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The situation of non-regular public employees in Japan

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Sectoral
Policies
Department

The Situation of Non-regular Public Employees in Local Government in Japan: focus on Gender

Yoji Kanbayashi

*Working papers are preliminary documents circulated to stimulate
discussion and obtain comments*

International Labour Office
Geneva

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List of Acronyms

CEACR	ILO's Committee of Experts on the Application of Conventions and Recommendations
EEC	European Economic Community
ILC	International Labour Conference
JICHIRO	All-Japan Prefectural and Municipal Workers Union
MIAC	Ministry of Internal Affairs and Communications
OECD	Organization for Economic Co-operation and Development

Preface

One of the complex challenges associated with the employment relationship is to improve the working conditions of non-standard workers, whose numbers have grown significantly through different uses of contractual arrangements, and who are considered more vulnerable in labour markets than those who are in standard work arrangements. The Sectoral Policies Department (SECTOR) is pleased to present a series of country studies on non-standard work in the public service, as part of its strategy to advance the study of changing employment relations. Drawing on the Conclusions of the Recurrent Discussions on Fundamental Principles and Rights at Work adopted by the ILC in 2012, SECTOR has compiled examples from various regions on trends in non-standard work arrangements, to increase understanding of their impact on Decent Work objectives and identify solutions as appropriate.

As a result of the most recent developments in budget constraints due to public service reform and changes in human resource management in public administrations, a growing number of tasks have been performed through non-standard working arrangements. The ILO's Committee of Experts on the Application of Conventions and Recommendations, in its 2013 General Survey on Conventions No. 151 and 154, expressed concerns regarding trends in labour relations in the public service, like the extension of contracts ruled by private sector labour law; the admission of temporary public servants, agency workers, or regular workers on a non-permanent recurrent basis or working part-time; and the use of civil or administrative contracts to provide services specific to public administration. The Committee warned of potentially negative repercussions for the independence of public servants and for compliance with constitutional requirements for the recruitment of civil servants.

In response to the General Survey, the Committee of Application of Standards of the 102nd International Labour Conference (2013) underscored that collective bargaining in the public service can maximize the impact of the response to the needs of the real economy, particularly during times of economic crisis, and contribute to just and equitable working conditions, harmonious relations at the workplace and social peace. It can ensure an efficient public administration by facilitating adaptation to economic and technological changes, and the needs of administrative management. The Committee encouraged the Office to provide support for capacity-building and assistance mechanisms to promote the ratification and full implementation of Conventions Nos. 151 and 154.

This series seeks to shed light on this phenomenon and strengthen the understanding of collective bargaining in challenging situations. We hope that the ILO's staff and constituents will find it useful in devising future policy initiatives.

Alette van Leur
Director
Sectoral Policies Department

Scope of the study

Non-regular public employees in the local governments are increasing rapidly in Japan. According to statistics from the Ministry of Internal Affairs and Communications (MIAC) (2012b), there were 603,582 non-regular public employees as of April 1, 2012, compared to 455,840 from their 2005 survey or an increase of 147,742 (32%) over seven years. Out of that more recent figure, 448,742 (74.2%) were women.

In Japan, the principle of equal pay for men and women is enshrined in Article 4 of the Labour Standards Act of 1947 (revised in 2008). However, the wage gap between men and women persists to this day. While direct discrimination in treatment between men and women is the norm, there is also indirect discrimination in which either men or women suffer de facto disadvantages in spite of apparent gender-neutral treatment. Typical examples of such indirect discrimination include different career tracks for management positions (“*sougoushoku*”) and support and administrative positions (“*ippanshoku*”), a distinction between male jobs and female jobs, and a gap based on the difference of employment status such as full-time and open-ended regular workers and part-time and fixed-term non-regular workers.

This paper will first shed light on this form of indirect discrimination of a gender-based pay gap which is disguised in the difference of employment status. Second, it will look at the situation in Japan where non-regular employment has been increasing in the public service, and analyse whether or not the working environment for non-regular public employees meets the standards of decent work or is consistent with the principle of equal pay for work of equal value. Third, the paper will examine how relevant labour laws and regulations apply to non-regular public employees and reveal the fact that effective legal measures have not been taken for these employees, leaving them “in the valley of the legal system” or in a legal vacuum. The paper will also look at how these employees are organised and their ability to engage in social dialogue following an analysis of their right to organise and to bargain collectively, which are closely related to the coverage of labour-related laws to these employees.

The focus of this paper is limited to the situations regarding local public employees given that they represent a large segment of public employees and the relevant data are available from All-Japan Prefectural and Municipal Workers Union (JICHIRO, 2012b). As of April 1, 2012, there were 1,727 local governments (prefectures, designated cities and municipalities) in Japan. The analysis of the particular case of Machida City Libraries in Tokyo will help highlight the causes of the pay gap that the statistics suggest.

Equal pay for work of equal value

The ILO Equal Remuneration Convention, 1951 (No. 100) came into force in 1953¹. Many other relevant international standards were also adopted shortly thereafter. For example, the Treaty of Rome establishing the European Economic Community (EEC)² of 1957 incorporated the principle of equal remuneration for equal work (Art. 119). Various countries have also adopted similar provisions in their laws.

Japan is among the countries where a large wage gap exists between men and women. Various international organisations have pointed out that among the causes of this gap is indirect discriminatory personnel management practices which deviate from the principle of equal pay for work of equal value. An April 2012 Organisation for Economic Cooperation and Development (OECD) report, “Policies for a Revitalisation of Japan”, indicates, for example, that:

Gender pay differences in Japan are the second largest in the OECD. . . . [W]omen are less likely to be in regular employment and thus account for 70% of the relatively low- paid non-regular workers. When in regular jobs, women often end up in support and administrative positions (*‘ippanshoku’*), rather than career tracks for management positions (*‘sougoushoku’*). A glass ceiling seems to block women’s advancement to senior management positions. (OECD, 2012, pp. 18-19)

Prior to this OECD report, the ILO’s Committee of Experts on the Application of Conventions and Recommendations (CEACR) had in March 2008 strongly criticized the situation of indirect discrimination in Japan:

The Committee wishes to emphasize that the principle of equal remuneration for men and women for work of equal value necessarily implies a comparison of the jobs or work performed by men and women on the basis of objective factors such as skills, effort, responsibility, or working conditions. . . . The Committee therefore asks the Government to take steps to amend the legislation to provide for the principle of equal remuneration for men and women for work of equal value. (CEACR, 2008).

¹ Japan ratified ILO Convention No. 100 in 1967.

² The Treaty of Amsterdam which amended Article 119 which became Article 141, explicitly refers to the principle of equal pay for male and female workers for equal work or work of equal value. The principle is now reflected in Article 157 of the 2009 Treaty on the Functioning of the European Union.

The Concluding Observations by the UN Committee on the Elimination of Discrimination against Women in August 2009 also expressed concerns about the existence of gender pay gaps in Japan caused by “the significant vertical and horizontal occupational segregation between women and men” (CEDAW, 2009) as reflected in different types of jobs and a track-based employment management system. It urged the Government to strengthen its efforts to accelerate the realization of women’s de facto equality with men in the labour market through, inter alia, taking temporary special measures in accordance with Article 4, paragraph 1 of the UN Convention on the Elimination of All Forms of Discrimination against Women³, and to take concrete measures to eliminate both vertical and horizontal occupational segregation through education, training and effective enforcement and monitoring mechanisms and putting in place monitoring mechanisms to regularly assess progress

Concerning the gender pay gap in Japan, the average pay level of full-time female workers is 70.6% (or approximately two-thirds) of that of full-time male workers, according to the 2012 Basic Survey on Wage Structure. This gap was mainly attributed to the differences in their average lengths of service or the ratios of managers between men and women, according to the analysis of the Ministry of Health, Labour and Welfare (2012b). However, as will be noted later, the gender pay gap due to the difference of employment status is far larger than the one-third indicated above between men and women full-time workers. And about 70% of non-regular workers, such as dispatched workers (temporary agency workers) and part-time workers, are women. Various international organisations have identified this wage gap as indirect discrimination disguised in the form of differences in employment status.

It is said that the gender-based pay gap is narrower in the public service than in the private sector. According to the most recent available data, the pay level of female full-time and open-ended (“regular”) public employees is 86.2% of that of male regular public employees. This gap is smaller than that for full-time workers in the private sector. However, the argument that the gender-based pay gap is relatively small in the Japanese public service overlooks the indirect discrimination of gender-based pay gap, as it only looks at the regular public employees and

³ Article 4.1 reads as follows:

“Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.”

disregards the differences based on employment status between regular and non-regular public employees.

Key messages

There has been a significant growth in the number of non-regular employees in the local public services, registering an increase of about 150,000 (32%) during the 7 years from 2005 to 2012, and now one out of three local public employees is a non-regular employee.

Among the increasing non-regular public employees, three-fourth of them are female, which means that one-fourth of the total local public employees (regular + non-regular) are non-regular female public employees.

As to pay levels, the annual earnings of non-regular public employees are from a quarter to a third less than that of regular employees, a significant gap.

The pay gap is associated more with employment status (whether one is regular or non-regular) than with gender. While the gender-based pay gap among full-time regular employees is bigger in the local public service than in the private sector, the gap between regular and non-regular employees is bigger in the local public service than in the private sector.

According to a job evaluation survey, the pay gap between regular and non-regular employees is larger than the difference in the value of their work. This pay gap is not justified, since it is based solely on the difference of employment status between regular and non-regular employment.

A sizable pay gap exists between female non-regular public employees and (female?) regular public employees. There is indirect gender pay discrimination in the local public services, related to regular and non-regular employment status.

Non-regular public employees fall into a legal vacuum, as they are not covered by any particular law. Their rights as workers are neglected and no remedies are available to them, leading to the conclusion that “they are left in the valley of the legal system”.

Furthermore, in order to prevent such employees from accruing the right to continued employment, local governments are increasingly limiting repeated renewals of fixed-term employment contracts.

Unionisation of non-regular employees in the public service has been difficult and such efforts have not caught up with the pace of the increase in their numbers.

About the Author

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Increase of non-regular public employees in the local public service: one out of three is in non-regular employment

Current situation as reflected in the statistics

As of April 1, 2012, non-regular public employees outnumbered regular public employees in 43 municipalities, representing about 2.5% of all local governments. In Chikuhoku village in Nagano Prefecture, for example, there were 108 regular public employees and 229 non-regular public employees: a non-regular employment rate⁴ of 68 per cent. In other words, two out of each three public employees in that village were non-regular. Given that, according to Ministry of Internal Affairs and Communications statistics, there were only 17 local governments in which non-regular public employees outnumbered regular public employees in 2008, the replacement of regular public employees by non-regular public employees in the local governments has been very rapid.

According to a 1 June 2012 survey by the All-Japan Prefectural and Municipal Workers Union (JICHIRO) (2012b), the largest public employees union in Japan with a membership of about 820,000 as of June 2012, non-regular employees had increased by 100,000 to an estimated 700,000 as compared with the comparable survey conducted in 2008. The survey indicated that one out of three workers in the local public services was a non-regular employee.

The difference in figures is explained by the fact that JICHIRO's survey mainly covered the general administration sector in local governments and the accounting sector of public enterprises, where the total number of regular local public employees in both sectors as of 1 April 2012 was 1,279,216, (MIAC, 2012a) and therefore the percentage of non-regular public employees in both sectors was about 35 %. We may therefore say that their conclusion t about "one out of three" is appropriate.

⁴ The "non-regular employment rate" can be represented as $a/(a + b)$, where a is the number of non-regular public employees and b is the number of regular-public employees.

In the private sector, the average number of non-regular workers was 16.24 million in April - June 2005 and 17.75 million in April - June 2012, an increase of 1.51 million or approximately 9% over seven years (Ministry of Internal Affairs and Communications, 2013). In comparison, local public services over the same period replaced regular employees with non-regular employees at a pace 3.5 times faster than the private sector. The proportion of non-regular workers in the private sector was on average 34.5 per cent, or one of three, during the months of April to June 2012, meaning that the rate of on-regular employment in the local public services has almost reached that of the private sector. Furthermore, the proportion of female workers among the non-regular workers is higher in the local public services than in the private sector: out of 17.75 million non-regular workers in the private sector, 12.21 million, or 68.8 per cent of the total, are female, which is less than the 74.2 per cent cited above for the local governments.

Replacement of regular public employees by non-regular public employees

The Ministry of Internal Affairs and Communications has so far conducted surveys on temporary and part-time employees three times (in 2005, 2008 and 2012). According to the Ministry's 2005 survey, there were 455,840 temporary and part-time employees in local governments throughout Japan, which increased by 43,462 (9.5%) to 499,302 in 2008. The 2012 survey showed an even faster growth of these employees by 104,280 to 603,582, or an increase of 20.9 per cent from 2008. From 2008 to 2012, the number of regular public employees decreased by 273,209, while that of non-regular public employees increased by 147,742, meaning that 54 per cent of formerly full-time employees were replaced by non-regular workers.

Among job categories, 1.36 times more teachers/lecturers and 1.2 times more child care workers were hired under non-standard employment contracts than the number of regular employees who left the service. This was because, in these job categories, in addition to the replacement of regular employment by non-regular employment, more non-regular public employees were employed in order to meet the increased demand for these public services (due to factors such as increases in numbers of both teaching hours and in smaller-sized classes as well as a shortage of child care centres).

The gap between the decreased number of regular public employees and the increased number of non-regular employees was 125,467, meaning that not all the posts vacated by regular public employees were filled by non-regular employees. Those posts in which departing employees were not replaced include field workers (net decrease of 65,281), technical personnel

(net decrease of 34,022) and school cooks (net decrease of 19,928), among others. The total net decrease in these three job categories was 119,231, which is almost equal to the figure mentioned above (125,467). These three job categories belong to the areas where either privatisation or outsourcing to the private sector had been promoted: therefore, the replacement of regular with non-regular employment and privatisation occurred concurrently as the two sides of the same coin.

Table 1. Numbers and rates of increase/decrease in regular/non-regular employees in local public services (by job category) for 2005-12

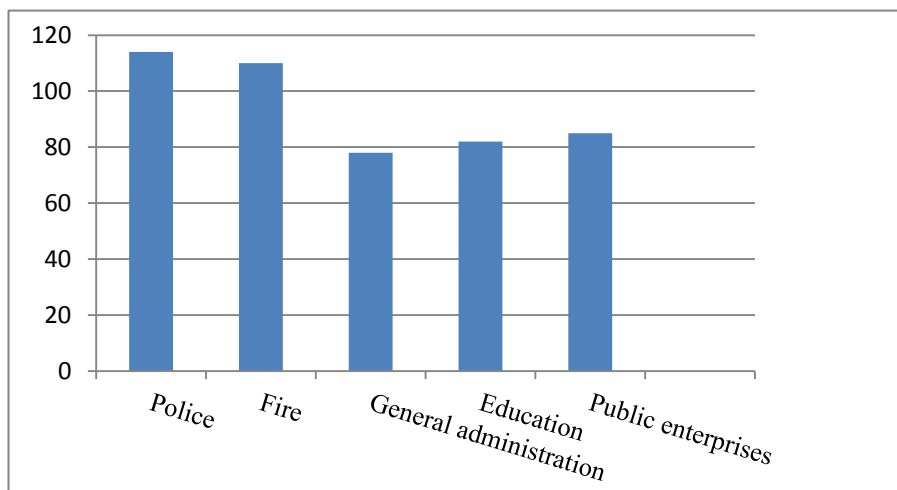
Job category	Increase/ decrease of regular employees		Increase/decrease of non-regular employees		Ratio of change, regular to non-regular (b/a)
	2005-2012 (a)	Rate of change	2005-2012 (b)	Rate of change	
General clerical worker	-85,820	-10%	37,247	33%	0.43
Technical worker	-35,730	-14%	1,708	24%	0.05
Medical doctor	-3,579	-12%	-1,212	-12%	—
Medical technician	-7,702	-13%	3,753	52%	0.49
Nurse	-15,016	-8%	4,635	22%	0.31
Child care worker	-19,879	-17%	23,848	30%	1.20
School cook	-23,909	-42%	3,981	11%	0.17
Public field worker	-66,609	-37%	1,328	2%	0.02
Teacher/lecturer	-23,809	-3%	32,407	70%	1.36
Others	8,844	2%	40,047	51%	—
Total	-273,209	-9%	147,742	32%	0.54

Source: Compiled by the author from the statistics on all local governments in Ministry of Internal Affairs and Communications, Annual Survey on Temporary/Part-time Employees (2005, 2012).

Factors for the increase in non-regular public employees in the local public service

There are three factors contributing to the increase in non-regular employment in the local public services.

The first is a sharp decrease of regular employees in local governments. The number of regular public employees in local public services peaked at 3,282,492 in 1994. According to the most recent data of 2012, the number has decreased by 513,579 or 15.6% to 2,768,913. However, this change varied among service areas, as the following figure shows. Between 1994



and 2012, there was an increase for the police (11.4%) and fire (10%), while there was a decrease for the general administration (-22%), education (-18%) and public enterprises (-15%).

Figure 1. Change in regular employment, per sector, 1994-2012 (1994=100)

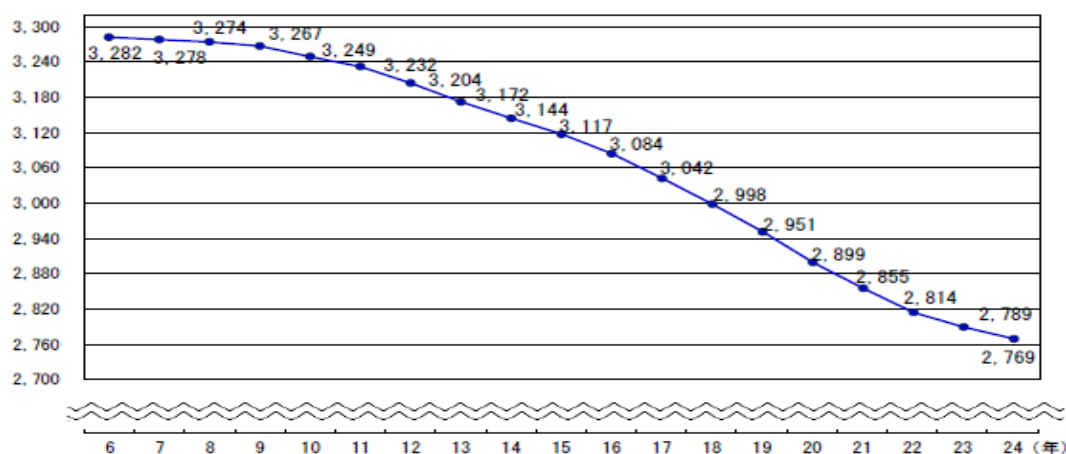
Source: Ministry of Internal Affairs and Communications, Survey on staff size Management of Local Governments 2012, (April 1, 2012).

The second factor is the intensifying fiscal deficit in the local governments. During the long-term economic recession, the so-called “lost two decades”, which started in the 1990s, local finance was mobilized to boost the economy; however, that increased local governments’ debts, which could not be paid off amid the tax income decrease due to the recession. All of these factors forced local governments to depend on borrowings for their fiscal management. Along with the economic downturn and progression in population aging, social security expenditure, including income support costs, has rapidly expanded. Under a situation where general revenue, such as from local tax and grants from the central government, hardly grew and was even expected to decrease, local governments, in order to cover their increasing costs of public debt and social security, have resorted to payroll reductions, including through the replacement of regular employees with less-costly non-regular workers.

And yet demand for administrative services has been increasing since the 1990s. Income support recipients have increased, which eventually increases demand for job-assistance services to promote their economic self-reliance. Households that experienced income drops during the economic downturn need to send more family members to work, which increases demand for such administrative services as job creation and employment counselling. An

increase of double-income couples has also expanded demand for child care services, while the shortage of such facilities is causing serious problems, especially in urban areas. While demand for public services is increasing, local governments cannot increase regular public employees since it leads to higher wage costs in a context of declining public revenues. This rapid growth in demand for public services is the third factor for the increase in non-regular local public employees.

Figure 2. Change in the Number of Regular Local Public Employees



Source: Japanese Ministry of Home Affairs and Communications, Summary of the Findings of the Survey on Personnel Management of Local Governments, 2012 (as of April 1, 2012).

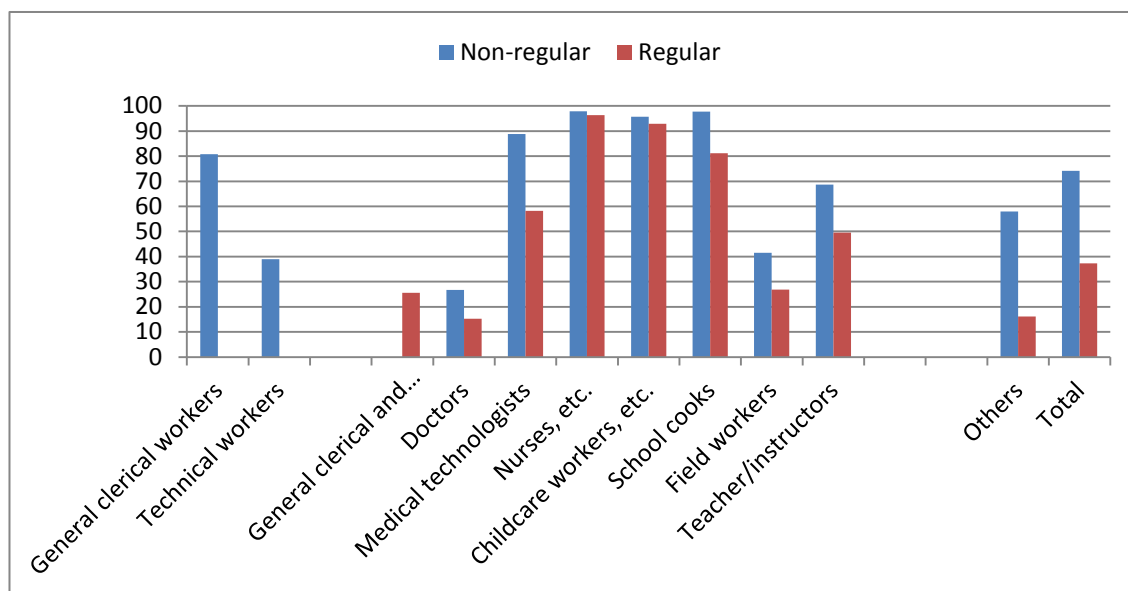
Increase of female non-regular public employees

The Survey on Temporary/Part-time Workers conducted by the Ministry of Internal Affairs and Communications shows the number of male and female employees aggregated by the level of local government (prefecture, municipality, etc.), by job categories, and by employment status (i.e. part-time employees in the special service under Article 3(3)(3) of the Local Public Service Law; part-time employees in the general service under Article 17 of the said Law; and temporary employees under Article 22 of the said Law). The Employment Classification is explained later in the paper.

Regarding regular public employees, while surveys on staffing and pay levels are conducted every year, gender-disaggregated statistics are only available in the salary survey included in the Results of Pay Survey in the Local Public Service conducted by the Ministry of Internal Affairs and Communications every five years. The most recent data are found in the 2008 salary survey. Figure 3, compiled by the author from the two 2008 surveys, compares the

proportion of women employees in the non-regular public employment and regular public employment (as of April 1, 2008).

Figure 3. Percentage of Female Employees in the Non-regular and the Regular Public Service (April 2008)



Classification	Non-regular public employees				Regular public employees			
	total	female	male	F/M ratio	total	female	male	F/M Ratio
General clerical workers	119,810	96,802	23,008	80.8	882,697	226,277	656,420	25.6
Technical workers	7,388	2,871	4,517	38.9				
Doctors	9,335	2,493	6,842	26.7	16,797	2,561	14,236	15.2
Medical technologists	8,637	7,667	970	88.8	48,085	27,992	20,093	58.2
Nurses, etc.	23,477	22,970	507	97.8	119,857	115,462	4,395	96.3
Child care workers, etc.	89,563	85,755	3,808	95.7	113,778	105,645	8,133	92.9
School cooks	37,305	36,440	865	97.7	29,902	24,278	5,624	81.2
Field workers	54,018	22,401	31,617	41.5	132,938	35,622	97,316	26.8
Teachers/instructors	57,327	39,359	17,968	68.7	871,909	432,700	439,209	49.6
Others	92,442	53,553	38,889	57.9	685,058	111,102	573,956	16.2
Total	499,302	370,311	128,991	74.2	2,901,021	1,081,639	1,819,382	37.3

Source: Compiled by the author from Ministry of Internal Affairs and Communications, 2008a and 2008b.

Note: Job classification coincides with the classification used in the Survey on Non-regular Public Employees. However, technical workers are not sampled in the Survey on Regular Public Employees.

In every job category, the proportion of women among non-regular public employees is higher than among regular public employees. Of all the full-time regular public employees, the proportion of women is the highest in nurses (96.3%) followed by child care workers (92.9%) and school cooks (81.2%). All of these jobs have traditionally been associated with women, and

can be considered, so to speak, typical female jobs. The largest number of regular public employees (882,697) is in general clerical and technical services, but the proportion of female employees is 25.6% or only one out of four. In the regular public employment, these jobs can be characterized as “male jobs”. The proportion of female employees among the total regular employees is 37.3%.

Regarding non-regular public employees, similar to regular public employees, the highest proportion of women is found among nurses (97.8%) followed by school cooks (97.7%) and child care personnel (95.7%). However, contrary to the trend in regular public service employment in which men account for about 75% of the job categories with the highest number of regular public employees, the job category accounting for the highest number of non-regular employees (general clerical job) is predominantly taken up by women (80.8%). And females account for 74.2% of the total non-regular employees in the local public service.

I have pointed out earlier that the growth in non-regular public service employment is partly a result of the reduction in full-time employment and pressure to reduce payroll costs in local public services, which leads to replacement of regular public workers with non-regular ones. In every job category, the regular public employees have been replaced with female non-regular workers. Furthermore, the male-female ratio in every job category of regular public employment is exactly reflected in non-regular employment (which means that job categories with a high proportion of female regular employees also employ a high proportion of female non-regular employees), while even in previously male-dominated job categories, such as general clerical and field work, an overwhelmingly large proportion of posts was replaced by female non-regular public employees.

Pay gap between regular and non-regular public employees

The Survey on Temporary/Part-time (Public?) Employees by the Ministry of Internal Affairs and Communications shows the salary and work hours of non-regular public clerical workers by level of local government and by employment status. Based on these data, annual earnings are calculated by multiplying the figures by 52 weeks, as shown in Table 2.

Table 2. Remuneration and Work Hours of Non-Regular Public Clerical Workers

Local government level	Contract type	Average hourly pay (A) (yen)	Average weekly working hour (B) (yen)	Equivalent annual earning (A×B×52weeks) (yen)	Annual earning gap with regular employees *
Prefecture	Special service	1,097	29.5	1,682,798	27%
	Regular service	951	31.7	1,567,628	25%
	Temporary employees	854	38.4	1,705,267	27%
Designated city	Special service	1,305	31.0	2,103,660	34%
	Regular service	848	32.0	1,411,072	23%
	Temporary employees	861	36.8	1,647,610	26%
Municipality(city, town and village)	Special service	1,253	32.5	2,117,570	34%
	Regular service	1,006	33.5	1,752,452	28%
	Temporary employees	841	36.5	1,596,218	26%

Source: Compiled by the author from Ministry of Internal Affairs and Communications, 2012b.

* The figures in this column were obtained by dividing the equivalent annual earnings of non-regular public employee by the annual average earnings of a regular public employee. (Average age 43.1 years old). The calculation was as follows: 411,270 yen (average monthly pay (wage + allowance) for a full-time local public employee in general administrative post as of April 1, 2012) ×12 (months) + 1,624,517 yen (semi-annual seasonal and diligence allowance) = 6,243,437 yen (average annual earning).

According to a 2010 decision of the Second Petty Bench of the Supreme Court, a part-time employee who works more than three-fourths (about 29 hours a week) of the normal work hours of a regular employee (38 hours and 45 minutes a week) is recognized as a “full-time employee”. In light of this decision, we can say that employees of all tiers in Table 2 can be recognized as full-time workers in terms of average weekly work hours. However, their pay levels as converted to annual earnings hardly exceed 2 million yen (approximately USD19,650) except only in a few local governments, and even the non-regular part-time employees in the special service in the municipal governments, who receive the highest annual salary among non-regular public employees, receive only 2,117,570 yen (approximately USD20,800) a year. According to Article 203(2) of the Local Autonomy Act of 1947 (most recently revised in 2015), it is understood that part-time employees in the local public service are not eligible to receive any allowances. Therefore, except for the reimbursement of transportation and some other expenses, their salary is the only payment that part-time employees receive from their employing local governments. Those who work more than 30 hours a week have little time to earn from other jobs, and therefore must live on the salary they earn as local public employees.

As described in the note below Table 2, the average annual earnings of regular local government employees in administrative/clerical posts was 6,243,437 yen as of April 2008. Calculated with this figure as a denominator, the corresponding annual pay level of non-regular administrative/clerical employees in the local public service is from one-fourth to one third, as shown in Table 2.

As pointed out above, the replacement of a regular employee with a non-regular employee means that the work previously done by a regular employee is fully shifted to a non-regular employee. Highly experienced temporary classroom teachers and part-time child care workers can be found in various parts of the country. But their salary is only one-fourth or one-third of that of regular public employees doing equivalent work.

It is often maintained that the pay level of non-regular public employees has been restrained because their duties are different from those of regular employees. The rationale given is that the work of non-regular employees is variable, auxiliary and temporary in nature, while regular public employees perform constant and core tasks with unlimited terms of employment, which therefore naturally makes the work the latter carry out different from that of non-regular public employees

However, the real reason for the increase of non-regular employees is the local governments' response to an increasing demand for public services which cannot be met only by regular employees. Therefore, it must be said that non-regular employees have in reality been introduced, from the very beginning, to substitute or supplement regular employees and to do work equivalent to that of regular employees.

If so, the difference of duties as an explanation for non-regular workers' lower pay is an unjustifiable fiction. It is rather a form of pay discrimination disguised in the difference of employment status.

Female non-regular public employees and indirect discrimination

Which factor affects the gender pay gap more: the gap in promotion process and job category, or the difference of employment status (between regular and non-regular)? Tables 3.1 and 3.2 show the wage gaps between men and women and between regular and non-regular workers in the private sector and in local public services, respectively. The statistical figures in Table 3.1 are based on the 2008 Basic Survey on Pay Structure by the Ministry of Health,

Labour and Welfare; the most recent data available on gender-specific pay levels of regular employees in local public services.

Table 3.1. Wage ratio between Men and Women and between Regular and Non-regular Workers in the Private Sector in 2008, in Japanese yen.

		Full-time ¹ (general worker)		Part-time ² (short-time worker)	Wage ratio between regular and non-regular workers (%)	
		Regular employee (A)	Non-regular employee (B)	Non-regular Employee (C)	(B/A)	(C/A)
Hourly wage	Male	2,216	1,438	1,071	64.9	48.3
	female	1,565	1,094	975	69.9	62.3
Gender pay ratio (male = 100)		70.6	76.1	91.0		

Note 1: Scheduled monthly wages (in yen without allowance) in 2008 were respectively 345,300 for a male regular worker; 243,900 for a female regular worker; 224,000 for a male full-time non-regular worker; and 170,500 for a female full-time non-regular worker (Ministry of Health, Labour and Welfare, 2008a). Hourly wages were calculated by dividing these figures by 155.8 (scheduled monthly work hours in the private sector according to the Ministry of Health, Labour and Welfare (2008b).

Note 2: Hourly wages for part-time workers were based on Table 13 of the survey by the Ministry of Health, Labour and Welfare (2008a).

The gender-based wage gap for full-time regular workers in the private sector, if compared in terms of hourly wages, is about 30 percentage points, with women earning 70.6% of men's wages. As for non-regular full-time workers (fixed-term workers working full time, including contract workers and dispatched workers), the gender wage gap is somewhat smaller (23.9%), and even smaller among part-time workers (90%). Among non-regular workers, the gender-based wage gap is smaller than that for regular workers. On the other hand, if we look at the wage gap between regular and non-regular workers, the gap is larger than the gender-based wage pay among regular workers (29.4%): among male workers, full-time non-regular workers earn 64.9% and part-time workers earn 48.3% of the wages of full-time regular workers; and among female workers, full-time non-regular workers earn 69.9% and part-time workers earn 62.3% of the wages of regular workers. In fact, the wage gap among private sector workers in Japan has more to do with the wage gap based on employment status rather than on gender.

A similar trend exists with local public employees. Table 3.2. shows the pay gap between men and women and between regular and non-regular employees in 2008. No separate data exist to show the gender-based pay gap among temporary employees and among part-time employees, so a similar comparison cannot be made in this paper. Since many temporary workers work full time, they are classified as full-time non-regular employees in Table 3.2.

Table 3.2. Wage Gaps between Men and Women and between Regular and Non-regular Employees in Local Public Services, 2008, amounts in Japanese yen.

Local public employees		Full-time Employees		Part-time Employees	Pay gap between regular and non-regular employees (%)	
		Regular (A)	Temporary (B)	Part-time (C)	B/A	C/A
Hourly pay	Male	2,384	808	1,168	33.9	49.0
	Female	2,054			39.3	56.9
Gender pay ratio (male = 100)		86.2				

Note 1: Hourly pay for a regular public employee was calculated by multiplying average monthly basic pays for male and female employees in the regular administrative service (salary + family allowance + regional allowance) based on data from the Ministry of Internal Affairs and Communications (2008a) by 12 (months) and then dividing the number by 243 (days) (annual work days in the government service in 2008) and 8 (hours which is the scheduled work hours of male and female employees in regular administrative service).

Note 2: Hourly pay for temporary and part-time local public employees is based on the municipalities-specific data in the survey by the Ministry of Internal Affairs and Communications (2008b). As to non-regular employees, the data concerning non-regular part-time employees in the special service were used.

The gender-based hourly pay gap among regular public employees in the local public services is 13.8 points, which is smaller than in the private sector, but still significant. The pay gap between regular and non-regular employees in the local public services is even larger: the pay levels of temporary employees and part-time employees are about one-third and about one-half, respectively, of the pay level of regular male employees. The figures are slightly better for female temporary employees (about 40%) and female part-time employees (about 60%). The bottom line is that the pay gap in the local public services has more to do with the pay gap between regular and non-regular employees and that such a gap is wider than the equivalent gap in the private sector. The monthly pay for non-regular employees in the local public services is held back to from one-third to one-half of the pay for regular male employees⁵.

Taking into account that about 75% of non-regular public employees are women, and that their pay levels are only one-third to one-half of that of regular male public employees, we can see that the problem of non-regular public employees is substantially a gender problem. Given that the pay gap between female non-regular employees and regular employees is significant,

⁵ The gap in Table 3.2. seems smaller than that in Table 2, due to the difference in calculating base of hourly pay. Table 2 is based on annual earning while Table 3.2. on monthly earning. In many cases, the seasonal bonus is not paid to non- regular public employees. This translates into a larger gap in comparative annual earnings.

the data suggest that there is indirect pay discrimination against women in the local public services, caused by a difference in employment status between regular and non-regular workers.

Pay disparity as measured by job evaluation — Case of Machida City in Tokyo

The gender-based pay gap among full-time regular public employees (about 14 percentage points) is about half as large as in the private sector (about 30 percentage points). However, non-regular workers in the private sector are paid 30 to 50 per cent less than regular male workers, while non-regular employees in the local public services (both male and female) are paid 50 to 70 per cent less than regular male employees, showing a wider gap than in the private sector.

In order to evaluate whether the pay gap mentioned above and the pay level of non-regular public employees is justified, we need to compare the work and pay levels between regular and non-regular employees and verify if the pay difference reflects the difference in the value of their work. If both types of employees receive salaries which reflect the value of their work, the pay gap between regular and non-regular employees is justified; but on the other hand if they perform the work of equal value and yet there is a pay gap between them, then the pay gap should be considered discriminatory and unjustified. And if the pay gap is caused by the difference in employment status between regular and non-regular employees, we can say that such gap is a significant factor of indirect discrimination.

To verify the point above, let me introduce a job evaluation survey conducted by Machida City in Tokyo covering regular and non-regular employees in its municipal library.

Job evaluation survey conducted in Machida City Library

A survey was conducted in Machida City Library in Tokyo in January-February in 2012 to evaluate the jobs of its regular and non-regular library clerks. The questionnaire was designed mainly by a project team of the JICHIRO Tokyo Prefectural Headquarters' Library Interaction and Study Group with the aim of analysing library work.

The part-time employment system was introduced to Machida City libraries in December 1998. Under the Staff-Size Optimisation Plan of Machida City, formulated in November 2007, the number of regular employees was reduced by 31 (36%) during the four years since the fiscal year 2006, down to 55 in April 2011. Meanwhile, the number of part-time employees increased from 54 in the fiscal year 2007 to 94 employees in April 2011, an increase of 42.6 per cent.

Since the work hours of part-time employees are about three-fourths that of regular employees, the regular employees' reduction in work hours was almost fully replaced.

This change was accompanied by a large expansion in the range of duties performed by part-time employees. For some time after the part-time employment system was introduced in 1999, the job content of part-time library clerks was defined in the Guideline for Introducing Part-Time Employees to Machida City Library as "service counter work such as lending out and receiving materials, placing materials on shelves, tidying and other library work excluding those requiring any decisions to be made by regular employees" and their specific duties were assumed to be non-technical, auxiliary in nature and supporting the work of regular employees. However, since 2004 part-time workers have been included in the rotation for children's counter service and since 2006 they have been part of the rotation for reference counter service. Reference counter staff in the fiscal year 2010 consisted of three regular employees and four part-time employees.

Table 4 compares the scope of duties assigned to regular and non-regular employees in April 2002 and October 2010, which shows that the work covered by non-regular employees expanded to the extent that their tasks were almost equivalent to that of regular employees.

Table 4. Expanded Duties of Part-Time Employees in Machida City Library

Task	April 2002		October 2010	
	Regular employee	Temporary employee	Regular employee	Temporary employee
Request (input and input check)	○	○	○	○
Request (assessing and confirming)	△ ^{*1}	×	△ ^{*1}	△ ^{*1*5}
Register users, alter registered records (input)	○	○	○	○
Register users, alter registered records (confirming)	○	×	○	○
Reference	○	△ ^{*2}	○	△ ^{*5}
Select books	△ ^{*3}	×	△ ^{*3}	△ ^{*5}
Order	△ ^{*3}	×	△ ^{*3}	△ ^{*5}
Placing order / registering (selection meeting)			△ ^{*6}	△ ^{*6}
Processing orders	○	○		
Weeding (evaluating)	△ ^{*4}	×	○	○
Weeding (making a decision)	△ ^{*4}	×	△ ^{*4}	△ ^{*5}
Participating in meetings at the library	○	×	○	○

Notes:

○ means "performed"; × means "not performed"; and △ means "partly performed", as explained in the following notes:

△^{*1}: Confined to employees in charge of request, selection committee members, and those who had same or equivalent experience.

△^{*2}: Confined to simple easy works.

△^{*3}: Selection committee members (those involved in selection work in the broad sense).

△^{*4}: As to general books, to be complied with the Guideline for Weeding General Books in Machida-City Library (decided by the internal meeting on February 28, 2002). Other areas (such as reference, local materials, the handicapped, juvenile book study, foreign languages, children, magazines) are covered by those in charge of respective areas.

△^{*5}: Determined by experience and competence.

△^{*6}: Confined in principle to regular employees and part-time employees in charge of administration work.

Job evaluation process

The job evaluation was carried out in the following manner: 1) Classifying jobs to be evaluated and analysing the contents of these jobs; 2) Developing a job evaluation system (determining job evaluation factors and weights); 3) Carrying out the job evaluation; and 4) Amending and recalculating pay levels based on the scores of evaluated jobs. To be more specific, the job content of library clerks was analysed and classified into 15 job items having “certain qualitative and quantitative elements.” Next, factors to evaluate those job items were determined. In this particular survey of Machida City Library, four factors—strain, knowledge/skill, responsibility and work environment—were used to evaluate job items, which were further broken down into sub-factors, and corresponding weights were allocated for each sub-factor for evaluation (Table 5).

In the actual job evaluation process, each regular and non-regular employee working in the Machida City Library was asked to evaluate themselves by (1) each job and (2) overall duties, and fill out the job evaluation factor check sheets.

Table 5. Factors and Weights for the Evaluation of Library Clerks’ Jobs.

Factor	Weight (%)	Evaluation Level and Score				Highest Score Total 1,000
		Level 1	Level 2	Level 3		
(1) Work-related strains	30.0	Level 1	Level 2	Level 3		300
1. physical strain	12.0	40	80	120	120	
2. mental strain	10.0	30	60	100	100	
3. emotional strain	8.0	30	60	80	80	
(2) Knowledge/skill	40.0	Level 1	Level 2	Level 3	Level 4	400
4. work-related knowledge	16.0	60	90	120	160	160
5. communication skill	8.0	20	50	80	80	
6. promptness & operating skill of equipment	8.0	20	40	60	80	80
7. Problem solving competency	8.0	20	50	80	80	
(3) Responsibility	25.0	Level 1	Level 2	Level 3		250
8. Responsibility for users	15.0	50	100	150		150
9. Responsibility for materials and services	10.0	20	60	100		100
(4) Work environment	5.0	Level 1	Level 2	Level 3		50
10. Discomfort/danger in the work environment	5.0	10	30	50		50

Job evaluation findings

Table 6 shows the job evaluation scores for each of the 15 classified job items; the circled numbers indicate the five highest-scoring items.

Table 6. Assigned Work and Job Evaluation Score.

Assigned work	Job evaluation score (top five scores in circles)	
	Regular employee	Non-regular employee
1. General duties in the library	③ 680.0	560.0
2. Selecting materials	626.4	⑤ 622.7
3. Contract/order/receiving inspection	⑤ 661.7	588.6
4. Receiving/classifying/cataloguing	578.0	534.2
5. Equipping/fixing	426.7	435.9
6. Shelving books	518.3	475.8
7. Handling recompensation /reminder notice	620.6	594.0
8. Weeding/recycling	616.0	603.9
9. Counter service	④ 670.5	② 669.8
10. Reading guide/reference	① 738.8	① 678.0
11. Reservation /request/interlibrary loan	② 709.1	587.6
12. Service for children & young adult	650.0	④ 625.4
13. Making & providing materials for the disabled / face-to-face reading	550.0	548.1
14. Event	577.8	602.1
15. Mobile library	544.0	③ 647.1
Tasks as a whole	702.7	674.8

A comparison of the weighted average job evaluation scores for regular employees and part-time employees and their hourly pays converted from their monthly and annual earnings are shown in Table 7.

Table 7. Job Evaluation Score and Hourly Pay.

Type of contract	Average Score of assigned tasks	Score of "task as a whole"	Hourly pay calculated from monthly earnings	Hourly pay calculated from annual earnings
Regular employee	611.2	702.7	2,781.5	3,697.1
Part-time employee	584.9	674.8	1,548.4	1,548.4
Part-time/Regular ratio	95.7%	96.0%	55.7%	41.9%

In the Machida City Library where regular and part-time employees perform almost similar duties, the job evaluation resulted in somewhat similar scores for regular employees and for part-time employees. In terms of proportion, part-time employees on average scored 95.7 per cent of regular employees for their tasks and 96.0 per cent for their task as a whole. However, their pay levels differed substantially: when their hourly pay is calculated from their annual and

monthly earnings, is respectively 41.9 per cent and 55.7 per cent of the equivalent average hourly pay for regular employees.

With respect to the principle of equal pay for the work of equal value, the CEACR (2013) pointed out that it requires “a comparison of the jobs or work performed by men and women on the basis of objective factors such as skills, effort, responsibility, or working conditions”. If the wage is paid in accordance with the value of the job, a difference in pay levels is justified, but the pay gap between workers who perform the work of equal value should be considered unjustified. The findings of the job evaluation conducted in the Machida City Library revealed a 40 to 60 per cent pay gap between regular employees and part-time employees despite the fact that the value of the work they perform is almost equal. This is an unjustified gap caused by the difference of employment status between regular and non-regular employees.

The situation of the Machida City Library is not exceptional. Rather, we must note that they are making efforts to fill the gap. The problem is that this kind of unjustified gap between regular and non-regular employees can be seen in public service workplaces throughout Japan.

Non-regular public employees – “left in the valley of the legal system”

Non-regular public employees and applicable laws

The task of the local government is, according to the law, “to promote the welfare of its residents” (Article 1(2) of the Local Autonomy Act). In order to carry out this task, local governments employ public employees and provide public services. However, one out of three local public employees, who provide these services, is in non-regular status, employed on a fixed-term basis, facing a continuous risk of non-renewal of contract. They are not paid enough to afford a decent living, either. Ironically, local governments are trying to achieve their legal obligation of promoting the welfare of their residents at the expense of the welfare of workers providing those services.

Why has such a situation been left unaddressed? The reason is that non-regular public employees do not enjoy proper legal protection which they are supposed to be entitled to as workers, because they fall in a legal limbo, or outside the scope of the application of the law. In Japan, non-regular workers in the private sector are covered by the “Act on Improving, etc. of Employment Management for Part-Time Workers” of 1993 (hereafter called Part-Time Work Act) which obliges employers to redress any discriminatory treatment between full-time and part-time workers, and they are also covered by the Labour Contract Act of 2007 (revised in

2012) which prohibits employers from applying unreasonable working conditions to employees on the basis the duration of a contract, whether indefinite or fixed-term.

However, non-regular public employees are covered neither by the Part-Time Work Act nor by the Labour Contract Act. Article 43 of the Part-Time Work provides that “[T]his Act shall not apply to national public officers and local public officers” and Article 22 of the Labour Contract Act equally provides that “[T] his Act shall not apply to national public officers or local public officers.” Therefore, both the national and local governments are exempted from an employer’s minimum duty “to enable Part-Time Workers to effectively exercise their abilities through ensuring, etc. their treatment is balanced with that of ordinary workers...”. Local governments are thus allowed to terminate the employment of non-regular public employees against their will despite the fact that their fixed-term contracts have been renewed by the same appointing local authority for many years.

Meanwhile, the Local Public Service Law of 1950 (most recently revised in 2014), which is equivalent to labour law for the local public employees, excludes temporary employees from the scope of application of the provision which guarantees their status (Article 27(2)) and from the right to file complaints against disadvantageous dispositions (Articles 49(1) and 49(2)) and from the application of the Administrative Appeal Act of 1962 (revised in 2014) (Article 29(2)). Non-regular public employees are employees, but unlike regular public employees, they can be dismissed at will according to their employers’ convenience even before their term expires. Moreover, with respect to the part-time public employees in the special services, as will be explained later, they are not even covered by the relief measures provided by the Local Public Service Law as the said Law does not apply to them.

Thus non-regular public employees fall in a legal limbo or a legal vacuum in terms of the scope of application of the Labour Law or the Local Public Service Law, and their employment and labour rights are not protected by either of these laws.

Categories of non-regular local public employees

Local governments employ temporary and part-time employees, in addition to full-time and indefinite-term employees or so-called regular employees. These employees can be classified as in Table 8.

Table 8. Main Categories of Local Public Employees.

Category	Type of employment	Appointed under	Term of employment	Work pattern	Work/term/etc.
Regular service	Formal employment	Article 17 of the Local Public Service Law	Indefinite-term	Full-time	So-called "regular employees"
				Part-time	Not existent
			Fixed-term	Full-time	Subject to Article 3 of Act on Fixed-Term Researchers in the Local Public Service, Articles 3.5 of Act on Fixed-Term Local Public Employees
				Part-time	
	Temporary employment	Article 22 of Local Public Service Law	Fixed-term (6-months, renewable only once)	Full-time	In cases of emergency; Appointment to positions of a temporary nature; In cases where there is no list of potential appointees eligible for employment (Full-time in principle)
				Part-time	
	Article 6(1)(2) of Local Public Service Child Care Leave Act	Maximum one year	Full time	Term requested by the local public employee taking child care leave	
	Fixed-term employment	Article 6(1)(1) of Local Public Service Child Care Leave Act		Full time	Term requested by the local public employee taking child care leave
Special service		Article 3(3)(3) of Public Service Law	Fixed-term (Maximum three years under the Labour Standards Act)	Part-time	Public Service Law is not applicable. Labour related laws are applicable with some exceptions

Temporary employees

In accordance with paragraph 2 or 5 of Article 22 of the Local Public Service Law, local governments can exceptionally recruit staff temporarily in cases of emergency or appointment to positions of a temporary nature. Such appointments can be for a maximum duration of six months and may be renewed only once, for a total duration not exceeding one year.

A temporary employee may also be appointed to replace an employee on child care leave, in accordance with Article 6(1)(2) of the Act on Child Care Leave, etc. of Local Public Officers of 1991. In this case, the appointment cannot exceed one year but without the need of a renewal after the first six months.

Part-time employees in the special service

There are two kinds of part-time employees in the local public service—one is based on Article 3(3)(3) of the Local Public Service Law and the other on Article 17 of the same Law. Part-time employees in the special service are those appointed under Article 3(3)(3) of the Local Public Service Law.

The Local Public Service Law, after defining all public service personnel of the local public bodies as local public employees (Article 2), divides the local public service into the regular public service and the special public service (Article 3(1)), and provides in Article 3(2) that all positions in the local public service other than those belonging to the special public service shall be regular local public service.

The special public service as stipulated in Article 3(3) of the Local Public Service Law includes the following positions, among others: a) Positions whose assumption requires a public election, or the election, resolution or consent of the assembly of the local government ; b) Temporary or part-time positions of commissioners or members of committees (including councils and other bodies of a similar nature) established by laws, ordinances, and regulations of the local government or rules fixed by agencies of the local government ; and c) Full-time positions of the members of the Labour Commission in each prefecture. Along with these positions, “Temporary or part-time positions of expert-adviser, consultant, researcher, temporary contract staff (referred to as “shokutaku-in”), and other positions of a similar nature” are provided for in Article 3(3)(3) of the same Law. This provision is said to be the legal foundation for appointing part-time employees in the special service.

However, these employees in the special public service are not covered by the Local Public Service Law (by virtue of Article 4(2)). Instead, they are covered, with some exceptions, by the Labour Standards Act and other labour laws that cover private sector workers.

Part-time employees in the regular public service

Part-time employees employed under Article 17 of the Local Public Service Law are classified as part-time employees in the regular public service, and unlike those in the special public service, each provision of the Local Public Service Law is applied to them in principle

(except for the provisions on conditional employment, part-time leave for schooling, part-time leave for the elderly, leave for personal development and retirement).

Non-regular public employees and legal coverage

The legal status of non-regular public employees is ambiguous. There is not even a definition of part-time employees in either the Local Autonomy Act or the Local Public Service Law. The Local Public Service Law is not applicable to part-time employees in the special public service despite the fact that they are local public employees, but they are also not entirely covered by the Labour Standards Act or other labour laws covering private sector workers: neither the Part-Time Work Act nor the Labour Contract Act is applicable to them. Furthermore, with respect to child care leave, they are covered neither by the private sector's Law on Child Care and Family Care Leave (the Law on the Welfare of Workers Who Take Care of Children or Other Family Members) nor the Child Care Leave Act for Local Public Employees. This explains why non-regular employees in the local public service are termed as "being left in the valley of the legal system".

Since non-regular public employees are not covered by the Labour Contract Act, they do not enjoy the benefit of the following provisions of this Law: the conversion of a fixed-term labour contract to an open-ended labour contract (Article 18); the legal principle that an employer cannot refuse the renewal of a contract if it lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms (Article 19); and the prohibition of unfair working conditions for the reason of fixed-term contract (Article 20). And since the Part-Time Work Act does not apply to non-regular public employees, their employer, a local or the national government, is exempted from the minimum obligations as an employer to ensure their treatment is balanced with that of ordinary workers.

Non-regular public employees fall in a legal vacuum between labour law and the public service law, and their employment and labour rights are not protected by either of these laws. This is attributable to the fact that, regardless of their status as open-ended regular public employees or fixed-term non-regular public employees, their employment procedures from appointment to retirement or separation derive from the discretion of the appointing authority and not from the employment contract agreed on an equal footing between the worker and management.

Limits on repetitive renewals of fixed-term contracts of non-regular public employees

A move towards putting limits on the repetitive renewals of fixed-term contracts is rapidly spreading among local governments so that the right of non-regular public employees to expect contract renewals will not accrue. There have been a number of cases where the non-regular public employees who have been employed by the same appointing authority for a long time through consecutive renewals of contract suddenly see their contracts not being renewed. Table 9, below, compares contract renewals in typical municipal services jobs between 2008 and 2012, based on Ministry of Internal Affairs and Communications surveys.

Except for temporary child care workers, an increasing number of local governments are setting limits on consecutive renewals of employment contracts for their non-regular employees. The average number of maximum contract renewals is declining except for part-time child care workers in the special service. Furthermore, the findings of the survey in 2012 show that the frequency of contract renewal is once for temporary employees, and two to four times for part-time employees in the special and regular services.

Table 9. Limits placed on renewal of contracts (number of municipalities), 2008 and 2012.

Job category	Type of contract	Surveyed in 2008			Surveyed in 2012							
		No. rule	No. of municipalities with upper limits	Avg. number of renewals	No. rule	No. of municipalities with upper limits	Avg. number of renewals	Limit of renewals				
								1	2	3	4	5 or more
Admin. assistant	I	538	201	3.7	520	204	3.5	7	54	15	98	23
	II	587	200	3.3	576	220	3.2	25	63	25	65	24
	III	1021	382	2.3	957	413	2.0	284	48	22	20	25
Nurse	I	264	88	4.4	236	95	3.7	1	28	4	49	6
	II	316	87	6.2	301	107	3.2	11	27	5	39	7
	III	550	143	2.6	503	166	1.8	111	24	4	12	10
Child care worker	I	239	98	2.5	209	112	3.6	0	37	7	51	7
	II	384	98	4.1	377	120	3.2	13	31	8	38	12
	III	757	242	2.5	691	232	2.1	155	24	8	14	17
Consumer consultant	I	221	62	3.0	277	85	2.3	0	26	3	38	7
	II	66	28	2.4	96	44	2.4	1	8	2	18	4
	III	45	17	1.8	70	25	0.9	19	1	1	2	0

Types of contract: I- Part-time, special service
II- Part-time, regular service
III- Temporary employment

Source: Compiled by the writer from the surveys data of the Ministry of Internal Affairs and Communications (2008b and 2012b).

Note: A renewal of an employment term means to continuously employ a person for the same job after the scheduled expiration of the employment term, which the Ministry of Internal Affairs and Communications calls "Reappointment". This excludes the legal employment renewal as stipulated in paragraphs 2 and 5 of Article 22 of the Local Public Service Law, but includes the reemployment of an employee within a month of the expiration of the previous term.

Most local governments fix one year or less as the employment period for fixed-term employees so as to fit it within the fiscal year cycle. So if the number of renewals is twice, the maximum length of employment is up to three years, and if the maximum number of renewals is four times, the length of employment is five years at most. There are no particular grounds for limiting the length of employment between three to five years, however; they are merely assumed to be a reasonable period which would not give these employees an accrued right to continued employment.

Local governments have introduced these measures because, as will be explained later, courts have found that, where it is considered reasonable for a non-regular public employee to expect the renewal of his/her contract, such an expectation may not necessarily lead to the continuation of his/her employment but nonetheless may be protected by the legal principle of indemnity. In other words, the right to expect the continuation of employment itself can indeed accrue for non-regular public employees. As such, local governments, as employers, have moved towards setting limits on the recurrent renewals of fixed-term contracts in order to deny this contingent right.

Refusal of contract renewal of non-regular public employees and the court precedents

The so-called *yatoidome*, or non-renewal of a fixed-term contract of a non-regular public employee who has been continuously employed by a local government for a long time and who wishes to continue his/her work, has become a key problem for non-regular public employees. Due to the ambiguity of the laws applicable to them, non-regular public employees whose contracts are not renewed have no other recourse but to seek judicial redress in order to exercise their rights. Most court rulings have not upheld the employees' claims. However, in more recent cases, lower courts have ruled that non-renewal was subject to compensation by linking the unlawful act of an employer with the violation of the "right to expect" the renewal of a contract.

The first court ruling in point concerned the refusal of the reappointment of part-time child care workers in Nakano Ward in Tokyo. The Tokyo High Court (2007) noted that "the defendant (Nakano Ward) had violated the plaintiffs' right to expect under circumstances in which the illegality was so strong to the point that the application by analogy of the legal principle regarding the abuse of the employer's right of dismissal to this case of *yatoidome* must be justified". The court ruled accordingly that "it is appropriate for the defendant to pay compensation equivalent to the plaintiffs' annual remuneration", which meant that the plaintiffs should receive the same amount of payment as they should have received had their contracts been renewed.

Following the case of *Child Care Workers vs. Nakano Ward*, the Tokyo District Court in 2011 handed down a ruling which established the judicial precedent for the legal protection of “the right to expect” itself: the case involved the refusal of renewal of the contract of a temporary employee in charge of checking public health insurance claims in Musashino City in Tokyo. In this case, the plaintiff’s employment contract had been renewed as many as 21 times before the defendant (Musashino City) finally refused to reappoint the plaintiff. The plaintiff had worked for the defendant continuously for twenty years and three months, which far exceeded the five years which were considered as the maximum limit for the continuous reappointment of temporary workers. For these and other reasons, the Tokyo District Court decided that there were special circumstance under which the plaintiff could have expected reemployment, and therefore ruled that it was appropriate to award compensation of 1.5 million yen (approx. US\$14,600) to the plaintiff.

In light of these key precedents, we may say that, in the case of the refusal of renewal of the contract (*yatoidome*) of non-regular public employees, it is not possible for them to pursue litigations seeking status confirmation by the analogical application of the legal principle of *yatoidome* under Article 19 of the Labour Contract Act. Instead, this type of litigation is now confined to claiming compensation for the violation of their right to expect renewal of contract of employment.

Non-regular public employees and basic labour rights

The basic labour rights of non-regular public employees or those who are in non-standard working arrangements in the public service are not fully recognized. As is commonly known, the basic labour rights — i.e. to organise, to bargain collectively and to take industrial action - of public employees in Japan are subject to certain restrictions. While the Constitution of Japan recognizes these rights for all workers, including public employees, those of public employees are restricted by statutes: in the case of national public employees, by the national public service legislation; and in the case of local public employees, by the Local Public Service Law.

Among those in non-standard working arrangements in the public service, part-time public employees engaged in the regular public service (provided for in Article 17 of the Local Public Service Law) and temporary employees (provided for in Article 22 of the Local Public Service Law) are subject to the Local Public Service Law, and therefore are under similar restrictions which apply to full-time regular employees in the local public service. This means that both part-time public employees engaged in the regular public service and temporary public employees are, by virtue of Article 58 of the Local Service Law, excluded from the coverage of the Labour Union Act of 1949 (revised in 2004), and can therefore not form a trade union.

Instead, they may organise themselves into a staff association as stipulated in Article 52(3), or join an organisation formed by regular public employees. These public employees' organisations can negotiate with the authorities but do not have the right to conclude a collective agreement. They therefore cannot reach a legally binding agreement. These public employees are also prohibited from going on strike under Article 37(1) of the Local Public Service Law.

To compensate for the restrictions on their basic labour rights, the Personnel Commission recommends on pay levels of the local public employees under its jurisdiction. However, these recommendations on pay levels cover only regular full-time public employees, and so far no recommendations have been made concerning pay and working conditions for non-regular public employees.

In sum, part-time public employees in the regular public service and temporary public employees are subject to the Local Public Service Law and therefore their basic labour rights are restricted just like regular full-time public employees, but they are excluded from the coverage of recommendations of the Personnel Commission, which are supposed to offer an alternative compensatory measure for the restriction of their basic labour rights. In addition, part-time employees in the special service (provided for in Article 3(3)(3) of the Local Public Service Law) are not subject to the Local Public Service Law and therefore the provisions of the Labour Union Act and other labour laws are not fully applied to them. It is therefore legally possible for them to organise a trade union, to conclude a collective agreement with the authorities and to exercise the right to strike. However, it is hard to say that these workers have been able to fully exercise these rights.

The first factor that prevents them from fully exercising these rights is that the right to organise accorded to local public employees is not a full right in the sense of the term because it is extended only to employees' organisations that represent local public employees in the regular service covered by the Local Public Service Law. As a consequence, if part-time employees in the special service, who are not subject to the Local Public Service Law, were included in these employees' organisations, such organisations would not be eligible to negotiate and conclude written agreements with the public authority. Therefore, an organisation of regular public employees which intends to negotiate with a public employer cannot include part-time employees in the special service among its members. As a result, issues facing part-time public employees in the special service are not placed on the negotiating agenda.

The second factor is a unique employment system established by the public service legislation, under which public employees must be "appointed" by the authority to make their employment effective. And this employment system which adopts a special logic of

“appointment” deprives non-regular public employees of their rights. It is generally understood that unlike private sector workers whose employment relationships with their employers are established by the conclusion of labour contracts, public employees, whether regular or non-regular, need to be appointed by their employers to work as public employees. Labour contract rules do not apply to public employees, and therefore their fixed-term employment cannot turn into open-ended employment regardless of how many times their contracts have been renewed, unless they are appointed to open-ended employment. Therefore, even in cases where it is considered reasonable that a non-regular public employee has the right to expect continuous employment, such right is not realized and accordingly does not bring about continuous employment.

This special logic of “appointment” originates from Germany’s and Japan’s pre-WWII government officials’ system. The Local Public Service Law, which was adopted after WWII, defines local public employees as all public service personnel of the local public bodies (Article 2 of the Local Service Law). As a result, all those working in the public service are all government officials as in Germany or in pre-WWII Japan. This is a very odd situation not seen in any other country in the world. And even part-time employees in the special public service who are not subject to the Local Public Service Law are understood to be in an employment status not bound by labour contracts but by the logic of “appointment”. As is generally understood that the labour contracts do not apply to the relationships between public employees and their employers, the provisions of the Labour Contract Act equally do not apply to all those who have the status of public employees, even including part-time employees in the special service who are not covered by Local Public Service Law.

Unionization of non-regular employees and the improvement of their working conditions

It is argued that there are three kinds of gaps between regular and non-regular employees in both the private and the public sectors: a wage gap, an employment gap and a labour-management communications gap.

The first gap is a problem of ill treatment of non-regular workers and non-regular public employees, and the second gap is a problem of insecurity of employment. The third gap is a problem of their exclusion from the labour-management dialogue; as a result, the problems facing these workers are never in the joint negotiating agenda, leaving their problems unrecognized, unaddressed and unresolved. The first and second gaps can be resolved through labour-management dialogue, but the third gap makes this difficult, if not impossible. For instance, the sizable pay gaps between regular and non-regular workers for work of equal value

remains unaddressed without even a clue as to a solution. This leads to demotivation among non-regular public employees poor communication and lower cooperation in the workplace between regular and non-regular employees, resulting in lower productivity. This is particularly serious in the public service where one out of three employees is non-regular; lower motivation of these workers directly leads to lower quality of public services.

To solve the problem requires labour-management communications and placing the problems specific to non-regular employees on the negotiating table. For that purpose, it is essential that non-regular public employees are unionized. The following is an overview of the current state of organization/unionization of non-regular public employees and an analysis of the effects of such organizing/unionizing efforts.

State of unionisation of non-regular public employees

Union membership among part-time private sector workers

The total number of organised workers in Japan as of June 30, 2012 was 9,892,000, a decline of 68,000 (-0.7%) from a year earlier. The estimated rate of union affiliation (the ratio of union members to total workers) was 17.9 per cent. As for part-time workers, the number of those organised was 837,000 in 2012, up by 61,000 (7.9%) compared with a year earlier, accounting for 8.5 per cent of the total organised workers. During the five years beginning 2007, the number of organised part-time workers increased by 250,000 and their estimated organisation rate rose from 4.8 per cent in 2007 to 6.3 per cent in 2012. The percentage of organised part-time workers in the total organised workers also rose from 5.9 to 8.5 per cent in those five years. Therefore, the current state of organisation in the private sector may be characterized by a gradual increase in the organisation rate of part-time workers, in contrast to a decline of union membership among regular workers.

Table 10. Changes in the Number of Organised Part-time Workers and Estimated Organisation Rate

Year	Number of organised part-time workers			Ratio to total number of organised workers (%)	Number of Short-time Employees (10,000)	Estimated organisation rate (%)
	Total (1,000)	Increase from previous year (1,000)	Rate of increase from previous year (%)			
2007	588	73	14.2	5.9	1,218	4.8
2008	616	28	4.7	6.2	1,232	5.0
2009	700	84	13.7	7.0	1,317	5.3
2010	726	26	3.7	7.3	1,291	5.6
2011	776	50	6.8	7.8	n/a	n/a
2012	837	61	7.9	8.5	1,332	6.3

Source: Ministry of Health, Labour and Welfare (2012a).

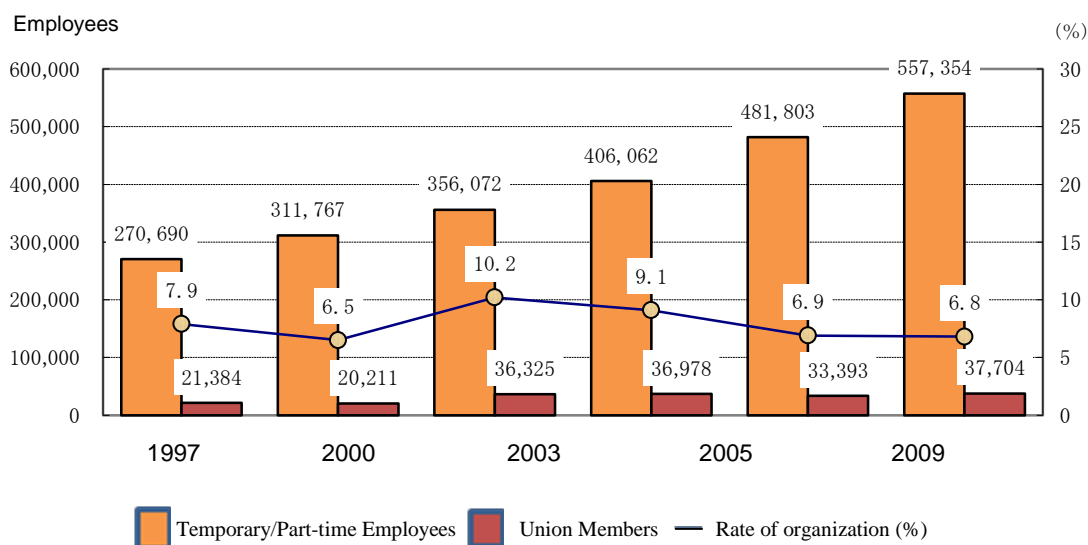
Notes:

1. Part-time workers are those who are called “part-timers” or “part” who work fewer hours than official daily work hours of regular workers in the establishment (except for regular short-time workers), or those who work for the same hours with regular workers in a day but fewer days in a week.
2. “Number of short-time employees” is the number of those who work fewer than 35 hours a week among the workers covered by the Labour-Force Survey
3. The “estimated organization rate” is calculated by dividing the number of organized part-time workers by the total number of part-time employees.
4. The number of workers and the estimated organisation rate are not shown for 2011 because the Labour-Force Survey (conducted in June 2011) did not cover Iwate, Miyagi and Fukushima Prefectures where the aftermath of the Great East Japan Earthquake made the survey difficult, and the estimated number of part-time employees was not revealed even in its supplementary statistics (in April 2012).

Union membership of non-regular public employees

Compared with the private sector, how is the state of organisation of non-regular employees in the public service? It must be noted at the outset that no official statistics exist and no official survey has been conducted. JICHIRO conducts a survey every three years on the number of employees and the state of organisation in the local governments and the public service establishments in which JICHIRO has its local unions. Figure 4 shows the number of temporary/part-time employees, the number of union members among them and the organisation rate in these local public entities according to the findings of the past six surveys.

Figure 4. Changes in the Organisation Rate of Temporary/Part-time Employees



Source: JICHIRO, 2012a.

The figure shows that in 1997, the number of temporary and part-time employees was 270,690; the number of union members among them was 21,384, and the organisation rate was 7.9 per cent. However, in spite of a sharp increase in the number of temporary/part-time employees in the subsequent years, the organisation rate did not grow correspondingly. In 2003, the number of union members among temporary/part-time employees increased by about 16,000 and the membership rate rose by 4 percentage points from 2000. But this was rather due to the merger in 2002 of JICHIRO and the All-Japan Racing Employees Union which organised mainly non-regular employees of four kinds of public racing business —bicycle, horse (local), boat and motorcycle. Other than such a temporary increase, the rate of organisation has been on constant decline, and it is mainly because organising efforts have not caught up with the sharp increase in temporary/part-time workers.

Effect of unionization

What would be the effects of organising and being able to negotiate collectively with employers? This has been studied by the Survey on the Wage and Working Conditions System for Temporary/Part-Time Employees in the Local Governments conducted by JICHIRO, with the first of June 2012 as the reference date. Table 11, below, shows that of the 845 local governments which responded to the survey, only 157 had unions of non-regular employees. The average pay for non-regular public employees in the local governments which had unions was 1,012.3 yen per hour and 161,000 yen per month, while in the unorganised local

governments the average pay for these employees is 936.2 yen per hour and 159,000 yen per month, a significant difference.

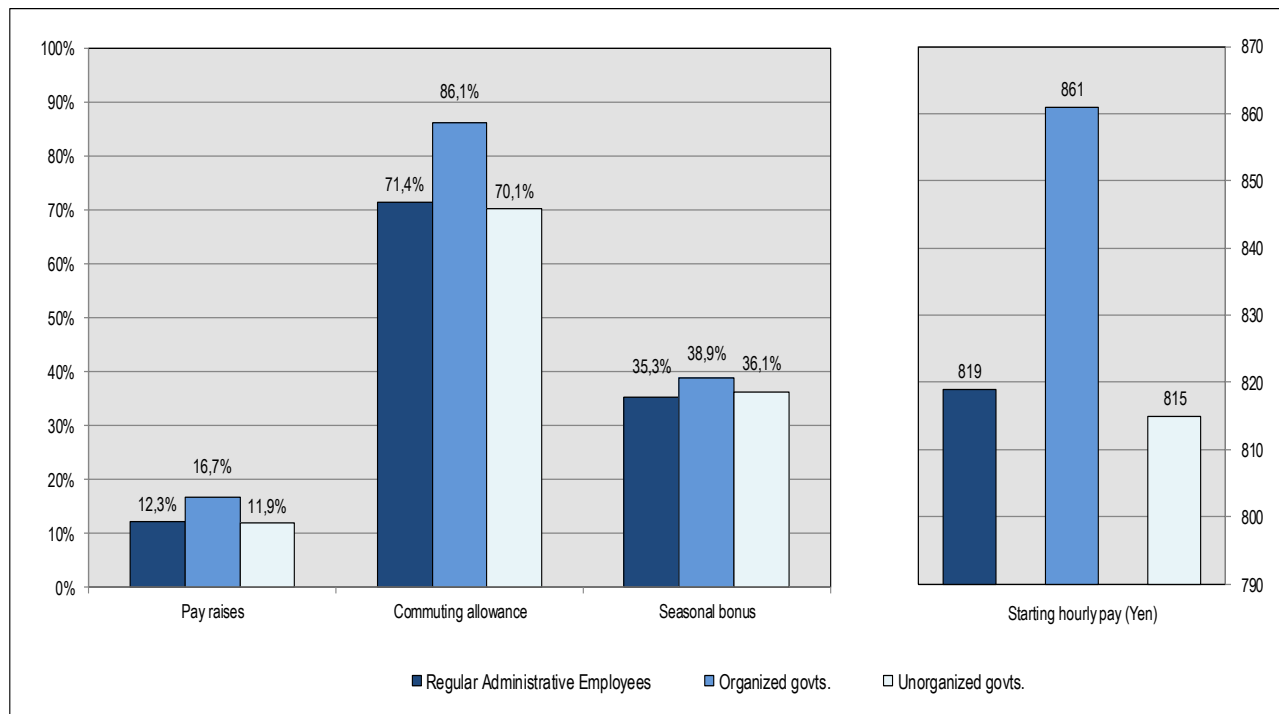
Table 11. Effect of unionization of temporary/part-time employees as reflected in average pay (June 2012), in yen.

	Number of Responding local governments	Average Pay (simple average)	
		Hourly pay	Monthly pay (10,000 yen)
Total	845	950.1	16
Organised	157	1012.3	16.1
Unorganised	668	936.2	15.9

Source: JICHIRO (2012b).

Figure 5, below, shows in more detail the difference between organised and unorganised temporary/part-time employees in the general clerical service. A higher proportion of temporary/part-time employees got a pay rise in organised local governments (16.7%) than in unorganised local governments (11.9%). Their starting hourly pay was also higher in the organised local governments (861 yen) than in the unorganised local governments (815 yen). The commuting allowance and seasonal bonuses were paid to temporary/part-time employees in a higher proportion for organised local governments than in their unorganised counterparts: for commuting allowance, 86.1% and 70.1%, respectively; and for seasonal bonus, 38.9% and 36.1%, respectively.

Figure 5. Proportion of local governments (%) providing supplemental payments and starting hourly pay to regular administrative, and to temporary and part time workers, in organized and unorganized workplaces



Source: JICHIRO (2012b).

Note: organized and unorganized governments refer only to temporary and part-time workers

This suggests that although pay and employment gaps exist between regular and non-regular employees, union representation could improve the situation, through improved labour-management communications that puts their issues on the negotiating agenda.

Social dialogue

Unfortunately, organizing efforts by trade unions have not caught up with the rate of growth in non-regular public service employees. Accordingly, in order to address the problems faced by non-regular public employees, there is a need to explore alternative negotiating mechanisms other than collective bargaining. In Japan, pay and working conditions of public employees are determined by law, and thus it may require law reform to solve problems facing non-regular public employees. Therefore, lobbying the legislature for law reform is important. In this regard, it should be noted that a Working Group on issues of temporary and part-time employees in the local public service was set up in 2011 by an initiative of legislators of the Democratic Party of Japan.

The Working Group aims to improve the treatment of non-regular public employees by making revisions to the Local Autonomy Act, which includes provisions restricting payment of retirement allowance and seasonal bonus to part-time employees. In May 2013, six opposition parties, including the Democratic Party of Japan, jointly submitted to the Upper House an amendment to the Local Autonomy Act. The amendment would mandate that part-time public employees with similar work schedules to their full-time counterparts receive various allowances which full-time regular employees are entitled to (the bill was eventually dropped since the deliberations on it were not completed during the Diet session).

Because of lack of tripartite consultation mechanisms, non-regular public employees are now setting up a forum of their own for information-sharing. In 2006, they organised a “Voluntary Seminar” to share information among themselves. The forum gradually expanded and in April 2009 more than 300 non-regular public employees participated from across the country in an “Anti-Poverty Rally: Eliminating the Government-Manufactured Working Poor!” Its fifth national rally was organised in September 2013. As a result of these continuous campaigns, a non-profit organisation, the “Study Group on the Government-Manufactured Working Poor”, was formed in April 2012 comprising not only non-regular public employees themselves, but also academics, researchers, lawyers and others from various social strata, with the aim of providing and sharing information and providing consultation services. Dissemination of information by this non-profit organisation has sharply increased media coverage of the issues of non-regular public employees.

Conclusions

There has been a significant growth in the number of non-regular employees in the local public service, registering an increase of about 150,000 (32%) during the seven years from 2005 to 2012 and now one out of three local public employees is a non-regular employee. Among the increasing non-regular public employees, three-fourth is female, which means that one-fourth of the total local public employees (regular + non-regular) are non-regular female public employees.

The annual earnings of non-regular public employees are between one-fourth and one-third of that of regular employees, generating a striking gap between them. The pay gap is related more to the gap between regular and non-regular employment than to the gap between men and women. The gender-based pay gap among full-time regular employees is larger in the local public service than in the private sector, but the pay gap between regular and non-regular employees is bigger in the local service than in the private sector. According to a job evaluation survey, the pay gap between regular and non-regular employees is larger than the

difference in the value of their work. This pay gap is unjustified, since it is based on the difference in employment status between regular and non-regular employment rather than the relative value of what they do.

Seventy five per cent of non-regular public employees are women, and thus the issues of non-regular public employees are a gender issue. A sizable pay gap exists between female non-regular public employees and regular public employees. There is indirect pay discrimination in local public services, caused by the difference in employment status between regular and non-regular employees.

Non-regular public employees fall into a legal limbo or vacuum, as they are not covered by any particular law. Their rights as workers are neglected and no remedies are available to them. This is why it is said that “they are left in the valley of the legal system”. Non-regular public employees are not covered by the Part-Time Work Act which obliges employers to redress any discriminatory treatment between full-time and part-time workers, or by the Labour Contract Act which prohibits employers from applying unreasonable working conditions to employees on the basis of the duration of a contract, whether indefinite or fixed-term. Therefore, both the national and local governments are exempted from an employer’s minimum duty to ensuring their treatment of this category of their employees is balanced with that of ordinary workers, and local governments are allowed not to renew the employment (*yatoidome*) of non-regular public employees whose fixed-term contracts have been renewed by the same appointing local authority for many years.

Furthermore, the trend of limiting repeated renewals of fixed-term employment contracts is rapidly spreading in local governments, in order to deny a right to expect continued employment. As a result, there have been a number of cases of *yatoidome* of the non-regular public employees whose fixed-term contracts have previously been renewed by the same appointing local authority for many years. In light of the judicial precedents, the only redress available to non-regular public employees who have accrued the right to expect continuous employment but face a situation of *yatoidome*, is through the legal principle of indemnity.

Unionization of non-regular employees in the public service has been difficult and such efforts have not caught up with the pace of increase of non-regular public employees. In the local governments where they are organised, pay and working conditions for non-regular public employees are clearly better than their counterparts in the non-organised local governments.

Points for action

The pay level of non-regular public employees directly employed by the Government has been held low. Furthermore, the wage level of workers engaged in public works or works contracted out by either the central or local governments also has sharply dropped and some of those engaged in contracted works are paid wages which are lower than what is paid to welfare recipients.

This is accounted for by the prevalent wage dumping practices of contractors to win competitive bids by holding down the pay levels of their workers engaged in public works and contracted works. Another contributing factor is the financial difficulty of the central and local governments which have allowed unreasonably low bidding prices without redressing such dumping practices. The central and local governments' actions or inaction have contributed to the emergence of a growing segment of the "working poor" – i.e. the poor working class- both in and out of the public sector by increasing non-regular employment in the public services directly provided by the governments, while allowing unreasonably low tendering prices in public works and outsourced services provided on behalf of government.

Against such a background, an increasing number of local governments have been introducing labour clauses in their contracts in which they set minimum standards on the pay levels of workers engaged in public works and contracted-out services and made it obligatory for the contractor, one of the parties to the public contracts, to pay their workers above the minimum standards determined in their public contracts. Noda City in Chiba Prefecture (adjacent to Tokyo), for instance, took the first initiative in this direction: the City's Public Contract Ordinance, enacted in September 2009 and coming into force in April 2010, lays out the following principles in its preamble:

"Local governments have expanded competitive tendering and adopted a comprehensive estimating method in their efforts to improve their tendering system, but on the other hand lower bidding prices have placed burdens on the subcontractors as well as workers engaged in their works or services and brought about lower wages for these workers. . . . The City will not overlook this situation and by taking the lead in addressing this problem we hope that our public contracts will contribute to realizing a community in which people can lead an affluent and secure life. With this determination, we enact this ordinance to ensure the quality of services provided under public contracts and to enhance the social value of public contracts."

Since the enactment of this Public Contract Ordinance, a movement to enact a similar ordinance has spread to various parts of the country. Nine local governments have so far enacted such an ordinance as of February 2014 and many others now contemplate following these

examples. In these nine local governments, the enactment of public contract ordinances brought about the positive result of pay increase for non-regular public employees directly employed by these local governments, and this eventually raised the pay level in the whole area covered by the local governments concerned.

The principles underlying the public contract ordinances and the compliance to labour clauses have a common approach. It is in line with the ILO's Labour Clauses (Public Contracts) Convention 1949 (No. 94), which is yet to be ratified by the Government of Japan. As is seen in actual practices of a number of local governments in Japan, it is clear that the ideas and approaches adopted in the ILO Convention No.94 would contribute greatly to narrowing income gap, at least in the public sector. In times when the income gap has been widening to critical levels not only in Japan but also internationally, ILO Convention No. 94 has a great significance and should be actively promoted. The ILO should step up its promotion of Convention No. 94 among its member States and encourage them to ratify it. Countries which have not yet ratified the convention, including Japan, should accelerate their efforts to ratify it and bring their national laws into conformity with it.

References

- All-Japan Prefectural and Municipal Workers Union (JICHIRO). 2012a. Basic Survey on Organisation Rate.
- All-Japan Prefectural and Municipal Workers Union (JICHIRO). 2012b. *Survey on Pay/Working Condition System of Temporary/Part-time Employees in Local Governments*.
- CEACR, Direct Request, adopted 2012, published 102nd ILC session (2013), Equal Remuneration Convention, 1951 (No. 100) – Singapore.
- CEACR, Observation adopted 2007, published 97th ILC session (2008)-- Japan, para. 6.
- Committee on the Elimination of All Forms of Discrimination against Women. 2009. “Concluding Observations of the Committee on the Elimination of All Forms of Discrimination against Women, CEDAW/C/JPN/CO/6.
- Convention on the Elimination of All Forms of Discrimination against Women (1979), Article 4.1.
- Founding Convention of the European Economic Community (EEC), Treaty of Rome (1957).
- ILO. Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951 (No. 100).
- Local Public Service Law, Law No. 261, 1950 (Japan).
- Ministry of Health, Labour and Welfare of Japan. 2008a. Basic Survey on Wage Structure.
- Ministry of Health, Labour and Welfare of Japan. 2008b. Final Reports of the Monthly Work Statistical Survey.
- Ministry of Health, Labour and Welfare. 2012a. Basic Survey on Labour Unions.
- Ministry of Health, Labour and Welfare of Japan. 2012b. Guideline for Eliminating the Gender-based Pay Gap (in Japanese).
- Ministry of Internal Affairs and Communications of Japan. 2005. Survey on Temporary and Part-time Employees, as of April 1, 2005 (in Japanese).
- Ministry of Internal Affairs and Communications of Japan. 2008a. Results of Pay Survey in the Local Public Service, as of April 1, 2008 (in Japanese).
- Ministry of Internal Affairs and Communications of Japan. 2008b. Survey on Temporary and Part-time Employees as of April 1, 2008 (in Japanese).
- Ministry of Internal Affairs and Communications of Japan. 2012a. Survey on staff size Management of Local Governments 2012 (in Japanese).
- Ministry of Internal Affairs and Communications of Japan. 2012b. Survey on Temporary and Part-time Employees (In Japanese).
- Ministry of Internal Affairs and Communications of Japan. 2013. Annual Report of the Labour Force Survey, as of April 1, 2012 (in Japanese).

OECD. 2012. “Policies for a Revitalisation of Japan” (April), <http://www.oecd.org/general/50190618.pdf>

Second Petty Bench of the Top Court, Case of Lump-sum Payment to Temporary Employees of Ibaragi City, Osaka, September 10, 2010 (in Japanese).

Tokyo District Court, Case of Refusal of Reappointment of Part-time Employees of Musashino City, 9 November 2011.

Tokyo High Court, Case of Part-time Child Care Workers in Nakano Ward, 28 November 2007.

Treaty on the Functioning of the European Union upon effectuation of the Lisbon Treaty in 2009.