parliament. As for irregular workers, the 2003 revision is a

⁴⁰The bill was never actually introduced. Miura (2012 131) says it was used "as a bargaining chip" in negotiations with the LDP.

⁴¹Older and high skilled workers on five year contracts did not get the right to walk away after a year.

⁴²Supplemental resolution reads: "a forum for expert investigation and research should be established to actively consider formulation of a comprehensive law on labor contracts, including matters such as changes in labor conditions, external assignments, and employment transfers, and necessary measures, including the enactment of statute, should be taken based on the results." (Translation from ?, 6.

⁴³Most of the LSL provisions are coercive in that sanctions are applied in the case of non-compliance. However, with the FTC provisions the labor ministry simply issues guidelines and guidance without recourse to punishment.

⁴⁴Asahi Shinbun 27 June 2003 evening edition page 1.

⁴⁵Indeed, the 2003 revision might be considered an instance of increased regulation of regular worker employment since case law is applied on a case by case basis.

case of “freer markets, more rules”. The maximum FTC length tripled, and rules for even longer contracts were loosened. At the same time the labor ministry issued new procedures and obligations for employers.

6.4 Period 4: Politics breaks the consensus norm

A supplemental resolution to the 2003 LSL revision required the government to come up with a comprehensive labor contract law to establish a single unified set of guidelines for labor contracts. on 23 April 2004 the labor ministry kicked off a consultation group to formulate an LCL. Right away there was conflict. Study groups are usually composed of non-partisan experts, and their reports usually form the basis of discussions in the deliberative councils. Nevertheless, Rengō objected to the composition of the consultation group, demanding that labor representatives be formally included. They were rebuffed by the labor ministry.

On 15 September 2005 the consultation group issued its report, which also generated controversy. It endorsed a monetary resolution mechanism for wrongful termination in line with demands from the RRCs and employer associations (who now supported the idea), though the labor ministry itself was hesitant to revisit the subject. The consultation group also proposed a works councils system that might supplant union representatives. Concerning FTCs the report proposed barring both employers and employees from ending a contract early, a right employees were given with the 2003 revision.

Debate over LCL legislation began in the relevant deliberative council subcommittee on 21 October 2005. Once more there was controversy from the outset. Both labor and management representatives wanted a comprehensive LCL but they objected to the specific suggestions contained in the consultation group report. Labor representatives demanded the subcommittee confirm that deliberations were not bound to the contents of the consultation group report. The main points of contention in the deliberative council were: 1) the monetary resolution mechanism, and 2) regulations concerning overtime and workplace rules changes. In December 2005 the RRC issued its annual policy statement. It ordered the labor ministry quickly conclude deliberations over an LCL and also requested the LCL include a so-called “white collar exemption” whereby certain

non-manager white collar workers are exempted from overtime regulations.⁴⁶

The subcommittee already had too many controversial items to deal with in the LCL without the addition of the white collar exemption. Nevertheless, on 9 February 2006 the subcommittee accepted a report on the overtime exemptions and began deliberations as directed by the RRC. Labor and management positions on the controversial items were too far apart to find common ground. On 11 April the subcommittee circulated a document summarizing the main areas of contention.⁴⁷ Both sides objected to the ministry's framing of the issues.⁴⁸ On FTCs the subcommittee floated the idea of requiring employers to offer an indefinite contract after a certain amount of time and expanding the conditions under which an employee can terminate a contract. The labor ministry had hoped to complete its interim report by the end of July but in June negotiations broke down. A draft of the interim report was issued on 21 June 2006. It was surprising in that it was not a consensus document that had been hammered out through deliberations. At the 27 June meeting both employers and unions attacked the subcommittee, saying that nothing had been settled and that it was premature to put forward draft legislation. The June proposal again retained the most controversial features of the LCL, but had watered down the proposal that employers be obliged to offer indefinite contracts after a period of time.⁴⁹ After this meeting negotiations were called off while the labor ministry attempted to find a way forward (?).

The labor ministry came under fire from every direction over the summer. In June Rengō put out its own draft LCL legislation.⁵⁰ At the end of July the RRC issued a special opinion piece specifically to force the LCL forward. In August the DPJ set up its a special team to figure out strategy regarding working hour regulations and labor laws. In September the public interest representatives of the subcommittee restarted deliberations by releasing an early draft of the proposed LCL bill guideline. The September draft made a few modifications to overtime pay rules but all of the problematic issues from the summer, especially the white collar exemption and

⁴⁶Overtime rules are contained in the LSL. The subcommittee deliberated revision to the LSL that would accompany the LCL.

⁴⁷“Discussion Points Concerning the Legal Regulation of Employment Contracts and Work Hours”.

⁴⁸The main issues were: procedures for changing work rules, the monetary resolution mechanism, the white collar exemption and overtime pay.

⁴⁹It was changed to read that employers are obliged to give FTC employees preferential consideration when hiring regular workers.

⁵⁰A version can be found on Rengō's website: <http://www.jtuc-rengo.or.jp/roudou/seido/roudoukeiyaku/data/20060615.pdf>.

the monetary resolution mechanism, were retained. On FTCs the draft said firms should “have consideration for not serially renewing needlessly short contracts.” It did not have a mechanism for converting FTCs to indefinite contracts, nor did it have rules against serial contract renewal.⁵¹

At the start of December the subcommittee released the final version of its legislative guideline.⁵² The white collar exemption was included but the salary cap was not specified.⁵³ The monetary resolution mechanism was removed. Some of the labor representatives boycotted the committee meeting to prevent the proposal from moving forward because it contained the white collar exemption, but it was approved at the end of December 2006. Rengō had strongly objected to some of the LCL provisions but sent its representatives anyway. One of the labor unions that did not attend said, “Rengō’s a traitor. They should have walked out.” For its part, Rengō said that the deliberation process had been perverted and that Rengō could not fairly battle employers because of the RRCs.⁵⁴

The labor ministry’s draft LCL legislation was approved by the deliberative council at the end of January 2007 and from there was submitted to parliament. Along the way the government decided to remove the monetary resolution mechanism, conceding the biggest remaining bone of contention (?).

By the time the LCL made it to parliament it was a rather minor bill. The original 2005 consultation group report contained grand plans but the bill that was submitted by the government in 2007 was essentially a restatement of provisions from the LSL and existing case law. Even when the labor ministry tried to push through provisions to which unions strongly objected, like the white collar exemption, the LDP decided not to move forward. LDP Prime Minister Shinzō Abe had hoped to get the LCL, PTL revision and minimum wage law revision through parliament before the July 2007 election, but a pensions scandal disrupted the legislative calendar. The LDP lost the election, the DPJ gained control of the upper house and Abe resigned. Additional concessions demanded by Rengō were made to the LCL when parliament returned in the fall of 2007, but

⁵¹Both the DWL and PTL revisions in the 2000s added provisions for converting workers to regular worker contracts.

⁵²For a concise summary of the politics of the white collar exemption see (? , 134-5).

⁵³Employers had proposed either 4 million or 7 million yen. At 4 million yen 45 percent of all workers would qualify for the exemption.

⁵⁴Asahi Shinbun 28 Dec 2006.

compared to the 2003 LSL revision parliamentary debate was much reduced. The DPJ had drafted its own LCL which placed severe restrictions on FTCs and introduced it to the lower house after the July election but continued to negotiate with the LDP. They reached an agreement on the government's LCL bill at the end of October 2007. That agreement specified employers should aim to maintain "equal treatment" between irregular and regular workers, however because of strong employer objections the equal treatment phrase was replaced with "balanced treatment" in the final legislation. The LCL was approved by both houses of parliament on 28 November 2007 and came into effect on 1 March 2008.

The LDP's electoral vulnerability contributed to the LCL's demure form. The RRCs promoted major changes to the work times regulation for regular workers and the labor ministry obliged by keeping the proposals in the draft legislation all the way to the end. They were removed when they became an electoral liability. The white collar exemption especially turned out to be costly for the LDP. From 2003 onward labor market regulation emerged as a central political and electoral issue. The LDP was forced back from the positions taken by the RRCs concerning regular worker contracts in the 2003 LSL revision and 2007 LCL legislation. In 2003 irregular work contracts were liberalized but in 2007 there was no change to FTCs. Meanwhile, the minimum wage was raised and the PTL was strengthened. After the DPJ took control of the lower house in August 2009 the re-regulation trend increased, even though it lost the upper house in 2010. The DWL and LCL revisions in 2012 both passed because the LDP agreed to support the DPJ's legislation.

6.5 Period 5: Partisan push for re-regulation

After the LDP's upper house defeat in July 2007 the party shifted its position on labor policy. The LDP's argument from the mid-1990s through the mid-2000s was that labor market deregulation creates job opportunities for younger workers, women workers and older workers. That argument failed to persuade the country's increasing number of irregular workers. Prime Minister Abe tried to distance his government from the Koizumi years by proposing a series of policies aimed at irregular

workers but the damage had already been done.⁵⁵ His replacements allowed the RRCs to slip into irrelevance as the party moved back to the political center. In December 2008 the government under LDP Prime Minister Tarō Aso proposed a series of employment policies aimed mainly at helping irregular workers find and hold onto jobs and his labor minister Yōichi Masuzoe signaled the government's willingness to revisit FTC regulation.⁵⁶ The LDP's room to maneuver on labor policy was constrained, however, by its supporters in the business community and by the DPJ's strong re-regulatory stance to the center-left.

In December 2008 the DPJ put out a bill to reign in FTCs. The DPJ bill outlined a fundamental shift in FTC regulation: employers must have a specific reason to offer an FTC, employers cannot refuse FTC renewal without a specific reason, and employers must have equal treatment between FTC workers and regular workers. The DPJ and its partners in the upper house submitted the FTC bill along with three other bills targeting irregular workers in as a counterproposal to the LDP's employment policies package. An LDP MP in the upper house complained that if the DPJ's bills were enacted, "...firms won't be able to offer part timer jobs...", which was exactly the DPJ's intent.⁵⁷ Prime Minister Aso had planned to meet with the opposition party heads and Rengō during this period to discuss employment policies and demonstrate his commitment to irregular workers but pulled out as a result of the DPJ's bills.

Two months later the labor ministry established a consultation group to investigate future FTC legislation. The labor ministry directed the process without pressure from the Prime Minister's Office. Koizumi's LDP successors were not particularly adept at using the prime minister's policy setting powers, and at any rate the LDP did not have a coherent labor market policy heading into the 2009 lower house election. After the LDP's loss in the 2009 lower house election the DPJ formed a government and signaled its desire to revisit regulations for part time, dispatch and FTC

⁵⁵In December 2006 a consultation group was set up within the LDP to look at the livelihood issues, especially for irregular workers. Asahi quoted some of the participants as saying at the first meeting, "[The number of] irregular workers does nothing but grow. Is it acceptable for firms to put profits before everything?" Another said, "There are young people who, no matter how much they work, can't make ends meet or get married." Asahi editorialized that it sounds like they are union representatives. The committee organizers said, "Rengō's nothing but regular workers. The LDP is the friend of irregular workers." Asahi Shinbun 29 December 2006.

⁵⁶Masuzoe said that firms should not be able to restructure employment simply through contract non-renewal. Asahi Shinbun 09 Dec 2008.

⁵⁷The MP was Yuriko Sakamoto. Asahi Shinbun 18 Dec 2008.

workers.

In October 2009 the daily newspaper Asahi described the strangely subdued happenings in the labor ministry's FTC consultation group given the scope of its deliberations.⁵⁸ Dispatch worker regulations were being discussed elsewhere at the same time and the debate was loud and acrimonious. In September 2010 the FTC consultation group released its findings. It evaluated the merits of controlling both when an FTC can be signed and when an FTC can be terminated. It also examined equal treatment protections. The next month deliberations on FTC changes to the LCL began in the labor ministry deliberative council. Unions wanted major regulation of fixed-term contracts. The guiding principle ought to be indefinite labor contracts; fixed-term contracts should be offered only when there is a rational reason. Employers hated everything about the FTC revisions on the table. Their position as always was that more regulation infringes on managerial discretion. Nevertheless, management representatives were willing to play along. Rengō had asked that that period after which an employee be offered an indefinite contract be 3 years. Employers proposed 7-10 years. The ministry split the difference at five years.

The deliberative council finalized its LCL revision guideline in December 2011. The labor ministry drafted legislation which was approved by the deliberative council in February 2012, then approved by the cabinet and submitted to parliament the following month.

The FTC regulations originally suggested in the consultation group report were preserved through the ministerial deliberations and in parliament. The 2012 LCL revision required employers to: offer an indefinite contract if renewals have extended over five years, have a rational reason for offering an FTC and for not renewing an FTC, have equal treatment between contract workers and regular workers. Together these revisions fundamentally changed the way FTCs are regulated.

The DPJ did not tightly control the policy process in the labor ministry but it did set the broad outlines in its policy agenda upon taking control of government in September 2009. The labor ministry and the labor representatives collaborated while the management representatives objected to the entire process. The 2012 LCL revision mirrors the 2003 LSL revision in that the

⁵⁸The consultation group discussed: an upper limit on FTC renewals, whether you need a justification to offer an FTC, and whether you should have equal treatment. Asahi Shinbun 20 October 2009.

outcome was essentially decided beforehand. In 2012 employers did not have recourse to the RRCs. The LDP controlled the upper house from 2010 but refused to oppose policies aimed at protecting irregular workers for fear of an electoral backlash. The 2012 revision passed both houses with the support of both the DPJ and LDP.

6.6 Discussion

The evolution of FTC regulation provides a useful contrast between regular and irregular worker regulations. FTCs were always discussed at the same time as other revisions to the LSL. Unions devoted their attention to revisions that affect regular workers, and were successful in stopping any big changes to the sort of contracts offered to regular worker union members. FTCs, however, were successfully liberalized at the same time. After 2003 additional liberalization became unlikely because of the DPJ, and the eventual re-regulation happened because the DPJ was able to force its policy choice through.

Unlike the basically cosmetic PTL revisions in 2007, the 2012 FTC revision fundamentally changes the way employers use FTCs: 1) employees on serially renewed FTCs that extend more than five years must be offered an indefinite contract, 2) employers must offer fixed-term contracts that cover the length of the task for which an employee is hired or else continue to renew the contract until the task is completed, 3) employees cannot be discriminated against simply because they are on fixed-term contracts. The first and second points work together: if an employer offers a fixed-term contract for a job that is in essence open-ended they must continue to renew the contract over and over until they are required to offer the employee an open-ended contract. The practical effect will be to convert many part time workers on fixed-term contracts to indefinite contracts.

Both FTCs and the DWL were revised in favor of more regulation under the DPJ but required the cooperation of the LDP. It is hard to read the LDP's behavior as anything other than political posturing. When the LDP was unrestricted by a credible opposition it pushed liberalization of irregular work contracts. When the DPJ started to win elections against Koizumi's neoliberal turn the LDP adjusted. Koizumi's successor Shinzō Abe dropped all the RRC recommendations to push liberalization further. He was prime minister when the LCL was being deliberated but declined to

push for major changes. In contrast, the second Abe administration that started in December 2012, which has an absolute majority in both houses of parliament, is pushing to scale back some of the 2012 revisions to the DWL and FTCs. He has also proposed more fundamental changes to regular worker contracts. Whether he goes through the deliberative councils or the Prime Minister's Office will determine how successfully he can reform regular work contracts. In either case, without an effective left it is unlikely irregular work contracts will be re-regulated further.

Chapter 7

Conclusion: has Japan solved the Goldthorpe Dilemma?

The three case studies presented an interesting degree of variation. Dispatch work regulation was mainly about creating and then expanding a new market. Part time work always involved increased regulation. FTCs were debated alongside regular worker regulations. Additionally, dispatch and fixed term contracts were re-regulated in 2012, though a similar attempt to increase part time worker regulation failed. The RRCs played a major role in dispatch work regulation as well as FTC regulation, but was largely absent from part time work regulation. Dispatch work is the smallest numeric category of irregular work but has received the most attention in the press and among scholars while FTCs largely fly under the radar. Below I offer several general findings about labor policy actors and institutions in Japan.

7.1 General findings

On actors, the case studies show that opposition parties in parliament (socialists, communists and Democrats) were always concerned with the regulation of irregular workers, though the Democratic Party of Japan (DPJ) started out favorable to labor market liberalization in 1996-8 and then moved left afterward. The Liberal Democratic Party (LDP) generally supported liberalization but in the

second half of the 2000s began to show interest in re-regulation as opposition parties learned how to make labor market liberalization electorally costly for the LDP. The regulatory reform committees (RRCs) in the Prime Minister's Office always endorsed substantial liberalization and generally got their way from the mid-1990s to the mid-2000s but were then sidelined once the LDP leadership changed course. It is reasonable to conclude that political support for changes in labor market regulation is driven by political problems and conditioned by electoral considerations, rather than strict ideological commitment. Recent political events lend additional support. Since becoming prime minister again at the end of 2012 Shinzō Abe has moved to liberalize both irregular and regular work contracts, in some cases using the same policy proposals his cabinet rejected when he was prime minister in 2006.

The case studies also bring out the truly remarkable transformation of Japan's labor movement to a broad-based social movement. Japan's unions never particularly cared about irregular workers, who were themselves never union members. However, around 2000 Japan's largest union confederation Rengō became much more concerned about these workers and today is one of the most forceful advocates of protective regulations for irregular workers. Rengō's policy shift is not in doubt, even if it is not well-reported in Japan or abroad. The study here suggests an important cause of Rengō's sudden embrace of irregular workers. In order to maintain its influence after policy making shifted to parliament Rengō was forced to unite objections over deregulation of regular worker contracts to those of irregular worker contracts. Only by presenting a unified front could Rengō mobilize the resources needed to make sure the position of its core members was not undermined. Before the shift Rengō was willing to trade off irregular worker deregulation for regular worker protections. After 2000 Rengō's approach to irregular worker regulation was to demand more regulations. Whether or not this was a cynical strategy on Rengō's part is beside the point. When Rengō has to compete for attention from political parties in the open light of day it pays attention to irregular workers. At the same time, Rengō's detached attitude to re-regulation under the DPJ, when policy was once again devolved to the deliberative councils, suggests that a leftist government might have contradictory effects. If it takes the policy lead and bypasses the tripartite process it risks angering the unions. On the other hand, devolving policy back to the deliberative

councils means Rengō has less incentive to push for irregular workers.

On institutions, the case studies also show tripartite policy making does not often produce policy outcomes favorable to irregular workers, though it is good at preventing regulation unfavorable to regular workers. I want to reiterate that very little has changed concerning regular worker contracts. Employers pushed for, and lost, changes to firing rules, overtime rules and shop floor rules.¹ Employers also lost battles over retirement rules, sick leave rules and non-discrimination rules.

As for parliamentary politics: when there is no effective opposition to center-right LDP government both regular and irregular workers get hammered. For example, employers had some success with overtime rules and the dispatch worker expansion to manufacturing. However, parliamentary politics is also more likely to produce outcomes favorable to irregular workers, so long as the government and opposition parties are forced to compromise or a center-left party is able to form a government. In other words, a necessary condition for increased irregular work regulation is an effective left or center-left political party. Additionally, tripartite bargaining is not a sufficient condition.

The case studies suggest three types of policy outcomes based on the way in which policy is decided. The first is most common. The second is least common because it relies on either an outright majority in both houses of parliament or else a very fractured and weak opposition. The third is increasingly common and is the only way by which irregular work contracts were re-regulated.

Policy consensus: deliberative councils

Regular workers ⇔

Irregular workers ↓

Policy conflict: tyranny of the majority on the right (left)

Regular workers ↓ (↑)

Irregular workers ↓ (↑)

¹In each case employers pushed for a big change. In some the regulations were changed but in a way that made the change meaningless.

Policy compromise: political negotiations

Regular workers ⇔

Irregular workers ↑

7.1.1 Has the ship sailed? Prospects for labor policy in Japan

I opened chapter one with a description of *Kani Kōsen*, the early 20th century proletarian novel about workers on a crab canning ship that became an unlikely best-seller in 2008. The story has a tragic ending. Workers revolt, kill their sadistic captain and soon thereafter are killed by the Imperial Navy. The *Kani Kōsen* boom itself swiftly came to an end, but its brief success is a demonstration of the new social salience of labor politics in Japan.² Things show no sign of slowing down.

The LDP crushed the DPJ in a lower house election at the end of 2012 and now has a two-thirds majority in that house. In July 2013 the LDP repeated its success and now has a majority in the upper house as well. Soon after Shinzō Abe began his second term as prime minister on Boxing Day 2012 the Council for Regulatory Reform (as the RRC was called when he was prime minister first time) came back online along with a host of other regulatory reform and economic policy bodies. In March 2013 one of prime minister's committees proposed revising contract termination rules. The Abe administration will try once again to introduce the monetary compensation mechanism whereby an employer can fire any worker and pay a cash settlement. Rengō of course opposes the changes but does not single out firing rules alone. Its recent campaign literature couches the dismissal rules changes in terms of growing inequality and and a general attack on workers as a whole: "Some politicians and economists say, 'Deregulate labor markets', 'the minimum wage isn't needed', 'Reduce government welfare'. We fear working conditions and employment will get much worse."³

My argument here predicts Rengō will try just this approach. When labor market policies are

²Google Trends puts the peak at June 2008. In January 2008 the term appeared 7% as often. In January 2010 was back down to 16% of the peak.

³From Rengō pamphlet "Stop social inequality! Raise the floor on livings standards now!" [*STOP THE kakusa shakai: ima koso, kurashi no sokoage o!*] Accessed from <http://www.jtuc-rengo.or.jp/roudou/seido/kiseikanwa/index.html>.

processed through political parties Rengō is no longer a formal policy participant. The only way it can influence the policy outcome is through formal policy participants in parliament: the parties of government and opposition parties. Nevertheless, the political situation today resembles that of the late 1990s. The LDP has a stable lock on both houses of parliament and the opposition is in disarray. The LDP has the tyranny of the majority and it is hard to imagine them doing anything that is so electorally costly the public would prefer the shambolic and broken DPJ instead. Without a credible opposition there simply is not a credible electoral threat.

7.2 Is Japan still Japanese?

I want to close with a re-examination of employers and labor unions in Japan. There are two dominant narratives of Japan in comparative political economy, two meanings of “Japanization of labor relations”. One regards Japanese capitalism and employers in particular as qualitatively different to employers in the Anglophone countries. Whether it is corporate paternalism or flexible rigidities or the development state, employers in Japan are supposed to value long-term employment relations and demand national regulations to facilitate worker retention, and that good social outcomes result. The other regards Japan as terrifying portent of things to come in other advanced capitalist countries—balkanized labor markets and servile enterprise unions who are either too co-opted or crippled to fight. Japan fits neither of these narratives very well today. While scholars and practitioners might long for or fear ‘Japanization’ at home, Japan itself is going through a process of ‘un-Japanization’.

7.3 What do employers want?

Miura summarizes management’s labor policy response during Japan’s two decades of economic stagnation: “Japanese employers began calling for labor market reform in the 1990s essentially for the purposes of labor cost reduction and effective use of the skilled and unskilled workforces. Such demands might appear universal...[however]...Japanese employers’ demands for reform departed from their previous management philosophies, which had prioritized long-term relationships over

short-term profits (?). Employment protection for regular workers was a cornerstone of the social contract produced by the class-class coalition that had emerged by the early 1960s. By the 1990s employers began to pursue neoliberal labor market reform, not least because the decline of the leftist labor movement allowed employers to abandon the ideology of cooperatism” (? , 158). In the midst of all this, though “...employers aggressively pursued reduction of labor costs, they did not publicly advocate the dismantling of employment protection. Rather, they continued to publicly commit to employment protection as an obligatory responsibility of employers. As long as the unions put a high priority on employment protection, employers seek other ways to reduce labor costs, as in fact they did in the realm of labor market flexibility, both internally and externally” (? , 159).

Jiyeoun Song’s analysis of employers’ labor position in the 1990s echoes Miura’s: “Although Japanese employers did not revoke their past commitments to permanent employment practices for core regular workers, they emphatically claimed that without labor market flexibility, Japanese firms would have no choice but to relocate production facilities overseas” (Song 2012 7). However, whether or not firms want to completely and unilaterally abrogate any responsibility to employees is not the question. Firms everywhere want to retain their most qualified and best trained workers, but retention of the core workforce does not say anything about the sort of national labor policies that are compatible with firms’ HR practices. In both Japan and the United States—where there is comparatively low labor contract regulation—some firms want and are able to retain workers for their entire career. In the 1990s Japanese employers pushed for a revision of the regulatory status quo regarding both regular and irregular workers, but this does not have to conflict with production regimes predicated on lifetime employment for some workers. As Robert Goldthorpe noted in 1984, dualistic labor markets might actually function best when there is close cooperation between core workers and management at the micro level with minimal national regulation (?). Indeed, it is notable that of the traditional pillars of Japanese labor management—seniority wages, lifetime employment and enterprise unions—only enterprise unions remain. Even in the heyday of cooperatism in the 1980s Japanese employers pushed for less national labor contract regulation and more firm level personnel discretion. And even champions of traditional Japanese labor man-

agement, such as Toyota, insisted on corporate paternalism to anchor their HR practices, rather than national regulations. Song's own (2010; dissertation) analysis of employer behavior in the 1990s stresses lock-in effects and path dependence.⁴ Firms (especially large manufacturers) made investments based on lifetime employment for core male workers and tried to deal with the lost 1990s decade in ways that would preserve these investments.

I am agnostic as to the reasons management stuck to the pillars of Japanese management in the 1980s. Maybe employers were ideologically committed to cooperative labor management practice before the 1990s and maybe not. Both explanations fit the facts: in the 1980s employers did not push for liberalization. In the 1990s and 2000s employers pushed for labor market liberalization. Of this much everyone is in agreement. My own conclusion here is that as far as things we can observe are concerned the above analysis shows that Japanese firms were always anti-regulation and wanted to control labor costs. That does not change, whatever the economic situation or policy forum. This is how we should interpret employer associations' desire for liberalizing all types of work contract. If employers could have gotten the liberalizations of the late 1990s and early 2000s back in the 1980s, all else equal, there is no reason to expect they would not have taken it. Nothing I can read from their observable behaviors about policy leads me to conclude they are ever pro-regulation. Employers' push to fire regular workers and hire irregular workers in the 1990s is the same. They wanted to control production inputs. Employers would not burn down a functioning factory just as they would not make skilled and productive workers walk the plank. But they still want the plank on deck. Why would they not?

7.4 What do unions want?

Writing at the beginning of the millennium Mari Miura declares flatly: "Needless to say, Rengō's priority is protecting the interest of its members" (? , 18). From Miura's perspective Rengō's policy positions are obviously insider-biased. Even when Rengō pays attention to non-union workers it is to benefit Rengō's membership. "Rengō was *forced* to defend the interest of atypical workers

⁴"Constrained by the institutional configurations of insider-friendly policymaking and policy implementation, a series of labor market and social protection reforms have further reinforced widening economic disparities between insiders and outsiders" (Song 2012 5).

in order to protect the interest of their affiliated members” (? , 18). Moeur and Kawanishi follow Miura’s direction into the future and predict disaster: “However, as it continues to serve that membership it is also alienating workers positioned elsewhere in the labor market. The shrinking size of that aristocracy and its privileged treatment will further isolate the union movement from mainstream Japanese, thereby reducing the likelihood that it will produce the economic leadership seen as being in short supply in present-day Japan” (? , 128).

Ikuo ? takes the same premise as Miura but reaches the opposite conclusion. He treats Japanese unions as self-interested organizations just like any other, but, borrowing from Mancur Olson, argues that at the firm level they are encompassing organizations so they have to internalize the costs of their behavior. From the Rengō’s birth onward the same is true in national labor policy because Rengō is the only large national labor confederation. It therefore has to take into consideration the interests of all workers, regardless of their membership in Rengō’s constituent unions.

Many of political economy’s deductive analytic frameworks assume a starting position similar to Miura and Kume. Unions can be delineated from other interest groups by their unique features, especially their ability to hold up production and their particular ideological commitments. Nevertheless, the assumption is widely (and productively) used that unions want to protect their members’ interests. However, even if workers have different policy preferences depending on their position in the labor market, *it is entirely unclear how those preferences are aggregated by collective actors*. Rengō’s policy positions are at least two degrees removed from individual workers because only federations of unions can join as Rengō members.

The shift cannot be explained in terms of union composition. Union membership generally and Rengō membership in particular is mainly regular workers. Perhaps Rengō’s members changed their preferences regarding the regulation of irregular work, but that seems unlikely. It makes more sense to attribute Rengō’s change to a change in Rengō’s strategies. This is what Miura argued in 2001, but the story evolved from there. Rengō’s exclusion from important policy making institutions (the RRCs) from the mid-1990s forced Rengō to re-engage with parliamentary politics, and that meant being more than just an organization concerned with core regular male employees of large firms. The biggest question to be answered in regard to Japan’s labor movement is whether or not

re-engagement with politics, something originally brought about by a change in the policy making institutions, will wind up changing the labor movement itself. In particular, will Rengō's newfound openness to irregular workers create enough unionized irregular workers that the organization's identity changes? This is exactly what happened to Rengō's largest member, UA ZENSEN, but it is perhaps an easier move for a general union to make than an industrial or enterprise union.

7.5 The Goldthorpe Dilemma: does corporatism kill itself?

Jin Igarashi, one of the sharpest analysts of Japanese labor politics, reflected on some of his predictions from the early 1990s in a recent book on labor policy. Igarashi disparages the view that Japan has ever been corporatist and ties the neoliberal trend to dualism:

I wrote [in 1994] "In the aftermath of the bubble economy, social and economic inequality will become social problems; in contemporary Japan the conclusion is ever more persuasive of a growing gap between organized and unorganized workers, between workers in large firms and small and medium sized firms, between male regular workers and female part time workers." I wrote eleven years ago that "In an analysis of labor unions and politics in Japan dualism is a more useful framework than neocorporatism," and events have only born this out...[Neoliberalism is] the penetration of market logic through deregulation, the revision of labor laws, the individualization of HR and worker treatment and the move away from group labor management relations to individual management...As the intensification of the "neoliberal offensive" and "dualism" continues it is commonly accepted now that the expansion of inequality and poverty cannot be stopped. (? , 30).

Igarashi points out what I call the Goldthorpe Dilemma: how does the labor movement in corporatist countries respond to economic stagnation in a way that does not ultimately undermine the solidarity upon which corporatism is predicated? Labor's policy accommodations from the 1970s onward in many countries preserved corporatist structures in the short term by introducing dualism, which has the potential to displace corporatism in the long term. Unions accepted the introduction

of a peripheral workforce to preserve core employment, but that simultaneously breaks working class solidarity and creates the mechanism by which employers can replace unionized workers. The result as Goldthrope put it, "...is the progressive 'Japanization' of the economy...extensive dualism alongside the growing involvement of...the primary work-force in various forms of 'micro-corporatism' at the level of plants and enterprises" (? , 340).

In this thesis I examined the labor policy process in Japan with a particular focus on how actors and institutions shape the regulations that govern irregular work contracts. Until the end of the 1980s Japan's labor movement was divided by ideology and sector. Public sector unions rejected policy participation in favor of political campaigns. Private sector unions embraced cooperation and deliberation with employers. In the 1980s public unions were broken by privatization and budget retrenchment, and were eventually folded into a single national confederation, Rengō. The new single confederation actively sought national policy participation through which to secure its members' economic position. However, grand policy cooperation was short lived.

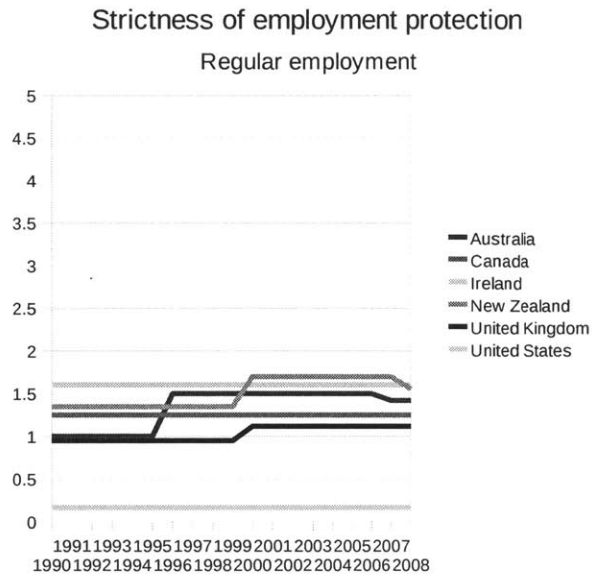
Igarashi's argument is that once the threat of militant unions was removed employers no longer needed to participate in concertation to achieve their policy goals (?). Instead, they pushed neoliberal labor market reform which is compatible with Japan's micro-corporatism.⁵ In this thesis I argued that employers have not actually changed their behavior in regard to labor policy. They always pushed for less regulation. Rather, a change in policy making institutions, which had nothing to do with labor market reform, permitted employers to get labor market reforms without needing consent from labor unions.

After labor was excluded from national policy making in the mid-late 1990s it reversed course and reoriented itself to a broad working class movement. This can be seen in their approach to the regulation and employment of irregular workers who make up only a tiny fraction of organized workers. In contrast to the expectation by ?, 339 that "...to the extent...dualist tendencies prevail, it must be questionable if such measures will be on the political agenda at all," labor market regulation is now a central political issue in Japan.

⁵I think Steven ?'s argument plays out the same: the core shrinks and firms get to pick who they keep. Vogel, however, makes firms sound heroic rather than exploitative.

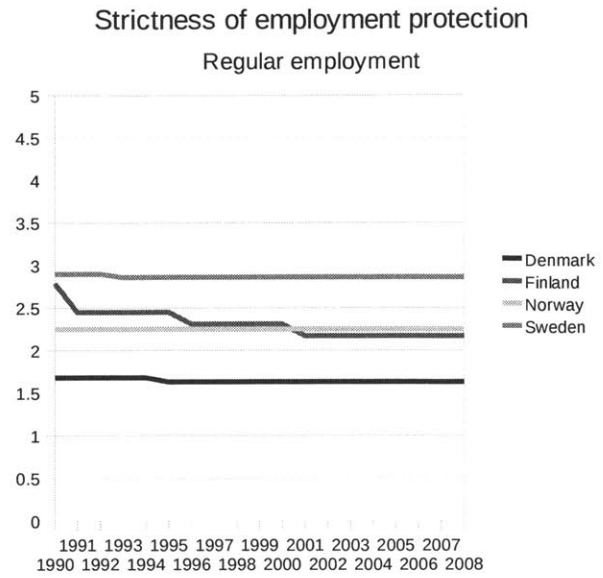
Labor's exclusion from policy making surely played a role in its wider embrace of working class objectives. So too must have been the growth of the peripheral workforce and the politicization of Japan's high poverty rates, but secular trends alone are not a causal explanation. Japan's labor movement chose to adapt, and in the process turned from an adversary to and advocate of irregular workers. The labor movement's reaction was not simply the bounce-back from a "double movement" in politics (?). If anything, recent developments in Japanese labor politics ask us to examine more closely the freedom of actors to choose even within institutional constraints.

Appendix



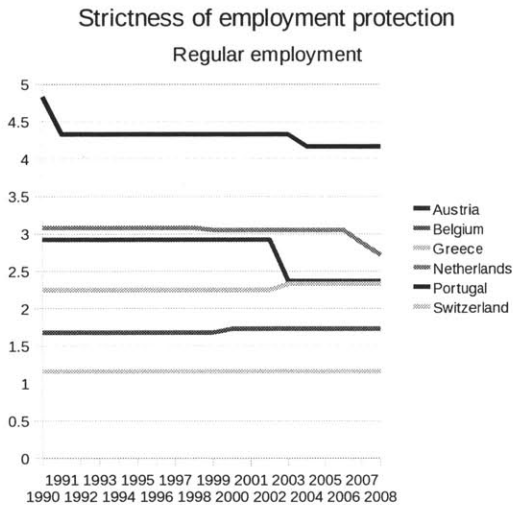
Source: OECD.Stat.

Figure 7.1: Regular worker EPL



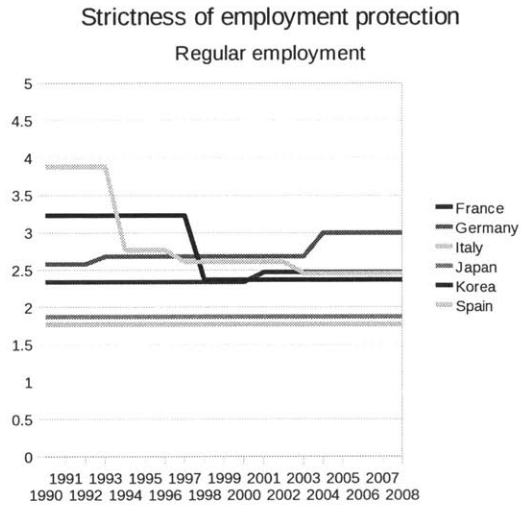
Source: OECD.Stat.

Figure 7.2: Regular worker EPL



Source: OECD.Stat.

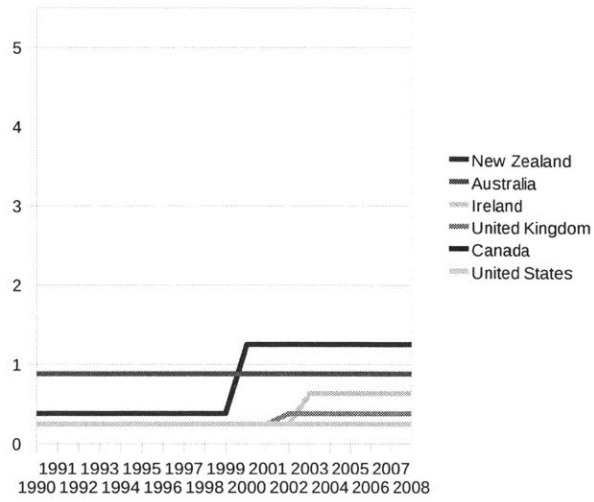
Figure 7.3: Regular worker EPL



Source: OECD.Stat.

Figure 7.4: Regular worker EPL

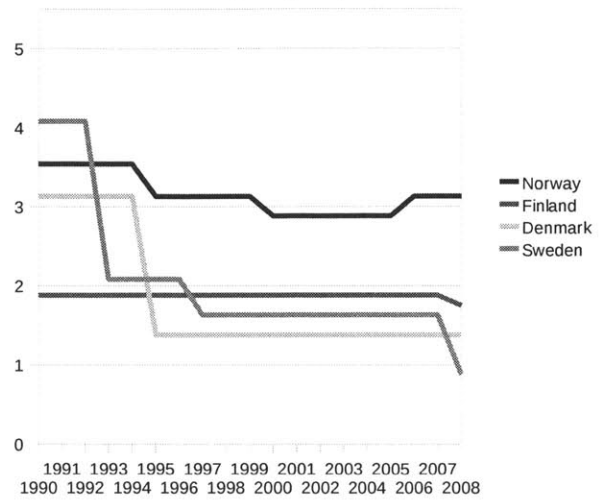
Strictness of employment protection
Temporary employment



Source: OECD.Stat.

Figure 7.5: Temp worker EPL

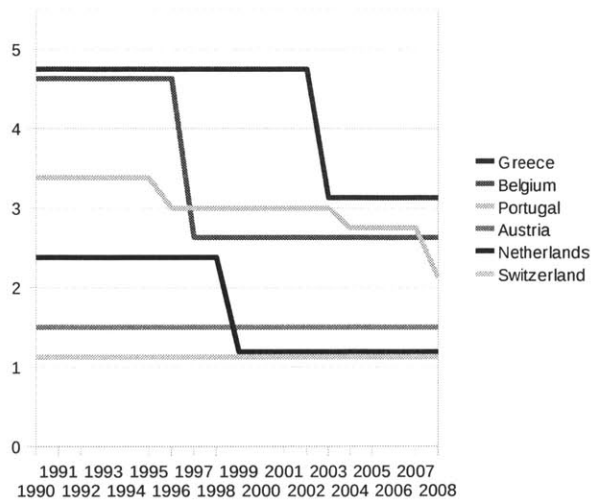
Strictness of employment protection
Temporary employment



Source: OECD.Stat.

Figure 7.6: Temp worker EPL

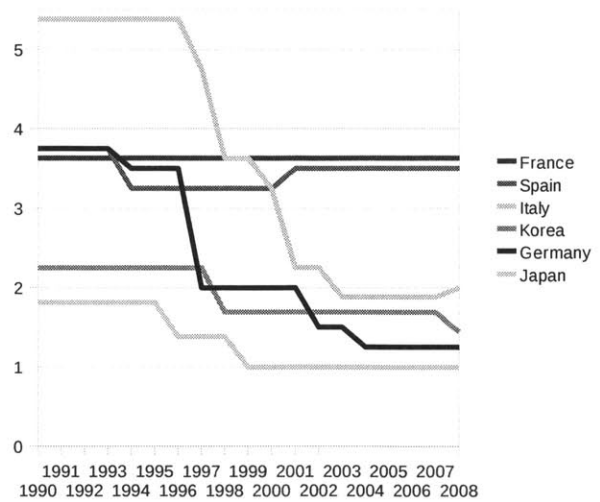
Strictness of employment protection
Temporary employment



Source: OECD.Stat.

Figure 7.7: Temp worker EPL

Strictness of employment protection
Temporary employment



Source: OECD.Stat.

Figure 7.8: Temp worker EPL

Table 7.1: Poverty and poverty reduction in OECD countries

Country	Unionization rate	Before taxes	after taxes	Total reduction in poverty	Percent reduction in poverty
Japan	18.8	20.8	14.9	5.9	28.4
United States	12.0	23.9	17.1	6.8	28.5
Spain	15.0	21.0	14.1	6.9	32.9
Greece	24.6	19.6	12.6	7.0	35.7
Germany	21.6	17.2	11.0	6.2	36.0
Ireland	34.1	23.3	14.8	8.5	36.5
Portugal	21.2	20.7	12.9	7.8	37.7
Canada	27.7	18.8	11.7	7.1	37.8
Australia	22.1	20.3	12.4	7.9	38.9
Italy	33.6	19.7	11.4	8.3	42.1
Switzerland	19.4	15.2	8.7	6.5	42.8
Norway	54.9	12.4	6.8	5.6	45.2
Belgium	52.9	16.2	8.8	7.4	45.7
United Kingdom	28.4	15.5	8.3	7.2	46.5
Netherlands	21.0	14.4	7.7	6.7	46.5
France	7.8	14.1	7.1	7.0	49.6
Finland	72.4	14.8	7.3	7.5	50.7
Austria	33.6	13.4	6.6	6.8	50.7
New Zealand	21.0	22.7	10.8	11.9	52.4
Sweden	76.5	11.4	5.3	6.1	53.5
Denmark	71.7	12.3	5.3	7.0	56.9

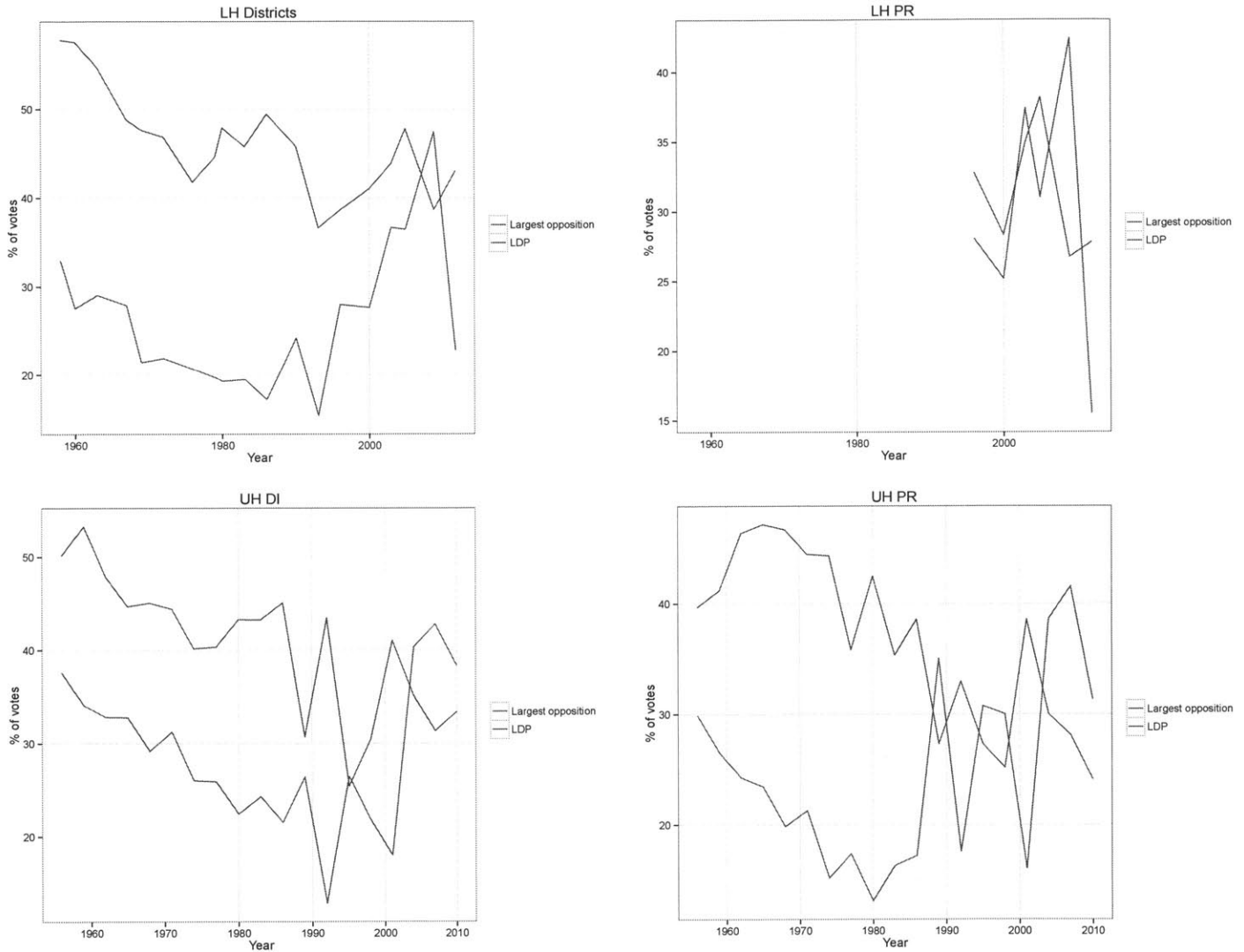
Unionization rates in 2005, relative poverty at 60% of median income before and after taxes and transfers, the absolute reduction in total poverty, and the percent reduction in poverty. Countries ordered by percent reduction. Source: OECD.stat.

Table 7.2: 6th Central Labor Policy Deliberative Council Members

Public interest		
Yoshimaru Aizawa	Kisato University	Managing director
Kōichirō Imano★	Gakushūin University	Professor of economics
Masahiko Iwamura	Tokyo University	Professor of politics
Isao Ōhashi	Chūō University	Professor of business
Etsuko Katsu	Meiji University	University vice president
Reiko Kosugi	JILPT	Researcher
Yasuo Suwa	Hōsei University	Professor of policy
Atsushi Seike	Keiō University	University president
Noriko Hayashi		Lawyer
Michiko Miyamoto	Open University	Liberal arts professor
Labor		
Kiyoshi Ochiai	UI Zensen	Chairman
Tomoyasu Katō	ICTJ	Central executive committee chairman
Rikio Kōzu	JBU	Central executive committee chairman
Chiaki Saitō	JIEU	Executive committee member
Eri Shioya	MSIU	Secretary General
Mutsuko Takahashi	Rengō	Assistant Secretary General
Hiroyuki Nagumo	Rengō	Secretary General
Kōichirō Nishihara	JAW	Chairman
Shōichi Hachino	JSD	Chairman
Yukio Manaka	JAM	Chairman
Management		
Haruna Okada	Benesse Corporation	Board member
Hiroyasu Kawamoto	Nippon-Keidanren	Managing director
Ine Kikkawa	Kikko	Chairman
Seiichi Sakato	NSBA	Vice-chairman
Kazuhisa Shinoda	Oji Paper Co.	Chairman of the board
Mitsuko Tsuchiya	AEON Fantasy Co.	President
Mitsunori Torihara	Tokyo Gas	Chairman of the board
Satoshi Miura	NTT	Chairman of the board
Kōji Miyahara	Japan Post	Chairman of the board
Yoshihide Watanabe	Osaki Electric Co.	Chairman of the board

6th Council began 1 July 2012. Appointments for two years. ★ = Council chairperson.

Figure 7.9: Vote share of two largest parties, 1956-2012

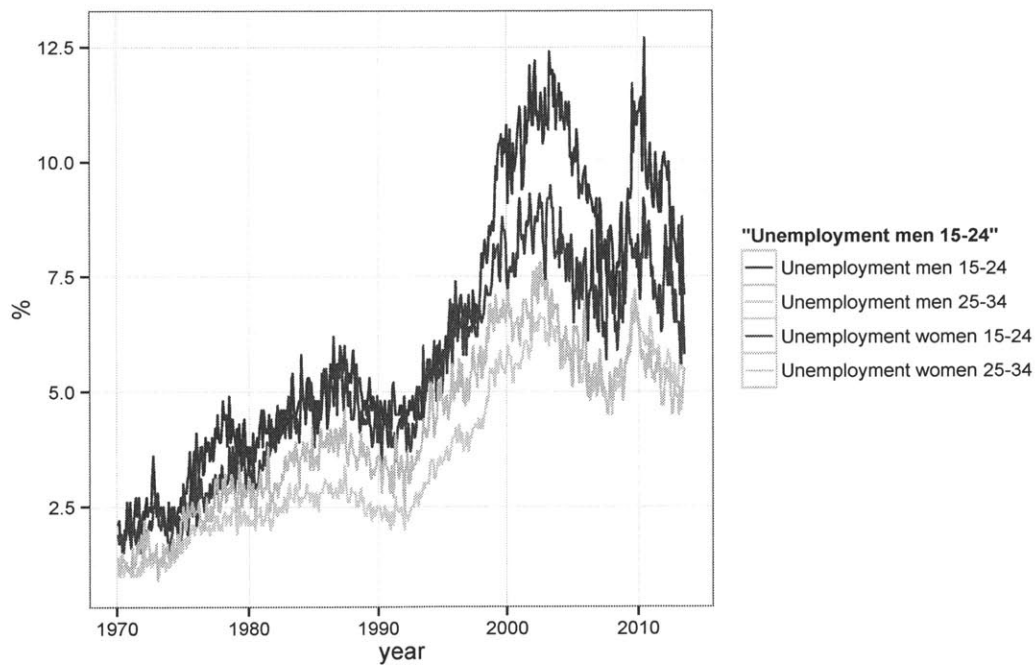
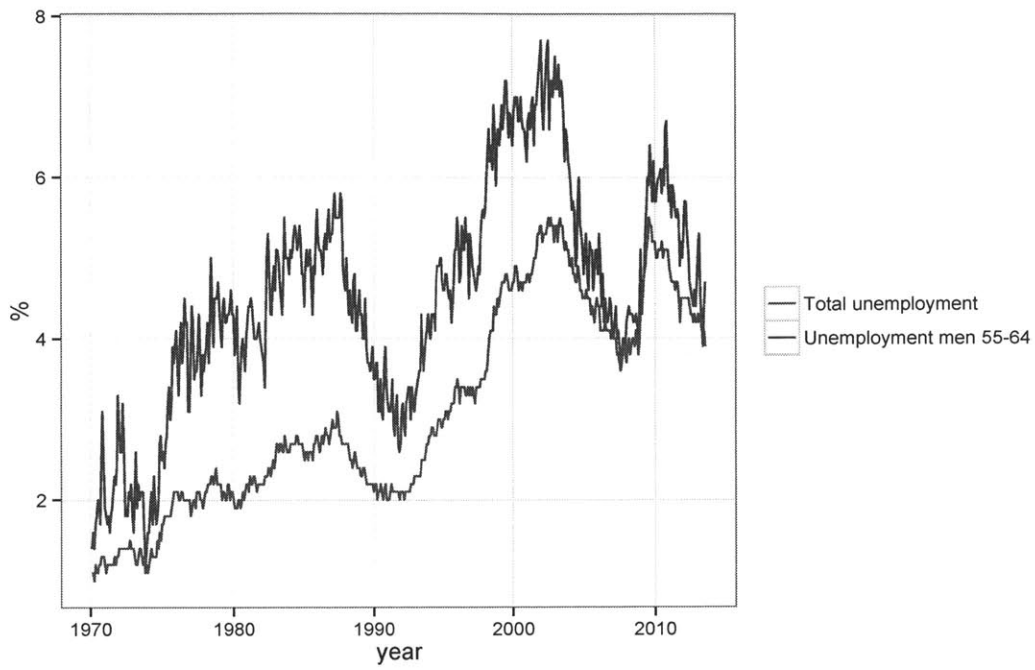


Note: LHDI = lower house multi-member district ballot before 1996 and single member districts from 1996 on. LHPR = lower house proportional representation ballot introduced in 1996. “district” refers to the prefectural districts. UHDI = upper house prefectural district ballot. UHPR = upper house proportional representation ballot. LDP = share of valid votes for LDP candidates in each election. Coalition members not included. Largest opposition = opposition party with the largest vote share. 1958-1992: Japan Socialist Party (JSP); 1995-1996: New Frontier Party (NDP); 1998-2012: Democratic Party of Japan (DPJ). In 2010 (UH) and 2012 (LH) the LDP was the largest opposition party and DPJ was in government but this was elided to better present the data. Source: Asahi Shinbun, selected years.

Table 7.3: Chronology of coalition governments

- Aug 1993
 - LDP government; LDP control of UH with support from DSP and Komei
- Aug 1993 - Jun 1994
 - Non-LDP non-JCP seven party coalition government; coalition control of UH
- Jun 1994 - Jan 1996
 - JSP-lead coalition government with LDP and Sakigake; coalition control of UH
- Jan 1996 - Nov 1996
 - LDP-lead coalition government with JSP/DSPJ and Sakigake; coalition control of UH
- Nov 1996 - Jun 1998
 - LDP government w/ support from DSPJ and Sakigake; LDP control of UH with support from DSPJ and Sakigake (LDP has majority in LH from Sep 1997)
- Jun 1998 - Jan 1999
 - LDP government; no stable majority in UH
- Jan 1999 - Oct 1999
 - LDP-lead coalition government with LP; coalition control of UH
- Oct 1999 - Nov 2003
 - LDP-led coalition government with NCP and Komei (LP leaves Jan 2000; NCP joins Apr 2000); coalition control of UH
- Nov 2003 - Jul 2007
 - LDP-lead coalition government with Komei; coalition control of UH
- Jul 2007 - Sept 2009
 - LDP-lead coalition government with Komei; DPJ control of UH
- Sept 2009 - Jul 2010
 - DPJ-lead coalition government with SDPJ and PNP (SDPJ leaves May 2010); coalition control of UH
- Jul 2010 - Dec 2012
 - DPJ-lead coalition government with PNP; LDP control of UH

Figure 7.10: Unemployment rate for selected age and gender groups



Note: Seasonally adjusted monthly unemployment rate.

Source: Labour Force Survey, Ministry of Internal Affairs and Communications of Japan.

Table 7.4: List of Regulatory Reform Committees

Year	Name	Chair	Cabinet
1993	Economic Reform Study Group	Hiraiwa	Hosokawa
1995	Deregulation Subcommittee	Miyauchi	Murayama
1996-1998	Deregulation Subcommittee of the Administrative Reform Committee	Miyauchi	Hashimoto
1998-2001	Deregulation Committee of the Administrative Reform Promotion Taskforce	Miyauchi	Obuchi; Mori
2001-2004	Deregulation Committee of the Council for the Promotion of Administrative Reform	Miyauchi	Koizumi
2004-2007	Council for Regulatory Reform and the Promotion of Privatization	Miyauchi	Koizumi; Abe
2007-2010	Council for Regulatory Reform	Kusakari	Fukuda; Aso

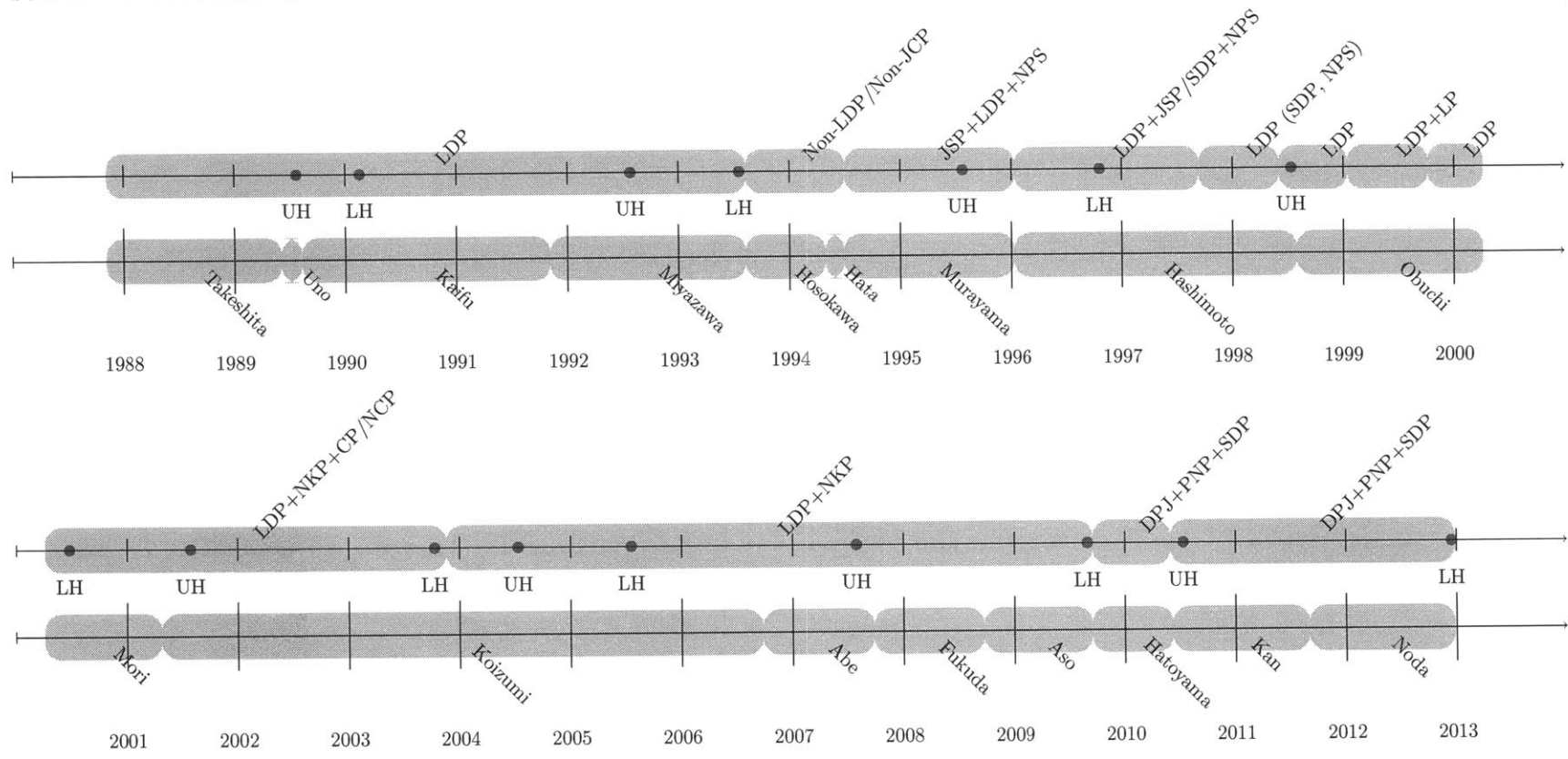
Note: Hiraiwa = Gaishi Hiraiwa; Miyauchi = Yoshihiko Miyauchi; Kusairi = Takao Kusari. The DPJ government set up its Government Revitalization Unit in September 2009 under which was established the Regulatory and Organizational Reform Subcommittee to take over the mandate of the last RRC. In 2013 the Abe administration restarted the Council for Regulatory Reform.

Table 7.5: List of prime ministers

Prime Minister	Dates in office		Party
Zenkō Suzuki	17 July 1980	27 Nov 1982	LDP
Yasuhiro Nakasone	27 Nov 1982	6 Nov 1987	LDP
Noboru Takeshita	6 Nov 1987	3 June 1989	LDP
Sōsuke Uno	3 June 1989	10 Aug 1989	LDP
Toshiki Kaifu	10 Aug 1989	5 Nov 1991	LDP
Kiichi Miyazawa	5 Nov 1991	9 Aug 1993	LDP
Morihiro Hosokawa	9 Aug 1993	28 April 1994	JNP
Tsutomu Hata	28 April 1994	30 June 1994	JRP
Tomiichi Murayama	30 June 1994	11 Jan 1996	JSP
Ryūtarō Hashimoto	11 Jan 1996	30 July 1998	LDP
Keizō Obuchi	30 July 1998	5 April 2000	LDP
Yoshirō Mori	5 April 2000	26 April 2001	LDP
Jun'ichirō Koizumi	26 April 2001	26 Sept 2006	LDP
Shinzō Abe	26 Sept 2006	26 Sept 2007	LDP
Yasuo Fukuda	26 Sept 2007	24 Sept 2008	LDP
Tarō Aso	24 Sept 2008	16 Sept 2009	LDP
Yukio Hatoyama	16 Sept 2009	8 June 2010	DPJ
Naoto Kan	8 June 2010	2 Sept 2011	DPJ
Yoshihiko Noda	2 Sept 2011	26 Dec 2012	DPJ

Figure 7.11: Chronology of cabinets, coalitions and elections

Top line shows parties in the government/governing coalition
 bottom line shows cabinets



Note: LH: Lower House election; UH: Upper House election (every 3rd July)

+ : party in governing coalition; () : outside government but with parliamentary support

LDP: Liberal Democratic Party; JCP: Japan Communist Party; Non-LDP/Non-JCP: JSP, JRP, KP, JNP, NPS, SDF, DRP; DRP: Democratic Reform Party; JNP: Japan New Party; JRP: Japan Renewal Party; JSP: Japan Socialist Party (becomes SDP); KP: Komei Party (becomes NKP); NPS: New Party Sakigake; SDF: Socialist Democratic Federation SDP: Social Democratic Party; LP: Liberal Party; NKP: New Komei Party; CP/NCP: Conservative Party / New Conservative Party; DPJ: Democratic Party of Japan; PNP: People's New Party