

JAPAN'S LABOUR RELATIONS COMMISSION SYSTEM



Toward Fairer and Sounder Labour-Management Relations

Labour Relations Commissions (LRCs) were established in March 1, 1946 with the objectives of settling labour disputes and deciding unfair labour practices cases. LRCs are independent administrative agencies with tripartite members; representing employees, employers and public interests. Although the objectives of LRCs have remained unchanged for the past 60 years, their main tasks have been changing to meet the social needs of the times.

As inflation immediately after WWII triggered relatively violent, and severe labour disputes in the coal mine and power sectors that posed significant impacts on the daily lives of citizens, LRCs worked to settle these labour disputes through mediation and conciliation. When Japan subsequently enjoyed high economic growth, the labour movement turned into a so-called annual spring labourer offensive that sought a basic wage hike. LRCs played important roles in accommodating wage determination at that time. In this manner, LRCs stabilized the Japanese economy and improved the living standards of workers until the late 1970s.

On the other hand, the number of cases involving unfair labour practice has risen to a peak, both during and after the 70's. LRCs have been facing an increased number of complicated disputes relating to employers' authority, including the transfer or criterion of deciding the employer, meaning the examination process has become excessively long. When the government privatized Japan National Railway in 1987, many former JNR workers filed complaints because JNR's successor JR did not employ trade union members who opposed the JNR privatization. These labour disputes have triggered a further rise in the number of complaints before LRCs.

LRCs in Japan have been making various efforts to address these problems. In 2005, the Trade Union Law was amended to quickly and properly examine cases of alleged unfair labour practice and amendments have been gradually showing results.

As this year is the 60th anniversary of the LRCs, we decided to publish this booklet "Japan's Labour Relations Commission System", hoping to call foreign people's attentions to the roles that we have been playing to date. I would be grateful if this booklet could help readers better understand labour-management relations in Japan.

June 2006



Koichiro Yamaguchi
Chairman, National Labour Relations Commissions Liaison Council
Chairman, Central Labour Relations Commission

Past, Present and Future of Labour Relations Committees

Labour Relations Commissions (LRCs) were established in 1946, immediately after WWII, because Japanese policymakers at the time believed that independent, democratic and tripartite labour administrative organs would contribute to the democratization of labour relations in Japan. LRCs have the following main characteristics: LRCs not only deliver decisions on labour disputes but also adjust the same; and are able to provide more flexible solutions than judicial courts because they are ADR organs. In addition, each LRC's tripartite structure, to which both employees and employers send their representatives as "participant members", further enhances its unique characteristics and provides LRCs with roles other than dispute resolution alone.

LRCs have played active roles in many cases, including frequent and severe labour disputes from the chaotic post-WWII times to the era of economic recovery, as well as wage hike adjustments during annual spring labour offensives during the era of high economic growth. LRCs strove to solve these collective labour disputes through consensus between employers and employees by requesting their understanding and accepting sound labour-management relations. In addition to solving labour disputes, LRCs have also provided opportunities for employers and employees in Japan to learn "good labour-management relations." At the same time, representatives of employees and employers who have actually handled dispute resolution as participant members have brought back know-how on properly setting up "good labour-management relations" to the enterprises from which they originally came.

LRCs have seen a gradually diminishing number of labour disputes since the mid-1970s, largely because labour-management relations have matured and stabilized in Japan. The fact that they have learned know-how on "good labour-management relations" through LRC has also significantly contributed to the maturing and stabilization of labour-management relations in Japan. Without LRCs, Japan would have seen totally different labour-management relations during the post-WWII era.

On the other hand, since LRCs now handle fewer labour disputes, some people are calling for them to be scaled down. However, new types of collective labour disputes are emerging, which might pose significant impacts on labour-management relations in Japan.

For example, the present labour laws do not provide effective solutions to new problems, such as the restructuring of corporate organizations, the emergence of pure holding companies, and relationships between an investment fund and an invested firm's labour union. Besides, Japanese experts recently started discussing a workers' representative scheme. If Japan introduces this scheme, we will need an organization that will handle conflicts arising from the same, or monitor whether workers are electing their representatives fairly.

I think that we should expand the authority of LRCs in order to handle these new problems. Owing to their long history and enormous experiences in addressing labour-management relations, they can successfully deal with the same.

Due to their serious efforts, LRCs have successfully overcome most labour-management problems, which policymakers expected them to address when the LRC scheme started in Japan. However, as long as we have workers and employers, new types of labour-management problems will inevitably occur one after another. I hope that LRCs will continue to work on labour-management problems and should play their roles in creating good labour-management relations in Japan. As Asian policymakers are blighted by frequent labour disputes in their modernization process, they are focusing on Japan's LRC scheme and its successful experiences. I am convinced that we must all re-acknowledge the fact that stable labour-management relations lead to a stable society and LRCs must never lose their own unique mission.

June 2006



Tsuyoshi Takagi
President, JTUC-RENGO

Business Community Expects Labour Relations Committee's Active Roles

I would like to extend my most sincere congratulations because March 1 was the 60th anniversary of the labour relations commission (LRC) scheme. In addition, I would like to express my respects to the serious efforts you have made so far.

When I look back on history, LRCs have been playing important roles in stabilizing labour-management relations in Japan by adjusting or solving labour disputes since their inception. In the 1970s, when we had two oil shocks, LRCs adjusted more than 1,000 labour disputes a year. Although the number of labour disputes has been decreasing since 1989, LRCs have been still contributing to amicable settlements of large-scale labour disputes involving a lot of workers.

In addition to solving many labour disputes, LRCs also play important roles in promoting deeper understandings between management and labour in the labour dispute resolution process. LRCs have a unique member structure from other administrative organs of their tripartite structure, consisting of members representing public interests, workers and employers. For this reason, LRCs have a wonderful tradition of these three parties working with one another to solve problems. This collaborative attitude has enhanced LRC's adjustment capabilities, which has in turn contributed to amicably settling difficult problems, I guess. I hope that LRCs will also maintain this good tradition in future.

In this way, LRCs have made significant contributions to stabilizing labour-management relations in Japan, but some experts recently point out that LRCs have an excessively long examination process and deliver many relief orders that are revoked by judicial courts. In this regard, employers have been insisting that LRCs should maintain a strict hearing process by properly instructing the examiners concerned and smoothly proceeding with the examination process. Employers are also requesting that the LRCs deliver proper orders that are satisfactory to judicial courts. With a swifter and more proper examination process in mind, lawmakers amended the Trade Union Law in 2004 in order to improve the examination process and provide a better examination framework. I heard that this law amendment has achieved steady success, but I would be grateful if LRCs could further strive for a speedy examination process and proper system operations.

The Japanese economy is now experiencing a recovery trend in general, but this differs in each region, industry and corporation. In addition, changes in industrial structure and the labour market as well as diversified working needs have significantly altered the working patterns of employees.

Under these circumstances, some analysts are concerned about a possible increase in traditional labour disputes and in collective labour-management disputes arising from modified working conditions or corporate reorganization. It is obviously desirable that the parties involved engage in sufficient discussion to solve disputes arising in their corporation. However, even if they bring their disputes to LRC, LRC should amicably settle the dispute under satisfactory conditions for both the contesting parties. I think that the roles of LRCs are becoming more important.

To conclude my complimentary address for the 60th anniversary of the LRC scheme, I really expect LRC to play further active roles.

June 2006



Fujio Mitarai
Chairman, Nippon Keidanren

Labour Relations Commissions and Japan Labour Law Association

Congratulations on the 60th anniversary of the labour relations commission scheme.

The Japan Labour Law Association (JLLA) was established in Osaka with 130 members in 1950, four years after the labour relations commissions (LRC) system started in Japan. JLLA has almost the same history as the LRC system. Currently, JLLA has approximately 700 members, including university professors, lawyers and graduate students. We take pride in our contributions to moving ahead with labour law studies.

Since their inception, LRCs have significantly contributed to guaranteeing the right of association and stabilizing labour-management relations in Japan by correcting unfair labour practices and adjusting collective labour disputes. I strongly believe that JLLA members have also made significant contributions because we participate in the establishment and operation of the LRC system by serving commission members representing public interests, studying LRC orders and related court decisions as well as conducting comparative law or historical research. In particular, we engage in lively discussions on the LRC framework and unfair labour practice-related legal theories as our assembly themes of the time. JLLA Journals have featured articles, such as "Legal Theories on the Organization and Operation of Trade Unions" (Vol. 23 in 1964); "Labour Disputes and Labour Relations Commissions" (Vol. 28 in 1966); "Present Status and Future Outlook of Labour Relations Commission System" (Vol. 49 in 1977); "Legal Problems under Plural Unionism" (Vol. 54 in 1979); "Enterprise-based Unions and Right of Association" (Vol. 57 in 1981); "LRC Orders and Limitations on Judicial Reviews" (Vol. 58 in 1981); "Administrative Remedies and Judicial Remedies" (Vol. 72 in 1988); "Managers Unions" (Vol. 88 in 1996); and "Judicial Review of Relief Orders" (Vol. 94 in 1999). These JLLA efforts exert a strong influence on the forming practices of LRCs and judicial decisions in terms of expanding the "employer" concept in the collective bargaining process, interpreting employer's neutrality obligations in dealing with plural trade unions, and setting up a mass observational (collective comparison) method on discriminative personnel evaluation.

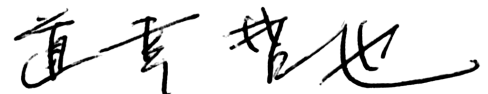
On the other hand, in recent years, a smaller number of workers have filed complaints against unfair labour practices or started lawsuits on Trade Union Law because trade unions are getting less influential. In addition, the courts have revoked many LRC decisions in cases involving employer's intention of unfair labour practices or diversified discriminative personnel evaluation against the members of minority unions, while JLLA less frequently picks up Trade Union Law matters as its assembly theme and fewer researchers are conducting research on Trade Union Law.

Nonetheless, I think that LRCs will keep playing important roles in solving labour disputes from collective viewpoints. As for dispute adjustment, we now have dispute conciliation commissions and employment tribunals for individual labour disputes. Many labour disputes (e.g. modifying working conditions in a disadvantageous manner through the amendment of work rules) are individual disputes in formality, but in reality have some similar aspects to collective labour disputes. To solve these disputes, the dispute resolution know-how of tripartite LRCs is absolutely necessary. As for unfair labour practices, LRCs now cover a larger number of workers, due to the privatization of public enterprises. In this context, some workers are filing complaints, arguing that their employers have imposed disadvantageous working conditions.

I have been conducting research on the LRC system and unfair labour practices for more than 35 years. I have also served for the Hokkaido Labour Relations Commission, as a member representing public interests, for almost 25 years. However, I am sometimes discouraged because I have only been able to successfully and theoretically clarify these labour disputes to a limited extent. It is a profound research field and I strongly feel that JLLA needs to conduct full-fledged research activities.

JLLA would like to keep contributing to LRC operations in various manners.

June 2006



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