

3

Political Segmentation of the Labor Market: The Establishment and Expansion of New Employment Forms

The employers' initiative for labor market reform

The sudden collapse of the asset-inflated economy in 1991 (usually referred to as 'the burst of the bubble economy') was the start of the period of low growth, or sometimes even shrinking, economy in the 1990s and in the 2000s. The crash of stock and land markets caused a serious credit contraction, by which business investment was radically decreased. The following period is often described as the 'lost decade' mainly referring to the lack of economic growth. Figure 3.1. shows the postwar trend of the rate of economic growth in Japan. The first oil shock reveals the end of the period of rapid economic growth. The following period shows significantly lower economic growth, although it is still higher than most of other advanced industrial societies. This was achieved in the midst of crises such as the end of Bretton Woods Regime, by which the yen was allowed to float, and the second round of oil shock. On the one hand, the competitive strength that Japanese companies showed was praised as 'Japan as No.1' during this period, but on the other, Japan's excessive trade surplus was starting to be criticized. The end of this period came with the burst of the bubble. It clearly marks the start of a period of economic stagnation, and Japan even experienced the shrinkage of her economy several times during this period.

Japanese companies used to achieve numerical and functional flexibilities in a very specific arrangement of employment institutions. However, in the wake of the economic downturn, Japanese employers

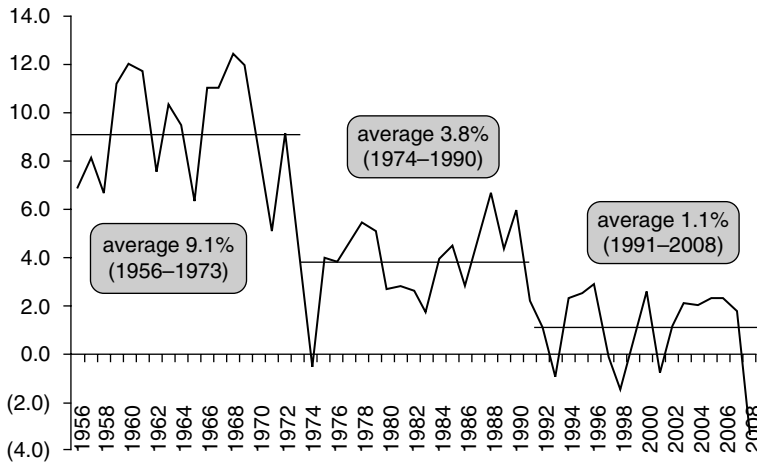


Figure 3.1 The rate of economic growth in Japan from 1956 to 2008 (GDP) (%)

Source: System of National Accounts (SNA): Cabinet Office 2009*

*Prior to 1980, the numbers are based on 68SNA (thereafter, they are based on 93SNA), and the figures after 1995 are calculated based on the chain-linking method.

began to see the existing employment system as a burden. In December 1993, the year Japan experienced negative growth for the first time after the first oil shock in 1973–4, Nikkeiren¹ organized a study group that reexamined the foundations of ‘Japanese management.’ The study group’s report was published in 1995 as *New Age Japanese Management* (*shin-jidai no nihon-teki keiei*) that proposed the future direction of the employment system in Japan.

The following statements summarize the employers’ understandings about environmental changes and the agenda they wanted to set.

- The transition to an era of low economic growth directly impacts on the supply-demand structure of labor markets. Although it is not realistic to expect high-rate growth, it still is necessary to maintain some growth to keep and create employment.
- Under the circumstances of low economic growth, it is inevitable to have excessive labor in the short term, especially in the white-collar sector and service sector.
- It is necessary to facilitate corporate restructuring in order to revamp high cost structure. By informatization and systematization, it is also inevitable to have excessive labor, particularly in the white-collar sector.

- Since there will be excessive labor in a shrinking manufacturing sector and a labor shortage in growing new industries and occupations, it is necessary to facilitate labor mobility between the sectors and occupations.
- High appreciation of the yen and rising Asian economies highlight the high employment costs in Japan and cause the hollowing out of industry that creates further excessive labor in Japan. (Nikkeiren 1995: 21–2)

The core of the proposal shown in the report is basically the strategy to diversify employment at firm organizational level and calls for regulative reforms to support such a strategy. The strategy divides the workforce into three groups and discusses differentiated labor management practices for each of these groups (see Table 3.1).

With this new strategy, employers detach professional and flexible employment groups from the long-term employment group. Workers in the long-term employment group are still employed in unlimited-term contracts and have full access to corporate welfare programs (while the

Table 3.1 Nikkeiren's employment diversification strategy

	Work contract	Target workers (skill/career expectation)	Career	Wage system	Retirement / pension
Long-term employment group	Unlimited-term contract	Managers and career-track workers (in clerical and technical divisions)	Promotion (titles) and advancement (ranking and qualification)	Monthly/annual salary, ranking and qualification, base-up	Contribution-based retirement allowance/ lifelong comprehensive package by employer
Professional group	Limited-term contract	Professional divisions (planning, sales and R&D)	Achievement evaluation	Annual salary, results-based, No base-up	Not applicable/ not provided by employer
Flexible employment group	Limited-term contract	Clerical, technical sales works	Transfer to career track	Hourly salary based on job description, No base-up	Not applicable/ not provided by employer

Source: Adapted and translated from Nikkeiren 1995: 32.

workers in this group are designed to be under pressure from the results-oriented labor management system). Workers in the other two groups are anticipated to be employed with limited-term contracts and limited access to welfare programs. Workers in the professional group are hired on an occupational basis, and are intended to be assigned to divisions such as planning, sales and research and development. The performance expectations are purely based on results. Workers in the third group are hired by job description, and are to be assigned to clerical, technical and sales tasks. They are paid an hourly wage. To achieve this new flexible employment strategy, in addition to the reform efforts at organizational level, employers claimed the liberalization and deregulation of the private job placement and the temporary dispatching work system in order to facilitate labor mobility (Nikkeiren *ibid.*: 26–7, 95–6).

The report was the direct trigger that initiated the era of reform. It was a major manifestation by employers to reform Japanese employment relations, which was also a part of the reform process underway since the mid-1980s. It needs to be located in the context of the historical development of Japanese employment relations, and it is also necessary to understand how other major actors such as labor unions and the state understood the situation and how they reacted to the employers' initiative. To pursue these goals, this chapter starts from the detailed historical description about the ways the numerical and functional flexibilities are achieved by the coordination of employment contracts and labor mobility in Japan as a result of state-firm-labor politics. Based on the historical development, the employers' reform initiative will be situated in the politics from the late 1980s focusing on the establishment and revisions of temporary dispatching work, the liberalization of job placement, and the expansion of the limited-term contracts. Finally, the chapter will evaluate the impacts of these reforms on the structure of labor market segmentation, organizational practices and the changes of employment relations.

Social organization of labor markets in the postwar period

The comparative strength of 'flexible rigidities'

From a comparative perspective, the Japanese labor market is categorized as one of the most strictly regulated, especially with regard to the difficulty of dismissal (Miura 2001a). It is commonly argued that taking labor out of market competition through long-term employment introduces rigidity against industrial adjustments to new activities and sectors. However, as Ronald Dore put it as 'flexible rigidities,'

Japanese employment relations developed numerical and functional flexibilities through specific combinations of contracts and mobility. Flexibilities emerged out of largely restrictive regulations of the external labor market and the regime of organized mobility within business organizations based on the lifetime commitment by regular employees. This institutional arrangement is a result of the historical developments of state-firm-labor politics with regard to labor market regulations and the welfare-employment arrangement including collective bargaining and the control of demand/supply of labor. These two developments had influence with each other on the development of the institutional arrangement of 'flexible rigidities.'

Restricted external labor mobility

The restrictions of the external labor market were established during the postwar reconstruction efforts of the society under the frame of 'democratization.' The occupation government tried to eliminate the labor supply business organized by 'labor bosses' (Takanashi 2001a). Since labor bosses dispatched their own subordinate workers to other employers and earned brokerage commissions, private temporary agency work was seen as a feudal practice and prohibited by the ESL.² The ESL only permitted public job placement except for the ones provided by schools, trade unions and a limited number of occupations.³ The LSA Article No. 6 also prohibited such forms of intermediary exploitation and forced these labor bosses to become regular employers. The Japanese Public Job Placement Agency (*shokuan*, or *shokugyō antei-jo*) was set up under the strong initiative of GHQ, and through this system, workers were placed in the expanding industries by the policy of priority production system of the late 1940s and the 1950s (Ujihara 1989b). Although the public job placement service became less important afterwards, the job placement function provided by schools, especially high schools, became one of the representative cases of regulated labor markets (Rosenbaum and Kariya 1989).⁴

The concern over feudal practices by labor bosses also put restrictions on the regulations of limited-term contracts, which was only permitted for a one-year duration to avoid unduly severe constraints by labor bosses. Thus it was only after the oil shocks in the 1970s that *paato*, a dominant form of limited-term contract, became important to fill the needs of flexible employment (Takanashi 1993). During this period, Japanese firms were forced to execute their first serious restructuring

efforts in the postwar history, which were viewed as a belt-tightening effort (*genryō keiei*). As mentioned, *paato* workers are primarily middle-aged female workers who could be employed from local labor markets, and are considered suitable to fill the needs of numerical flexibility. For the needs of specific skills, workers are employed in other forms of limited-term contracts such as *keiyaku/shokutaku*.

As described in Chapter 2, the employment security of regular employees is one of the major results from the postwar labor struggle, and it turned out to be the core of Japanese employment relations. Although it is the direct result of the labor relations, the state's roles should not be ignored in maintaining the practice. Chapter 2 points out the role of state subsidy in the corporate welfare programs. In addition, it is also important to note the role of judicial ruling on employment protection. Superficially, as far as the laws are concerned, there is no strict restriction on worker dismissal in Japan. Article no. 627 of the civil law clearly provides the basis of the right of dismissal for employers. The LSA also does not prohibit worker dismissal except in some cases such as dismissal during sick or maternity leave (Ikezoe 2002: 1). However, in reality, the accumulated case law places strict restrictions on worker dismissal, and is called the doctrine of abusive dismissal (*kaiko-ken ran-yō hōri*) in conformity with the practices of 'lifelong employment.' The decisions of lower courts resulted in a body of law governing worker dismissal. The Supreme Court case of *Nihon Shokuen Seizō* in 1975, set forth the terms of the doctrine, and thus the standard by which the cases of worker dismissals are judged (Ikezoe 2002, Nogawa 2004). In this way, throughout the period of rapid economic growth, worker dismissal has become strictly regulated in Japan by putting emphasis on the norms and practices of 'lifelong employment.'

Flexible rigidities

Under these circumstances, Japanese companies developed some unique solutions to achieve numerical and functional flexibility in their workforces using various types of organized mobility of regular employees. The basis of the organized mobility is an interfirm network among Japanese companies. From around 1955, after the economy took off due to the Korean War, Japanese companies started to form enterprise groups called *keiretsu*, a distinctively Japanese practice of quasi-organizational structure among companies, in order to have stable and flexible business relationships.⁵ Using the network, Japanese firms developed practices of labor lending (without a labor contract)

which contributed to attaining required skills and dealing with labor adjustment. Subsidiary (*ukeoi/shitauke*) companies lent workers to the main companies when needed.⁶ Matsushima and Hazama reported in 1960 that there were as many *ukeoi* workers as regular workers in one plant of the petrochemical industry (Matsushima and Hazama 1987). This is called *kōnai ukeoi*. Some of the *kōnai ukeoi* workers who were dispatched to client companies worked under the direction of the clients. This practice was illegal, but the practice survives due to the lax enforcement of regulations.⁷ *Ukeoi* was extended in the manufacturing industries in the 1970s and 1980s, as was *kōnai ukeoi*. The expansion of the computer industry relied on the practice (Takanashi 2001a).

Another form of labor lending that appeared in the 1960s is *shukkō*. Towards the end of the period of rapid economic growth, Japanese companies needed to expand their businesses in a new direction to cope with the industrial structural changes from heavy and chemical industries to auto and electronics manufacturing. To cope with such changes, Japanese firms deployed regular employees across sections through the practices of job rotation and job transfer. However, when firms expanded their business fields by establishing subsidiary companies, they sent necessary workers, especially managers and engineers, to those subsidiary companies to insure that they had sufficient resources for the task (Inagami 2003). Thus, the practice of *shukkō* started as a dispatching of technicians/engineers and managers to subsidiary companies from parent companies.

In the case of *shukkō*, the workers are still employed by the parent company, and just perform work for the subsidiary. However, there emerged an extended form of *shukkō* in the midst of the struggle to survive the oil crises and its aftermath, which is called *tenseki*. In the case of *tenseki*, the workers are officially transferred to subsidiary firms with lower contract terms. During the 1970s and especially in the 1980s, *shukkō* and *tenseki* became the main measures of personnel adjustment by Japanese companies. Inagami reports that at Toray, a textile giant, management and trade unions agreed under the circumstances of oil shocks not to execute any layoffs but to use external personnel, limit the new hires, and facilitate (group) internal labor transfers to trim down the labor force (Inagami 2003: 21–3). Some employees were relocated to the subsidiary companies that were established in growing industrial fields as *shukkō* workers, and later in the 1980s, they all completely transferred to the subsidiaries (Inagami *ibid.*: 23–4).

Table 3.2 Regular/non-regular composition of the Japanese labor market from 1956 (%)

	1956	1959	1962	1965	1968	1971	1974	1977	1979	1982*	1987
Regular	88.93	90.27	92.19	92.17	92.98	92.69	92.21	90.28	88.92	84.23	81.59
Non-regular	11.07	9.73	7.81	7.83	7.02	7.31	7.79	9.72	11.08	15.77	18.41

Source: Employment Status Survey*: Statistics Bureau 1959, 1960, 1963, 1966, 1969, 1972, 1975, 1978, 1980, 1984, 1988.

*From the 1982 survey, employment categories based on how they are called at workplaces (such as *paato* and *keiyaku*) became available. Numbers until 1979 are based on the terms of contract, and workers with less than a year of contract are categorized as 'non-regular' employees in this table.

**The Employment Status Survey (*shūgyō-kōzō kihon chōsa*) is conducted every five years by the Statistics Bureau. The survey is based on the method of the National Census. For instance, The Employment Status Survey in 1997 was conducted by choosing 29,000 areas based on the National Census. About 430,000 households were chosen in these areas, and about 1,100,000 people were included in the survey. The results are statistical estimations. In this survey, the categorization of the non-regular employment relies on the local customs of respondents (and their workplaces).

Until the end of the rapid economic growth, Japanese firms developed a system of organized mobility among regular employees inside the firm and firm network in order to achieve numerical and functional flexibilities. That they did not rely on the external labor market is clear from the statistics about the regular and non-regular composition of the Japanese labor market during the period (see Table 3.2).

The percentage of non-regular employees declined from the 1950s to the 1960s.⁸ In 1968, it was only about seven percent of the total employees. Given the low unemployment rate during this period (about one to two percent throughout the 1960s), it was only a small part of precarious employment that the labor ministry recognized as a problem for the Japanese labor market. The impact of the oil crises is clear, and the expansion of non-regular employment seems to be the rising number of *paato* that became an important source of flexible employment.

Initial expansion of the external labor market

By the early 1990s, before the low-growth era, the demand for flexible employment grew for new and skilled lines of work connected with technological changes and internationalization. Various forms of worker dispatch grew to meet the demand. As noted earlier, *kōnai ukeoi*, partly a system of worker dispatch, was built into the vertical *keiretsu*

relation, entrenched in the Japanese employment system, in order to utilize certain skills and ensure flexible employment due to the lax application of the ESL. Specialized dispatching agencies emerged as new players in the labor markets. Manpower Japan was the first that came to Japan in the 1960s, and many dispatching agencies, which became the leading firms of today, were established in the 1970s.⁹ They all started their businesses to dispatch clerical workers, utilizing female workers who sought the opportunity to return to the labor markets.¹⁰ Above all, when the labor ministry's working group studied illegal dispatching, they found that the practice was common in occupations such as building maintenance, engineering works, information technology, clerical work and some other relatively skilled lines of work (Takanashi 1985, 2001a).

With the expanding use of illegal dispatching, the government was unable to ignore the situation. The Administrative Management Agency (*gyōsei kanri-chō*) conducted an audit of the activities of the labor ministry and, in 1978, gave them an admonition for the illegal dispatching. The labor ministry immediately organized a study group of five scholars followed by, in 1980, a tripartite research committee. The debate between labor and employers was so contentious that a period of a few years was necessary to reach a compromise. Labor unions were opposed to the establishment of the system of worker dispatch, primarily due to its potentially threatening effects on the employment security of regular workers by replacement with temporary workers, rather than any concern over the employment conditions of temporary workers (Hamaguchi 2004: 68–9).

The result is the Temporary Dispatching Work Law (*rōdōsha haken-hō*: hereafter, TDW Law) enacted in 1986,¹¹ which legalized private temporary agency work under the recognition that the Japanese employment relations were modernized enough¹² (Takanashi 1985: 122; Takanashi 2001a). Reflecting labors' opposition and the labor ministry's commitment to the policy to protect employment of regular employee¹³ (Hamaguchi 2004: 69), the new system was designed to create external labor mobilities under strict regulations. The TDW Law approved only thirteen relatively high-skilled and specialized occupational areas (the positive list system: a series of revisions added 13 occupations until 1997¹⁴) for a very limited-term (one year) of dispatch. At the same time, however, it is important to note that the new system contained strongly marketized elements. The new law established two types of worker dispatch; one is the employment-type (*jōyō-gata*) by which dispatching workers have continuing employment with temporary help agencies (hereafter, THA),

but in the registered-type (*tōroku-gata*) workers are only employed for the term of the dispatch.

The initial expansion of the external labor market is characterized by the legalization of the private temporary agency work, which meant the liberalization of the business after forty years of state control. It was to capture the temporary worker dispatching practice that already existed informally as a particular form of *kōnai ukeoi* and a dispatch of relatively skilled clerical workers. It prevailed in various industries during the period of rapid economic growth responding to the rise of new industries and internationalization, and it had been overlooked by the lax application of the ESL. The establishment of the TDW Law put the practices under legal control, which also forced private THAs to become responsible employers. This arrangement of labor mobilities is however clearly located external to the traditional sphere of organized labor mobilities.

Deregulation of the labor markets

Policy shift

Changes in policy environment

After the burst of the bubble economy and in the following economic stagnation employers started to recognize that traditional measures of flexibility had reached the limit of their ability to cope with the environmental changes. *Tenseki* started to have more importance than *shukkō*, and the number of workers to whom companies would like to apply these practices began to exceed the capacity of the company group, as the applicable age of these practices was becoming younger (Inagami 2003: 37–8). In addition, these practices were considered not suitable to fulfill the personnel needs of skilled workers, such as IT engineers, thus companies were under pressure to take further measures to reduce and diversify employment. It was in this context that Nikkeiren published the report, calling for collective efforts of reform that involve regulative changes. Employers claimed that external labor market mechanisms were necessary to achieve smooth labor mobility of the excessive labor force caused by its own restructuring efforts and to use workers with appropriate skills to cope with the emergence of new business fields.

The government's concern has been for labor market mismatches and unemployment rates. The unemployment rate in Japan barely reached 2.5 percent at the end of the 1980s. However, it started to rise after the burst of the bubble economy, and it reached a record high, in postwar

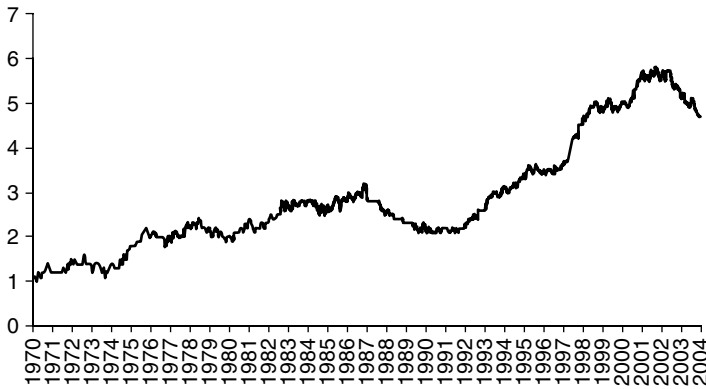


Figure 3.2 The trend of unemployment rates from 1970 to 2004 (%)

Source: Labour Force Survey: ILO 2010.

history, of 2.9 percent in 1995 (and it continued to rise afterwards, see Figure 3.2). The ministry analyzed labor market policies in the USA and Europe, and concluded that it would take a middle position to avoid high social inequalities due to high flexibility (USA) and the long-term unemployment due to high labor protection (Europe) (MOL 1995a: 15).

The government on one hand tried to solve the problem by facilitating the traditional mechanisms of labor mobility. It began with a series of special support plans within the framework of ‘labor transfer without unemployment’ (*shitsugyō naki rōdō idō*) for companies trying to facilitate labor transfers by *shukkō* and especially *tenseki* in the form of monetary subsidizing. This commenced in 1993 as a part of a comprehensive economic revival plan, and continued eleven times until 2002.¹⁵ These measures basically established subsidiary funds for companies in various situations, who were able to use the subsidies when they employed workers who were discharged by previous employers. These subsidies also included training funds and investments in information systems to dissolve employment mismatches.

On the other hand, deregulation of the temporary agency work became the central agenda to strengthen the external labor mobility and facilitate the relocation of workers to new areas (MHLW 2001a). The White Paper on Labor in 1994 points to the necessity of the arrangement that achieves “smooth transfer of workers outside the firm and firm network” (MOL 1994a: 28, 207) especially for middle-aged and elderly workers in addition to the traditional Japanese employment practices. The revision of the TDW Law in 1994 reflects the shift of labor market regulation in

Japan. It was the complete deregulation of the temporary agency work lifting occupational limitations for workers above sixty years of age adopting the negative list system (only the occupations that are not permitted are listed). This measure was expected to expand employment opportunities for elderly workers, especially after retirement, relocating those who are still capable of work (Takanashi 2001a:178–9).

The emergence of the deregulation committees changed the political balance between actors and the policy process of employment and labor market issues. Accordingly, their emergence accelerated the deregulation of Japanese labor markets. During most of the postwar period, advisory council (*shingikai*) set their own agenda based on the agreement of the tripartite members (Takanashi 2000: 1). The deregulation committee emerged as a new actor in this process. As mentioned in Chapter 2, the Administrative Reform Committee was founded in December 1994, and the Special Committee on Deregulation was set up under ARC in April 1995. A series of proposals from the deregulation committee were included in the Cabinet's decisions (*kakugi kettei*), and they started to function as the agenda setters for the following discussions at advisory council (Miura 2001b: 505). Although their proposals in 1995 and 1996 were not fully reflected in the 1996 revision of the TDW Law, the influence of the deregulation committee on the contents and the process of the revision is recognized by various authors (Takanashi 2000; 2001a: 180, 189; Araki 1999; Nakamura 2001). As their political power was strengthened by subsequent administrations, the trend of deregulation was accelerated.

There was another level of regulation that was changed to support the political climate toward deregulation. The influence was from the international arena. In this case, it was the revision and the ratification of the ILO treaty. In 1997, after three years of deliberation, the ILO adopted ILO Convention no.181,¹⁶ which is the revised version of the ILO Convention no.096 enacted in 1949.¹⁷ The revisions and the subsequent ratification of the ILO Convention became an important resource for those who sought deregulation of the private labor market intermediary system. The liberalization of private job placement in 1997 and 1999 benefited particularly from this. The first revision was of the ministerial ordinance of the ESL. This revision loosened restrictions to start up business, to charge expenses, and switched the positive list of the applicable occupations to the negative list, including clerical work, sales,¹⁸ service,¹⁹ security, agriculture and fishery, transportation and communication, and manufacturing and construction.²⁰

The revision (and the ratification) of the ILO Convention led the ministry to form the Study Group of the Employment Law (*koyō hōsei kenkyū-kai*) headed by Koike Kazuo²¹ and Sugeno Kazuo²² in 1997, and the group made a report proposing labor market reorganization in the following year. The report claims that the proposed reforms are to cope with the industrial structural changes, international competition and the change of the worker consciousness encouraged by the ratification of the ILO Convention 181. To achieve the goals, it states that the reorganization of the labor market should be based upon “market mechanism(s) through the private intermediate agencies with appropriate regulations on them” (MOL 1998a).

Radical deregulation

After the revision in 1996, the labor ministry immediately started preparations for further revisions due to pressure from the deregulation committee that required them to achieve a ‘negative list’ of the temporary dispatching work system with a time limit on discussions at advisory council (Takanashi 2001a, p. 190, Miura 2001b, p. 498). It was discussed at the Special Committee on Private Labor Market Intermediary System in the Central Advisory Council on Employment Security (*shokugyō antei shingikai minkan rōdōryoku jukyū seido shōiinkai*). Labor representatives opposed the radical deregulation of the system. The discussions however, were not about the rights or wrongs of deregulation of the system, but on the details of the implementation plan of the negative list system. For instance, the largest issue at the advisory council was whether the system was applicable to manufacturing lines. Here again the rationale behind labor’s opposition was the concern over the replacement of regular employees with temporary workers. Since the advisory council could not reach a compromise, initiatives by public representatives with the ministry behind them started to gain weight in advisory council decision making, although overall, the importance of advisory council was declining.

Faced with the peremptory demand from the deregulation committee, the labor ministry changed its attitude on the mechanisms of labor mobility. In 1999, the annual White Paper on Labor sought to explain the ministry’s changing attitude towards employment security. For the first time, the labor ministry expressed little hope in the role of traditional firm-internal labor mobility practices to curb the historically high unemployment rate (standing at 3.8 percent in 1998). With regard to the balance between the benefits and deficits of long-term employment commitments, the labor ministry pointed out that

employment security may even have been interfering with the ability of firms to adapt to the current economic changes (MOL 1999a: 242). This White Paper particularly suggested improving employability of workers, organizing labor markets for *paato* and temporary agency (*haken*) workers by the closer coordination between public placement agencies and private personnel placement service firms and improving the safety net for the unemployed, including retraining programs (MOL 1999a: 5, 247).

The revision of the TDW Law and the ESL was passed by the diet in 1999 (enacted in 1999), and it was a turning point in the history of labor market policy (Suwa²³ 2000: 9; Mawatari 2000). It radically deregulated the temporary dispatching system, and removed the public monopoly of job placement. The temporary dispatching work system was essentially deregulated except for a few occupations (the negative list). With respect to the length of dispatch, three years of dispatch were accepted for 26 relatively high-skill occupations, with a one-year limitation for all other occupations. After the revisions of this year, the temporary dispatching work system became quite complex. Simply put, there are two systems in one. One is the original 26 occupations which can be defined in terms of the relatively high skills required for workers. The term of dispatch for these workers is up to three years, while for all other occupations except for those on the negative list it is up to one year. Manufacturing line was not on the negative list, but by supplemental provision, it was excluded from the subject of the law.

The revision of the ESL was also made in 1999. There was a revision in 1997 that loosened the conditions to start up a business and added many white-collar occupations to the positive list,²⁴ but it still kept the baseline that the private job placement is not acceptable and permitted only in special cases. The revision in 1999 was a radical one that removed the principle to prohibit private job placement, 50 years after the establishment of the ESL, lifting occupational limitations (Tsuchida 2000: 74). The report from the Study Group of the Employment Law was the direct trigger for the liberalization of the system. The ratification of the ILO Convention greatly legitimized the revision (Hamaguchi 2004: 87).

The expansion of limited-term contracts were realized under the same trend. As with private job placement and the dispatching worker system, it began by admitting up to three-years contracts for small numbers of professional occupations, which can be defined by their official qualifications or credentials in 1997.²⁵ The conditions for using

limited-term contract employees also reflects the fact that labor unions were strongly opposed to the system since employers might use the system to replace regular workers with those on limited-term contracts. Thus, the law limits the business situation where employers can utilize workers with limited-term contracts. It can be used only when skilled workers are necessary “to start up, convert, expand, downsize or close down an enterprise which is expected to be completed within a definite period”.²⁶

In 1994, the first deregulation committee was set up as a subdivision under the ARC. In 2001, the Council for Regulatory Reform (*sōgō kisei kaikaku kaigi*) was launched as an independent council in the cabinet office, in which there was no labor representative (ten business representatives and five scholars). The Koizumi administration (2001–2006) led the further deregulation of employment and labor markets that extended the radical reforms made in 1999. In terms of the TDW Law, the revision enacted in 2004 had significant impacts by introducing the system to the manufacturing line, the bastion of enterprise unionism. It also lifted the limit of the terms of dispatch for the original 26 occupations. The limited-term contract was expanded too. The conditions attached to the 1999 revision to use limited-term contract workers were removed from 2004. In addition, the revision extended the maximum contract term to five years, and relaxed the applicable occupations, so that highly qualified workers defined by a certain level of credential, the length of service and the amount of income could move from one employer to another as an independent worker.²⁷

Descriptive characteristics of the labor market changes

During the initial phase of the reform, the expansion of the external labor market was well negotiated by state, firm and labor as equal partners. However, from the mid-1990s, labor was effectively excluded from the process of deregulatory reforms. Given the politics, it is clear that the reforms became primarily the resources for employers to cope with globalization and industrial structural changes. Thus, this section first analyzes how new employment forms are used, and how employers’ practices changed labor markets in Japan. Second, the impacts of the reforms on employment relations will be examined. The rise of new employment contracts may be a challenge to the company citizenship characterized by privileged access to corporate welfare and organized mobility. I will argue that the basic contractual terms for regular employment were preserved during the period, but the expanding

sector of non-regular employment is clearly excluded from the entitlement to company citizenship and is facing fragmented career prospects. The segmentation between regular and non-regular statuses is deep and rigid as non-regular workers have difficulty obtaining regular employment status.

Expansion of non-regular employments

Taking advantage of the deregulatory reforms, Japanese firms increased the proportion of non-regular employment to about 30 percent of the total workforce. Table 3.3, based on the Employment Status Survey, demonstrates the dramatic changes in the employment structure – regular/non-regular composition – from 1987 to 2007.

Table 3.3 Changes in labor market structure by employment status (numbers in thousands)

	1987 %		1992 %		1997 %		2002 %		2007 %	
Regular employees	37,653	81.59	42,032	79.96	42,392	77.10	38,452	70.35	38,336	66.98
Non-regular employees	8,498	18.41	10,532	20.04	12,590	22.90	16,206	29.65	18,899	33.02
<i>paato / arubaito</i>	6,563	14.22	8,481	16.13	10,342	18.81	12,062	22.07	12,935	22.60
<i>haken</i>	87	0.19	163	0.31	257	0.47	721	1.32	1,608	2.81
<i>keiyaku / shokutaku</i>	730	1.58	880	1.67	966	1.76	2,477	4.53	3,313	5.79
others	1,118	2.42	1,008	1.92	1,025	1.86	946	1.73	1,043	1.82
Total employees	46,151	100	52,564	100	54,982	100	54,658	100	57,235	100
Reported total employees*	46,153		52,575		54,997		54,997		57,274	

Source: Employment Status Survey: Statistics Bureau 1988, 1993, 1999, 2004, 2009.

*Numbers are rounded to the nearest 1,000 in actual numbers. In percentage, numbers are also rounded to the nearest 0.1 percent. In all years, the statistics are first calculated based on legal contracts, then are recaped in terms of the employment status. The numbers of each employment status often do not add up to the total number of employees, which is especially true for the year 2002. This is because there is no clear definition of the employment statuses (*paato*, *keiyaku* and so on), it is up to respondents to which category they categorize themselves. And in some cases, they do not answer. If they answered 'others', they are categorized as 'others'. But if they did not answer the category question, they are simply not included in the table. (telephone correspondence with Japanese Statistics Bureau).

Almost 82 percent of the total employment was regular employment in 1987, which went down to around 67 percent in 2007. Accordingly, the non-regular employment expanded significantly from 18.4 percent to 33 percent of total employment. The impacts of the deregulatory reforms are clear here, especially the ones after the mid-1990s. The numbers in regular employment in 1987 and 2007 are much the same, 37.7 million in 1987 and 38.3 million in 2007, while total employment increased from 46.2 million to 57.2 million, indicating that the net increase is due to the expansion of non-regular employment. During the period of the bubble economy, the numbers in regular employment increased, while the pace of expansion of non-regular employment is slightly faster. From 1992 to 1997 – post-bubble period – the number of regular employment remained static and only non-regular employment grew. The change accelerated between 1997 and 2002. The numbers in regular employment declined by about four million, which is translated into a decline of seven percentage points. Conversely, the same magnitude of change occurred in the non-regular segment. The pace of change slightly lessened after 2002, but the trend is still continuing.

Japanese firms not only expanded the non-regular employment but also diversified the employment. Among the non-regular categories of employment, *paato* is always the largest category and has been expanded from 14.2 percent in 1987 to 22.6 percent in 2007. The trend

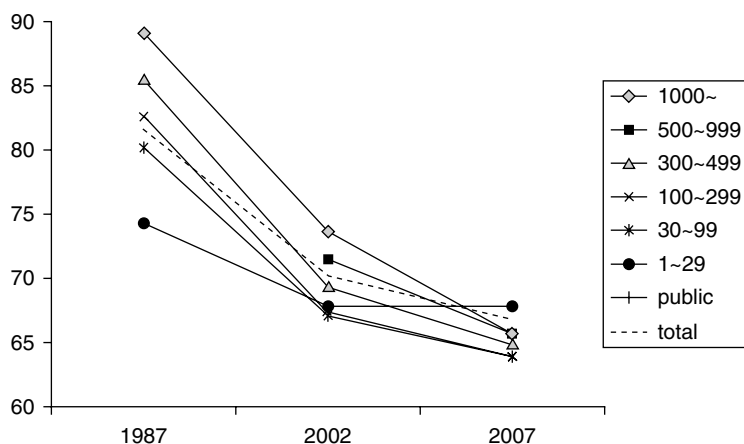


Figure 3.3 Proportion of regular employee by firm size (%)

Source: Employment Status Survey; Statistics Bureau 1988, 2004, 2009.

of expansion, however, is quite steady, about two to three percentage points increase every five years.²⁸ Radical expansion can be seen in the categories of *keiyaku/shokutaku* and *haken*. *Keiyaku/shokutaku* stayed as low as 1.76 percent until 1997, but it expanded dramatically to 4.5 percent in 2002 and reached 5.8 percent in 2007. The workers in this category are employed by limited-term contracts, and one might actually find an employment through private job placement, although individually contracted workers and rehired retirees are also included. The fastest growing category among the various non-regular employments is *haken*. It was almost none in 1987 but it started to grow significantly, particularly after 1997, and reached about 2.8 percent of total employment in 2007, which is almost the same percentage as that in the USA, which is usually seen as the world's most liberal economy.

The expansion of the non-regular employment occurs regardless of the firm size. This fact proves that traditional measures of flexibility really hit the limit especially in large and medium size firms that represent Japanese economy.

Figure 3.3 shows the changing proportion of regular employee by firm sizes. In average, the percentage of regular employee dropped from 81.6 percent in 1987 to 66.9 percent in 2007. The decline is more dramatic at larger firm sectors than the smallest ones. At the largest firm sector, which includes firms with more than 1,000 employees, the percentage declined from almost 90 percent to 65.7 percent. The decline at the smallest firms with less than 29 employees was 74.3 percent to 67.9 percent, a figure that is actually slightly higher than the largest firm sector. These observations indicate the declining capacity of employment and the limitation of the traditional measures of labor force adjustment within company groups, in which a redundant workforce at larger firms were sent to subsidiary firms with lesser contracts. All individual firms, especially large firms, needed to reduce regular employment, and instead, increasingly rely on non-regular contracts to utilize flexibilities.

As a result, large and medium size firm sectors use new employment forms more than small firms. They use *haken* and *keiyaku* workers more than the smaller counterparts in addition to the increasing use of *paato/arubaito*. Table 3.4 shows that *haken* is used most at the companies with 300–499 employees (5.1 percent is *haken*) followed by the sector with more than 1,000 employees (4.9 percent). At the smallest sector, this form of employment is not used (only 0.8 percent), and they almost solely rely on *paato/arubaito*. *Keiyaku* follows a similar trend. At the

Table 3.4 Changes in labor market structure by employment status and firm size (numbers in thousand)

2007	1000~	%	500~	%	300~	%	100~	%	299	%	30~99	%	1~29	%	public	%	others	total
Regular employee	7,072	65.7	1,938	65.7	1,617	65.0	3,681	63.9	4,506	64.0	10,921	67.9	4,129	79.9	4,219	66.5	38,336	66.9
<i>paato</i>	1,531	14.2	416	14.1	360	14.5	967	16.8	1,292	18.3	2,660	16.5	312	6.0	1,170	18.4	8,855	15.5
<i>arubaito</i>	809	7.5	201	6.8	164	6.6	365	6.3	532	7.6	1,552	9.6	105	2.0	218	3.4	4,080	7.1
<i>haken</i>	527	4.9	142	4.8	127	5.1	276	4.8	232	3.3	121	0.8	25	0.5	96	1.5	1,608	2.8
<i>keiyaku</i>	627	5.8	188	6.4	158	6.4	321	5.6	298	4.2	245	1.5	127	2.4	256	4.0	2,255	3.9
<i>shokutaku</i>	145	1.3	52	1.8	48	1.9	110	1.9	112	1.6	102	0.6	278	5.4	207	3.3	1,059	1.8
<i>others</i>	47	0.4	10	0.3	10	0.4	34	0.6	69	1.0	475	3.0	190	3.7	179	2.8	1,043	1.8
Non-regular total	3,686	34.2	1,009	34.2	868	34.9	2,073	36.0	2,534	36.0	5,154	32.0	1,036	20.0	2,126	33.5	18,899	33.0
Total employee	10,762	18.8	2,948	5.1	2,486	4.3	5,757	10.1	7,046	12.3	16,088	28.1	5,168	9.0	6,345	11.1	57,274	
2002	1000~	%	500~	%	300~	%	100~	%	299	%	30~99	%	1~29	%	public	%	and others	total
Regular employee	6,831	73.7	1,933	71.5	1,627	69.5	3,822	67.5	4,692	67.2	10,862	67.8					38,452	70.3
<i>paato and arubaito</i>	1,693	18.3	540	20.0	487	20.8	1,325	23.4	1,781	25.5	4,382	27.3					12,061	22.0
<i>haken</i>	217	2.3	67	2.5	59	2.5	137	2.4	105	1.5	55	0.3					720	1.3
<i>keiyaku and shokutaku</i>	487	5.3	150	5.5	151	6.4	329	5.8	306	4.4	302	1.9					2,477	4.5

<i>others</i>	34	0.4	9	0.3	13	0.6	38	0.7	83	1.2	400	2.5	946	1.7
Non-regular total	2,431	26.2	766	28.3	710	30.3	1,829	32.3	2,275	32.6	5,139	32.1	16,204	29.6
Total employee	9,271	16.9	2,704	4.9	2,342	4.3	5,661	10.3	6,978	12.7	16,026	29.3	11,240	20.5
													54,733	

1987	1000~	%	500~	%	300~	%	100~	%	30~99	%	1~29	%	public and others	total
Regular employee	7,579	89.2			3,761	85.6	4,559	82.6	5,731	80.2	11,514	74.3		37,673
<i>paato and arubaito</i>	684	8.1			489	11.1	744	13.5	1,127	15.8	3,232	20.9		6,562
<i>haken</i>	25	0.3			15	0.3	20	0.4	17	0.2	10	0.1		87
<i>keiyaku, shokutaku and others</i>	207	2.4			131	3.0	198	3.6	269	3.8	734	4.7		1,848
Non-regular total	916	10.8			635	14.4	962	17.4	1,413	19.8	3,976	25.7		8,497
Total employee	8,495	18.4			4,396	9.5	5,521	12.0	7,144	15.5	15,491	33.6	5,074	11.0
														46,153

Source: Employment Status Survey, Statistics Bureau 1988, 2004, 2009.

70 Transformation of Japanese Employment Relations

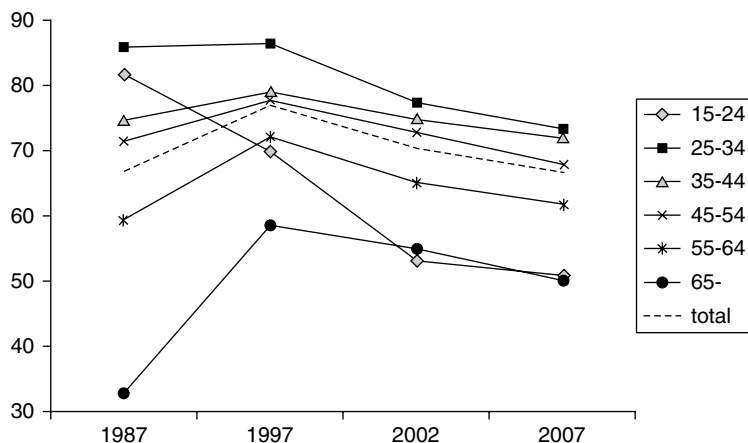


Figure 3.4 Proportion of regular employment by age (%)

Source: Employment Status Survey: Statistics Bureau 1988, 1999 2004, 2009.

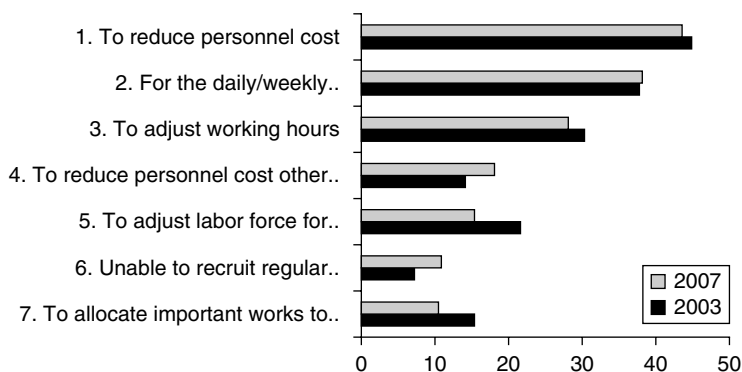


Figure 3.5 Reasons to use part-time workers (%)

Source: Employment Diversification Survey: MHLW 2008b.

sectors of firms with 300–999 employees, 6.4 percent of their employees are *keiyaku* workers, followed by the largest sector with 5.8 percent. These trends reflect the increasing demands of relatively skilled workers in flexible terms of contract (such as project-style work organization).

This change did not happen equally to all segments of the working population. Reflecting the politics to protect the employment of regular workers and the detachment of clerical work from the sphere of regular

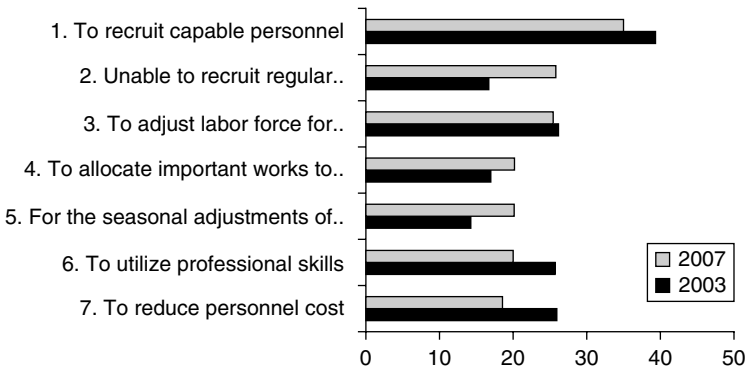


Figure 3.6 Reasons to use *haken* workers (%)

Source: Employment Diversification Survey: MHLW 2008b.

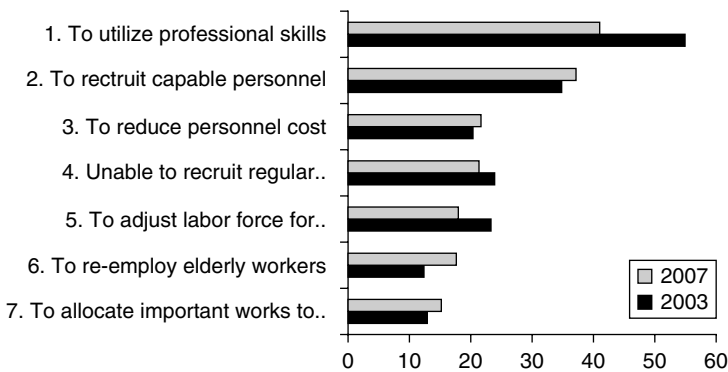


Figure 3.7 Reasons to use *keiyaku* workers (%)

Source: Employment Diversification Survey: MHLW 2008b.

employment, the non-regular employment statuses are applied widely disproportionately to young workers and women.

Figure 3.4 shows the proportion of regular employment by age. Although the proportion of regular employment declines in all age groups after 1997, the decline in the 15–25 group is significant: from more than 80 percent to just about 50 percent. It reveals that the replacement of regular with non-regular workers occurs as the generational replacement of workers. This resulted in problems in the transition from school to work for younger generations in career

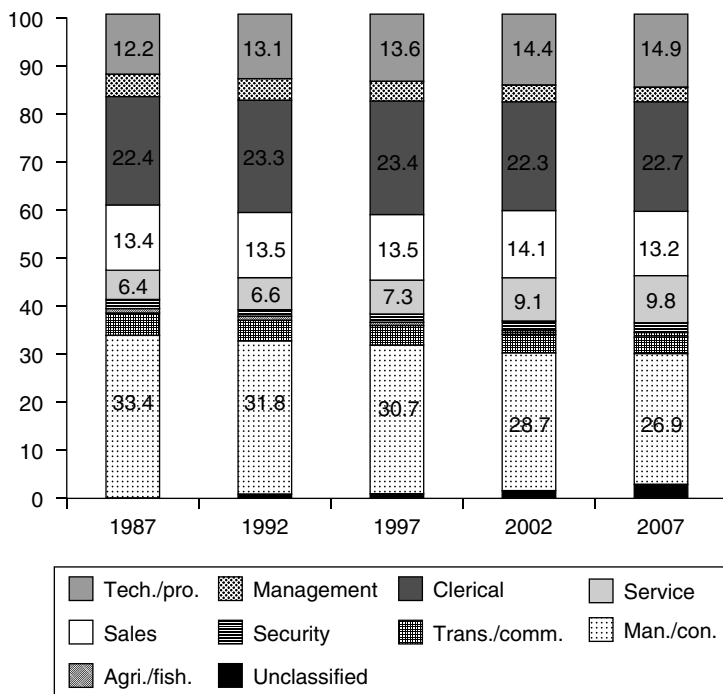


Figure 3.8 Changing occupational composition of Japanese labor markets (%)

Source: Employment Status Survey: Statistics Bureau 1988, 1993, 1999, 2004, 2009.

planning, learning skills, and employment, which led the government to take special measures to solve the problem.²⁹ In terms of the employment of women, more than half of women employees are employed by non-regular terms according to the 2007 Employment Status Survey, due to the expansion of *paato* and the inclusion of clerical work in the temporary worker dispatching system.

The impacts of industrial structural changes

The diversification reflects the necessities of Japanese firms to deal with the environmental changes. As shown in Figures 3.5, 3.6 and 3.7, firms use *paato/arubaito* for numerical flexibility and *keiyaku/shokutaku* and *haken* for functional flexibility.

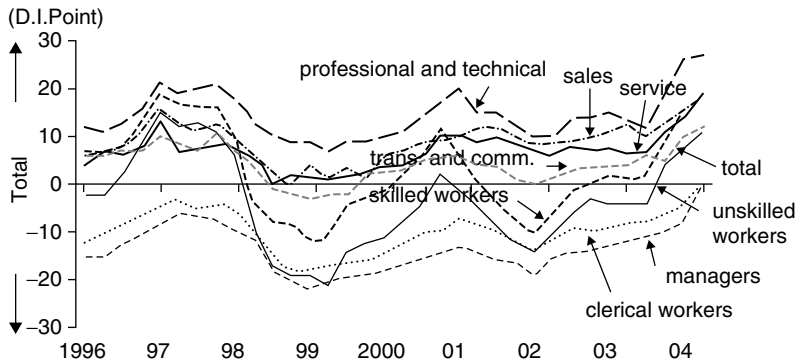


Figure 3.9 The Diffusion Index by occupation

Source: MHLW 2004a: 21.

The steady increase of *paato/arubaito* clearly reflects the increasing demand for numerical flexibility. But the radical increase in other forms of employment reveal that the reforms helped Japanese firms to acquire necessary skills. Figure 3.8 is a representation of the industrial structural changes from a manufacturing-centered economy to the economy that has more emphasis on knowledge and service. The occupational categories that expanded during this period were service (6.4 percent up to 9.8 percent) and technical/professional (12.2 percent up to 14.9 percent),³⁰ while the manufacturing and construction declined about 6.5 percentage points from 33.4 percent to 26.9 percent.

The Diffusion Index (DI) of occupations directly shows the changing demand towards necessary skills reflecting the industrial structural change. The Diffusion Index is calculated by the difference between the percentage of employers who see redundant labor from the percentage of employers who see a labor shortage. Thus, the positive number means the demand of labor (see Figure 3.9).

Throughout the period that overlapped with the deregulatory reforms, occupational categories such as sales, service, and technical/professional were in strong demand. Managers and clerical workers have a surplus of supply. The demands on skilled workers and unskilled workers clearly reflect the ebb and flow of the business conjuncture,³¹ while it is clear that employers perceive redundancy of unskilled workforce more than skilled ones.

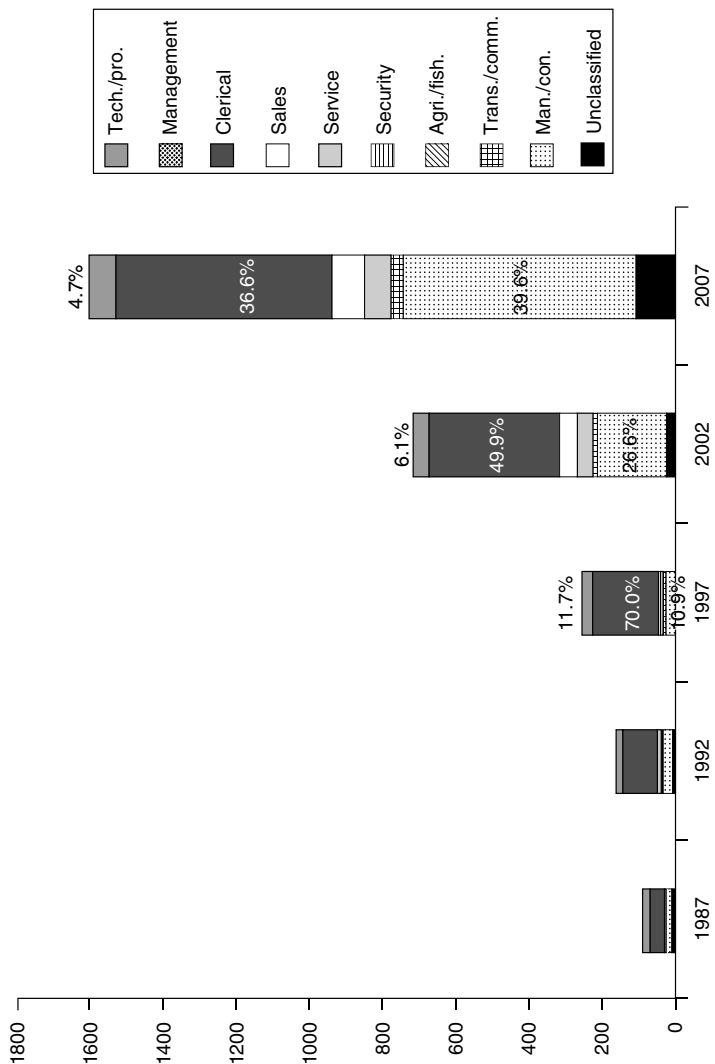


Figure 3.10 Haken workers by occupation* (numbers in thousands)

Source: Employment Status Survey: Statistics Bureau 1988, 1993, 1999, 2004, 2009.

*The occupational categorization of the Employment Status Survey is based on JSCO, which refers ISCO 1968. Employment Status Surveys until 1997 use JSCO which was revised in 1986.

New employment forms are, in a way, used to cope with these changes, although each of them is used in a specific pattern. For instance, as shown in Table 3.3, *haken* is the fastest growing category of non-regular employment, expanding from almost none to 2.8 percent of total employment. It is however important to note that the character of the employment form changed after the revision in 1997, and the radical reforms of 1999 and 2004. At the start of the system, it was to put the illegal but common practice of interfirm worker dispatch of skilled workers under legal control and to enable the flexible utilization of relatively skilled clerical workers. As a result, the professional/technical was the second largest category until 1997 (see Figure 3.10). In 2002, although the proportion of professional/technical workers in the total number of temporary dispatched workers declined, the increase of this category in actual number has generally been steady. The largest category was clerical, which was clearly the dominant one until 1997, and still consisted of more than 50 percent in 2002. The proportion of female workers in this occupation was 82.1 percent in 1987, 91.5 percent in 1997 and 92.0 percent in 2002. This is the reason why this employment status has long been considered as the one for women after its emergence.

The deregulatory reforms in 1999 and 2004 changed the character of this employment form significantly. The almost complete deregulation in 1999 provided the approval to drive female clerical workers out of the sphere of company citizenship. Together with the increasing inflow of women from the self-employed sector to *paato*, the reform contributed to move more than half of the employed women into non-regular employment status. The 2004 reform finally started to affect men's employment. Triggered by the 1997 reform, manufacturing/construction had already started to increase from 28,000 in 1987 to 192,000 in 2002, but it jumped to 636,000 in 2007, in which 60.5 percent of the workers are men, due to the 2004 reform. Actually this is the only male dominant category in temporary agency work, and 63.2 percent of the male *haken* workers are working in manufacturing/construction. This expansion however is a clear sign that the manufacturing line, the basis of Japanese enterprise unionism, and the traditional employment relations system has been eroded by temporary employment. Sales and service also emerged as a main occupational category of temporary agency work in 2002. Close to 80 percent of the workers in these categories are women.

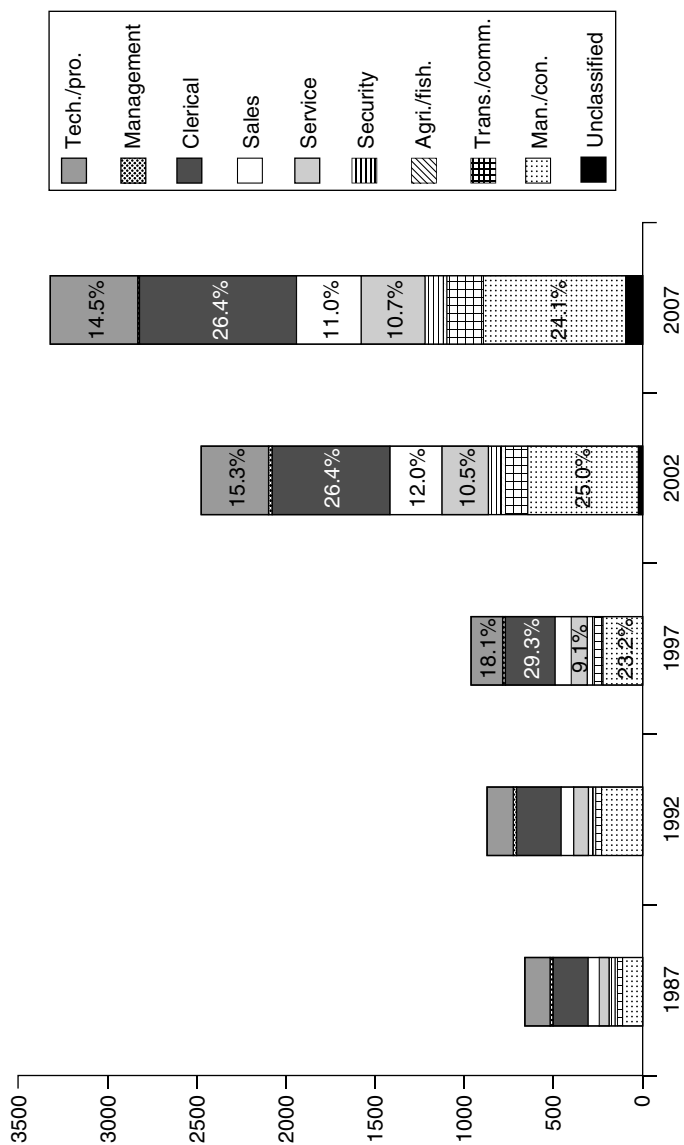


Figure 3.11 Keiyaku/shokutaku workers by occupation (numbers in thousands)
Source: Employment Status Survey: Statistics Bureau 1988, 1993, 1999, 2004, 2009.

The expansion of limited-term contracts shows a similar trend as *haken*: deregulation facilitates the expansion, and it expanded on the lines of relatively skilled labor (see Figure 3.11).

After 1997, contract workers radically increased, from 966 thousands in 1997 to 3,313 thousands in 2007. Although in *haken* the expansion is concentrated in work categories such as clerical and manufacturing/construction, it is slightly more diversified in the case of *keiyaku/shokutaku*. It is increased in technical/professional, clerical, sales, service, and manufacturing/construction. The top three biggest occupations in this category did not change throughout the period. For instance in 2007, clerical workers consisted of 26.4 percent, manufacturing/construction was 24.1 percent, and technical/professional were 14.5percent.

Inequalities between regular and non-regular contracts

Non-regular employment forms became prevalent in Japanese labor markets in conjuncture with globalization and industrial structural changes. The analyses in this section compares the employment conditions of regular and non-regular workers with regard to employment security, wages and the access to other welfare measures. As the principle of 'equal treatment' has never been the issue within social bargaining,³² a significant gap between regular and non-regular forms of employment with regard to these employment conditions is expected to emerge.

Employment security

There is nothing immediately clear about the impact of the deregulatory reforms on the employment security of regular workers.³³ After the burst of the bubble economy, there has been increasing unemployment while there is no change in the trend of bankruptcy, but the insecurity seems to be allocated radically disproportionately to non-regular workers rather than regular workers. Layoffs, or midterm termination of contracts, started to gain attention. In the case of the temporary agency work, employment-type workers are supposed to have better employment security than registered-type workers as they have continuing employment with THAs. Midterm termination of the contracts is particularly a problem for registered-type workers. According to the Survey on Temporary Agency Work by the Tokyo Metropolitan Government (hereafter, Tokyo Survey),³⁴ 43 percent of the THAs experienced midterm termination of the business contracts that were involved with the

dispatching of registered-type workers (declined from 61.7 percent in 2002).

The layoff of the limited-term contract workers (and temporary agency workers too) had been a problem even before the waves of deregulatory reforms called *yatoi-dome*.³⁵ Superficially, the termination of employment contracts at the end of the term is not a problem. However, Japanese firms tend to use limited-term contract workers over a long period of time by renewing contracts almost automatically. Thus the sudden disruption of an employment contract, even when it is at the end of the term of the contract, has been accused of as illegal and the courts have been often supported such a charge. The expansion of non-regular employment gave rise to the concern over the spread of *yatoi-dome* from lawyers, workers' movements and other advocates of employment security for non-regular workers (see Figure 3.12).

In the revised LSA enacted in 2004, clear principles were set out with regard to the start, renewal and the termination of limited-term contracts that sought 'informed consent' about their terms from those on these contracts.³⁶

There is also a significant difference with regard to the coverage of employment insurance to non-regular employees. Figure 3.13 shows the situation of employment insurance coverage comparing regular and non-regular workers.

In all non-regular employment statuses, the percentage of coverage is lower than regular employees.

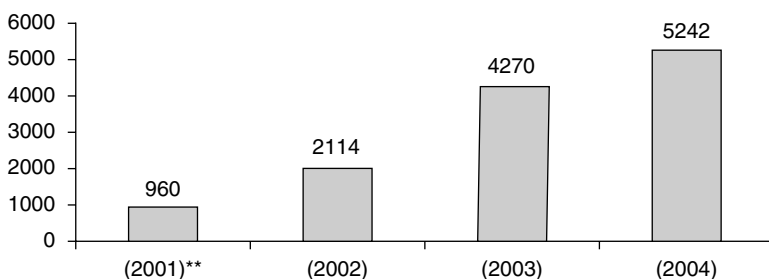


Figure 3.12 The number of *yatoi-dome* troubles reported by individual workers*
Source: MHLW 2005.

*Reported number of individual labor-related dispute (*kobetsu rōdō funsō sōdan kensū*) accumulated by MHLW.

**In 2001, the number is accumulated from Oct. 2001 to Mar. 2002 (six months).

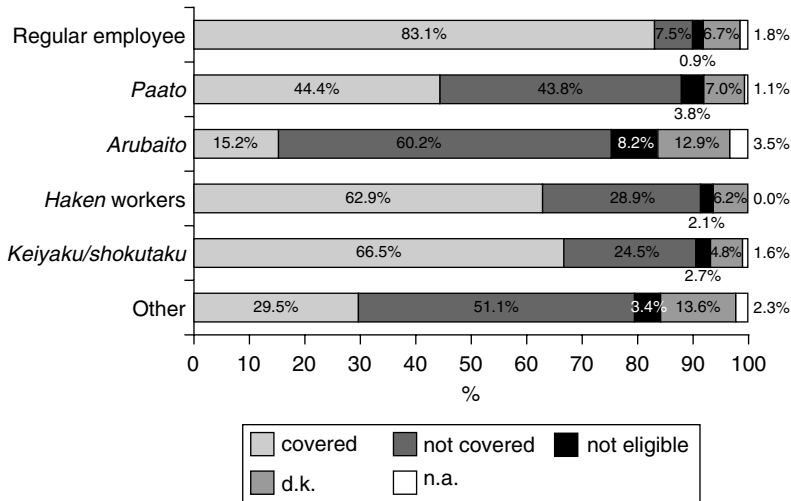


Figure 3.13 Employment insurance coverage by employment status

Note: Sample population includes 1,559 regular employees, 559 *paato* workers, 171 *arubaito* workers, 97 *haken* workers, 188 *keiyaku/shokutaku* workers and 88 other workers.

Source: Hara 2006: 100.

Table 3.5 Average hourly wages of temporary staff by occupational category (yen)

	2002	2006
Software development	2,763	1,960
Machine design	3,371	1,881
OA operation	1,822	1,510
Filing	1,754	1,415
Marketing	1,861	1,479
Sales	1,492	1,399
Light work	1,474	1,004
Manufacturing line	–	1,123
Average	1,992	1,480

Source: Survey on Temporary Dispatched Workers: Tokyo Metropolitan Government 2007.

Wages and labor management practices

It is well known that there is a significant wage gap between regular and non-regular employment even when assigned tasks are relatively similar. Not to mention the wage disparity between regular workers and *paato*,³⁷ a dominant form of limited-term contracts, the situations

Table 3.6 Methods of wage payment by employment status (%)

Methods of payment / Employment Status	Hourly (women)	Daily	Monthly
Regular workers	0.1	5.7	86.3
<i>Shokutaku</i>	14.2 (23.0)	11.7	59.6
<i>Keiyaku</i>	29.4 (33.9)	13.4	49.6
<i>Haken</i>	66.9 (81.9)	8.2	22.5
Employment-type	47.8 (65.3)	10.4	38.1
Registered-type	85.5 (90.2)	6.0	7.3

Note: There are other payment methods such as weekly and annual payment, which are omitted from this table.

Source: Employment Diversification Survey: MHLW 2008b.

of wage among temporary staff reveals the declining level and the volatility of their wages reflecting the market-driven nature. Tokyo Survey has data on the average hourly wages for temporary staff (see Table 3.5).

In some occupational categories, workers experienced a radical decline of their wages, especially in those occupations that paid well in 2002. In the data available from Tokyo Survey, the only occupation that pays more in 2006 than 2002 is interpreter. In all other occupational categories, the wages declined, and it clearly shows the volatility of their wages.

What is indicated here is the difference in labor management practices that cover regular and non-regular workers. The difference of the method of wage payment is symbolic as well as substantial in terms of the segmentation between regular and non-regular employment. Most of the regular employees in Japan are paid monthly: the Employment Diversification Survey in 2007³⁸ showed that 86.3 percent of them work under a monthly salary system (4.8 percent are paid under annual salary system). It is only 20.8 percent among non-regular workers: 64 percent of them are paid hourly, and about 10 percent are paid daily. However, it should be noted that there is significant variance among non-regular statuses and between sexes (see Table 3.6).

It is no surprise that *shokutaku* is the closest to regular employment as it is, in part, an extension of regular employment. *Keiyaku* follows a similar pattern. But the majority of *haken* workers are paid hourly with a great disparity between employment-type and registered-

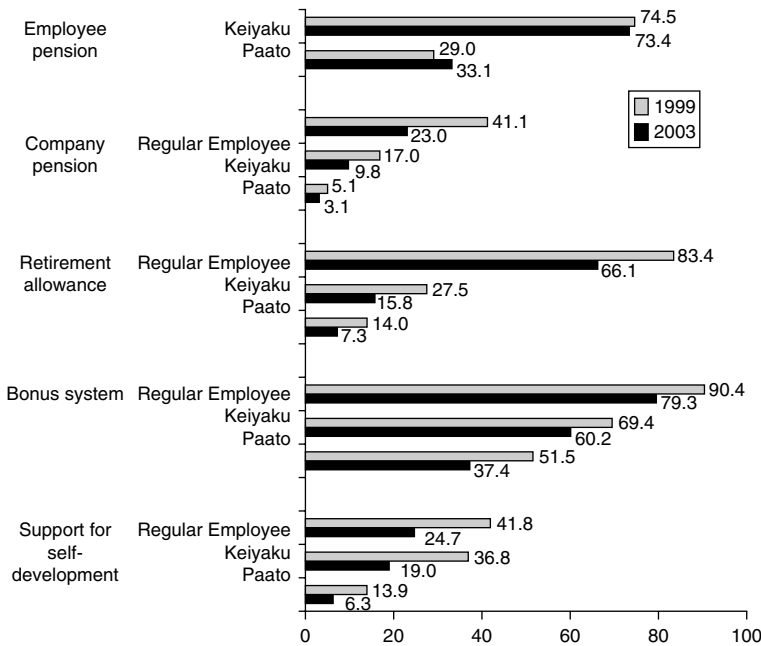


Figure 3.14 Access to the rights of company citizenship by employment status (%)

Note: The figure is made by the data collected by Employment Diversification Survey carried out by MHLW.

Source: Modified from Ogura 2008: 97.

type. In all employment statuses, women are paid hourly more than men. Although the detailed data will not be presented here, different rules of promotion and pay raise are usually applied to non-regular workers.

Corporate welfare

In addition to the methods of wage payment, access to the measures of corporate welfare such as employee pension (*kōsei nenkin*), company pension (*kigyō nenkin*) and retirement allowance divides regular and non-regular workers and shows the depth of labor market segmentation

in Japan. Figure 3.14 presents the percentage of business enterprises that apply various corporate welfare measures to workers by employment statuses.

It is clear that there is a deep divide between regular and non-regular employees with regard to the access to various measures that characterizes company citizenship. As for the employee pension, the survey assumes that all companies provide access to regular employees. A relatively high percentage of, but not all, business enterprises give *keiyaku* workers access to an employee pension, while only one third of them give *paato* access. The company pension is a luxury item only for the employees in the large firm sector, thus only 41 percent in 1999, significantly dropping to 23 percent in 2003, of business enterprises gave regular employee an entitlement to receive this benefit. In 2003, only 9.8 percent for *keiyaku* and 3.1 percent for *paato* have access to a company pension. Retirement allowance is another major practice of company citizenship, and is clearly for regular employees.

A high wall between contracts

The mobility between employment statuses is a crucial indicator that measures the depth of labor market segmentation. The effects of the deregulatory reforms, which were supposed to bring fluidity within all segments of Japanese labor markets, actually created deep division especially between regular and non-regular employment statuses. The analyses show that regular workers tend to stay with their current employers, while mobility is increasingly distributed to non-regular workers.

Mobility change of regular workers

The Employment Status Survey shows that there is a trend in increasing job mobility in the Japanese labor market that clearly reflects the waves of regulatory reforms from the late 1980s.

The numbers in Figure 3.15 represent the proportion of the current labor force who experienced job mobility from a year before the survey. Until the first oil crisis in 1974, job mobility was rising to 4.0 percent, and at that time, men moved more than women. After the oil crisis, during the heyday of Japanese management, mobility was low until the first wave of regulatory reform. The impact of the reform is clear. The average mobility rate rose to 4.3 percent in 1987, and the pattern of men and women started to diverge partially due

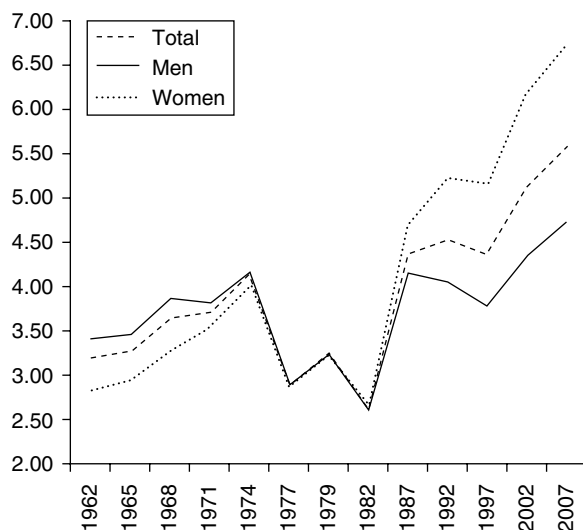


Figure 3.15 The trend in job mobility in Japan from 1962 (%)

Source: Employment Status Survey: Statistics Bureau 1963, 1966, 1969, 1972, 1975, 1978, 1980, 1984, 1988, 1993, 1999, 2004, 2009.

Table 3.7 Mobility within the labor force (numbers in thousands)

	1987	%	1992	%	1997	%	2002	%	2007	%
Labor force with no status change	54,358	89.8	58,808	89.4	59,479	88.8	56,414	86.8	56,679	85.9
Career changers	2,646	4.4	2,986	4.5	2,911	4.3	3,327	5.1	3,683	5.6
employees	2,369	89.5	2,783	93.2	2,708	93.0	3,139	94.4	3,517	95.5
regular	1,381	58.3	1,659	59.6	1,486	54.9	1,217	38.8	1,372	39.0
New entrants	3,422	5.7	3,850	5.9	4,480	6.7	4,391	6.8	4,044	6.1
Total labor force*	60,502	99.9	65,756	99.8	67,003	99.8	65,009	98.7	65,978	97.6

Source: Employment Status Survey: Statistics Bureau 1988, 1993, 1999, 2004, 2009.

* It contains three categories, "labor force with no status change," "career changers," and "new entrants" have subcategories such as "self-employed," "family workers," and "employees." The percentages of all these categories do not add up to 100% due to the n.a. and d.k.

Table 3.8 The number of workers who changed jobs (1997–2002) (numbers in thousands)

2002		current job							%
		self-employed	family workers	regular employee	<i>paato/arubaito</i>	<i>haken</i>	<i>keiyaku/shokutaku</i>	others	
previous job	self-employed	69	9	129	131	5	29	13	402
	family workers	9	8	39	60	2	7	3	132
	regular employee	490	117	3,732	1,346	189	581	113	6,773
	<i>paato/arubaito</i>	122	62	851	2,503	104	203	61	3,924
	<i>haken</i>	6	3	89	62	124	35	4	336
	<i>keiyaku/shokutaku</i>	35	8	195	125	28	156	13	568
	others	15	4	75	44	4	13	35	194
	total	774	212	5,178	4,314	461	1,043	248	12,564
	%	6.16	1.69	41.21	34.34	3.67	8.30	1.97	

Source: Employment Status Survey, Statistics Bureau 2004.

Table 3.9 The number of workers who changed jobs (2002–7) (numbers in thousands)

2007		self- employed	family workers	regular employee	current job					total	%
					<i>paato/ arubaito</i>	<i>haken</i>	<i>keiyaku/ shokutaku</i>	others			
previous job	self-employed	57	4	98	105	14	28	8	337	2.66	
	family workers	9	4	32	40	5	6	3	102	0.81	
	regular employee	401	51	3,527	1,044	302	596	96	6,209	49.08	
	<i>paato/arubaito</i>	111	38	857	2,476	221	249	50	4,023	31.80	
	<i>haken</i>	10	3	211	121	282	70	7	704	5.56	
	<i>keiyaku/shokutaku</i>	46	8	327	175	74	226	17	888	7.02	
	others	18	2	77	48	12	15	39	223	1.76	
	total	672	112	5,176	4,033	913	1,216	223	12,651		
%	5.31	0.89	40.91	31.88	7.22	9.61	1.76				

Source: Employment Status Survey, Statistics Bureau 2009.

to the inclusion of clerical jobs in the temporary agency work that marks the separation of women from the sphere of organized mobility. The reform in 1999 accelerated the trend. Overall mobility rate rose to 5.58 percent in 2007, averaging the wide gap between men (4.74 percent) and women (6.74 percent) while men's mobility started to rise too.

This increasing mobility is disproportionately distributed to non-regular employment. Table 3.7 shows the changing trend of labor force composition among the workers who changed career.

The percentages of 'career changers' match with the mobility rate shown in Figure 3.15. In 1987, 89.5 percent of career changers were employees, 58.3 percent were regular employees, and the rest, about 41.7 percent, were non-regular employees. In 2007, the proportion of regular employees who changed their job in the previous year dropped significantly to 39.0 percent, indicating more than 60 percent of career changers were non-regular employees.

Cumulative statistics also show the same trend. Tables 3.8 and 3.9, constructed from the Employment Status Survey (2002 and 2007), showing the numbers of the labor force who experienced job mobility in the last five years (1997–2002 and 2002–7). They are constructed

Table 3.10 Distribution of employment status, origin and destination (numbers in thousands)

		Destination				
2002		Regular	Non-regular	Total		
Origin	Regular	3,732	2,229	5,961	Pure mobility	0.316
	Non-regular	1,210	3,514	4,724	Odds ratio	4.799
	Total	4,942	5,743	10,685		
		Destination				
2007		Regular	Non-regular	Total		
Origin	Regular	3,527	2,038	5,565	Pure mobility	0.322
	Non-regular	1,472	4,082	5,554	Odds ratio	4.862
	Total	4,999	6,120	11,119		

Source: Employment Status Survey: Statistics Bureau 2004, 2008, calculated by author.

in the style of a ‘mobility table’ commonly used in a social mobility study. The right-end column represents the employment structure by previous jobs (original employment status), and the bottom row represents current employment structure.

In both Table 3.8 and 3.9, the total number of the current labor force who experienced job mobility in the last five years is about 12.6 million, slightly above 19 percent of the total labor force. In 2002, about 40 percent of the original employment status was non-regular, while it was 46.2 percent in 2007. The largest destination employment status is non-regular employment status, 48.3 percent in 2002 and 50.5 percent in 2007. In terms of the composition of job changers, the figures reveal that the job mobility in Japanese labor markets was increasingly distributed to non-regular employees. Considering the fact that the share of non-regular employment in total employment was somewhere around 30–33 percent between 2002 and 2007, it is possible to conclude that the share of non-regular workers among job changers is significantly higher.

Mobility between regular and non-regular statuses

Table 3.10 is a summary table constructed from Tables 3.8 and 3.9 in order to calculate the pure and relative mobility between the employment statuses. In a mobility study in sociology, it is common to calculate the ‘odds ratio’ that roughly measures, in this case, the chances of mobility for non-regular workers to regular employment relative to those of regular workers. The odds ratio for both years reveals that there was deep segmentation between regular and non-regular employment. Non-regular workers have only one-fifth of a chance to be regular workers compared to those who have regular employment.³⁹

There is not sufficient institutional support for non-regular workers to move up (in addition to the ineffective active labor market measures). The survey introduced in Figure 3.14 (Ogura 2008) reveals that there were only 31.1 percent of business enterprises in 2003 that had an institutional channel for limited-term contract workers to upgrade their employment status (declining from 38.6 percent in 1999). For *paato* workers, the figure is around 25 percent (rising from 23.1 percent to 26.7 percent). Given the situation, there is no sign of a lowering boundary between regular and non-regular employment in the Japanese labor markets.

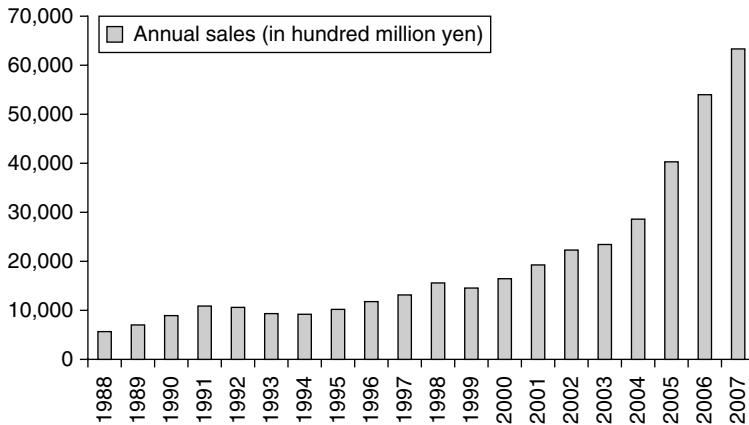


Figure 3.16 The growth of the temporary help industry

Source: Business Report of *Haken* Industry: MOL 1998b, 1999b, 2000b; MHLW 2001b, 2002a, 2004b, 2005a, 2006a, 2006b, 2007a, 2009a.

The role of new actors in Japanese labor markets

As a last point of analysis of the external labor market, we turn to examine the newly legalized private THA and its role in facilitating job mobility.⁴⁰ Increasingly, the services offered by THAs have taken advantage of the deregulation of fixed-term contract work and the legalization of private job placement services through innovations in service products involving a mix of dispatching temporary workers; offering outsourcing of business services staffed by agency temps; job recruitment services involving an initial temporary contract; the placement of fixed-term contract workers; and, most recently, the development of outplacement services for redundant workers. Figure 3.16 shows the growth of annual sales reported by the THAs that registered with the labor ministry. In terms of the numbers of enterprises,⁴¹ sales, and the services offered, the temporary help industry has grown tremendously since deregulation in the late 1990s. In 2007 there were a total of 50,149 enterprises of the THAs, contrasting with 9,259 in 1997. Annual sales show close to a five-fold increase between 1997 and 2007, to reach 6,000 hundred million yen (approximately 60 billion dollars).

The outplacement service seems to be a uniquely Japanese innovation tied to changes in large firm personnel practices aimed at shedding older workers. Under the general heading of *jinzai bijinesu* (personnel services business), THAs take on an entire group of older workers who in earlier times would have been transferred (*tenseki suru*)

to allied or subsidiary firms within a firm group (*keiretsu*). The largest Japanese THA, Pasona, which calls this new product 'restructuring services' (*risutora shien jigyo*), reported almost a third of its profits in 2002 was derived from this business (Pasona 2003). In this sense, Japanese companies are not only turning to the external labor market to recruit (new) flexible personnel, but to new private placement services in order to separate themselves from redundant (especially older) employees. These changes are too recent to have an effect on overall job mobility, but do register in the continuing expansion of non-regular work.

Reconfiguration of employment contracts and job mobility

In this chapter, we have examined the labor market reforms that included the liberalization and deregulation of temporary agency work, the liberalization of private labor supply business, and the relaxation of regulations on the limited-term contracts. There are several important findings from the analyses. First, the examination of the relationship between existing labor relations and the patterns of flexibility made possible by these relations makes it important to understand the interests that related actors form under the changing circumstances. Second, it became also clear that the changing platform of policy decision making had significant impacts on the creation of new employment forms and the relationship between them. Third, analyzing how firms use the fruits of the deregulatory reforms makes the actual segmentation and stratification process of labor markets clear.

We analyzed the relationship between the existing labor relations and the patterns of flexibility made possible, in Chapter 2 and the first part of this chapter. The emergence of the regular employment status in Japan, that can be characterized by the rise of 'company citizenship,' developed out of the institutionalization of cooperative enterprise unionism. From the perspective of mobility and flexibility, it is the development of the mobility within firm and firm network (*keiretsu*) under the management prerogative, by which Japanese firms were able to cope with most of the necessity caused by environmental changes. Being able to smoothly adapt to the assignment change became an important part of workers' 'capability' that is highly evaluated at personnel evaluation. Labor market reform became radical after the early to mid-1990s when employers started to recognize the limits of the *flexible rigidities* arrangement. It is possible to say that the deregulatory reforms were triggered, fueled and shaped by this recognition.

The deregulatory reforms of labor markets were already undertaken from the mid-1980s in response to the technological changes and increasing internationalization. It established the TDW Law that was to institutionalize temporary dispatching as a legitimate employment relation. However at that time, it was negotiated at the tripartite advisory council set by labor ministry represented and governed by state, firm and labor. In this sense, the initial stage of the reform can be called negotiated or controlled liberalization/deregulation.

The radicalization of the deregulatory reforms was produced by the changing platform of policy decision making that effectively excluded labor from the process. From the mid-1990s, the decision making on employment and labor market issues gradually shifted out of the advisory council into cabinet deregulation committees, in which labor representation was weak or nonexistent. This resulted in the radical deregulatory reforms. The reform proposals by deregulation committees started to be endorsed by cabinets, and because of this, tripartite bargaining at the advisory council gradually lost its grip on agenda setting. The labor ministry changed its attitude on the solutions to labor market mismatches and unemployment from one of emphasis on traditional measures to activating the external labor market due to the increasing pressure from the deregulation committees.

The deregulatory reforms created and expanded the non-regular employment status, segmented by specific skills, generation and gender. Japanese firms started to use non-regular employment forms to utilize necessary flexibilities, taking advantage of deregulatory reforms under the current circumstances of globalization and industrial structural change. New employment forms were expanded rapidly in Japanese labor markets especially in the younger generations and in medium to large firm sectors. They can be found in the contracts of relatively skilled workers especially in traditional occupations such as clerical and manufacturing and also in expanding ones such as sales and service. Technical and professional are also increasingly employed with new forms of contracts. It is possible to observe increasing ratio of job changers where the proportion of non-regular employment is increasing.

The gap between regular and non-regular employment statuses became visible. Since employers and enterprise unions were still committed to maintain company citizenship for regular workers during the reforms, non-regular employment statuses were created outside the sphere of 'lifelong employment' practices. These two broad categories of employment differ greatly in terms of the accessibility to various

measures of corporate welfare, indicating the different state of entitlement to company citizenship. Mainly due to this disproportionate access to resources, we observed no change of job mobility among regular workers; job mobility is disproportionately allocated to non-regular workers. However it is difficult for non-regular workers to obtain regular employment, moving across the boundary between a regular and non-regular status. As a result, the difference between regular and non-regular employment became the hierarchical status difference contrasted by the accessibility to resources and by the pattern of mobility. Regular workers are still protected, experiencing organized mobility within firms, while non-regular workers lack any resources and experience individualized and unstable mobility without a distinctive idea of 'career' outside the firms.