

Labour Market Dualism and Diversification in Japan

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Abstract

The Japanese labour market has been regarded as ‘dualistic’ in terms of employment status (regular vs non-regular). While it is true, this perspective misses recent changes in regular employment in terms of labour flexibility. The government has attempted labour market deregulation since the 1990s to increase the flexibility of not only non-regular but also regular employment, and the labour market has become more diversified. Labour unions lack power resources to resist these neoliberal changes, however, because of their insufficient access to policy-making, low union density and a lack of solidarity against the background of economic stagnation and competition under globalization.

1. Introduction

Against the background of economic stagnation after the collapse of the bubble economy in the early 1990s and intensified economic competition from neighbouring Asian countries, Japanese employers have attempted to reduce the number of regular workers who can benefit from seniority wages and job protection under lifetime employment (Gotō 2011: 9–12; Nakano 2006: 61–6, 118–20). In response, the government of the Liberal Democratic Party (LDP) implemented labour market deregulation aimed at expanding the use of non-regular employment such as fixed-term contracts and temporary agency work (Watanabe 2012, 2014, 2015a). However, the LDP government also deregulated regular employment in terms of working-time rules to promote its flexibility. Labour market deregulation has deteriorated the working conditions of regular workers, not only those in small and medium enterprises (SMEs) but also those most protected in large companies under lifetime employment, as a result of the increased use of non-regular workers and the changes in regular employment such as a greater use of flexible working-time rules and result-oriented performance-based pay (Imai 2011: 104–11;

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Isogai 2012: 45, 55; Mizoue 2015: 4, 20). Despite the existence of ‘dualism’ between regular and non-regular employment in terms of wages, employment protection and so on, the Japanese labour market has become more diversified as a result of the shrinking core of regular workers and the greater diversity in regular employment.

This article examines the political process of reforming ‘regular’ employment in Japan, which has not been examined sufficiently in the exiting English literature, especially the one based on a dualism perspective (Emmenegger 2015; Emmenegger *et al.* 2012; Hassel 2014; Palier and Thelen 2010; Song 2012; Thelen 2009, 2014; Thelen and Kume 1999, 2006; Yun 2016). The article claims that, from the perspective of unions’ power resources (Esping-Andersen 1998; Huber and Stephens 2001; Korpi 1983, 2006) and preferences (Gordon 2015), labour unions allowed the LDP government to attempt to reform regular employment in a way to increase its flexibility, and the working conditions of regular workers have deteriorated. It is true that a dualization thesis can explain cross-class alliances between employers and core regular workers in Japan’s competitive sectors that promoted deregulation of non-regular employment. However, it does not recognize that the conflicts of interest in labour market flexibility between unions in competitive and non-competitive sectors have undermined class solidarity and reduced the power resources of unions for core regular workers as ‘insiders’ as a result of an increasing number of unorganized non-regular workers as ‘outsiders’. While dualism still exists, this article demonstrates that the Japanese labour market has become more ‘diversified’, rather than simply remain dualistic, as a result of reduced power resources of unions and more flexible use of regular employment. We can now identify diverse types of workers such as a shrinking ‘core’ of regular workers, who are protected under lifetime employment and benefit from seniority-based pay but increasingly suffer from deteriorating working conditions; ‘professional’ or ‘specialist’ regular workers, who are supposed to have job discretion and working-time flexibility but actually work under poor working conditions without receiving overtime pay in most situations; ‘peripheral’ regular workers (mostly seen in SMEs but also in large companies), who have become more vulnerable to employers’ neoliberal offensives on job protection and do not benefit from seniority-based pay despite their status as regular workers (Kinoshita 2007: 67–70); ‘semi’-regular workers (mostly female) with limited job responsibilities in a way to be able to strike a better work-life balance but subject to a lower pay and easier dismissal than regular workers; and non-regular workers, whose working conditions remain precarious.

The Japanese labour market has been characterized dualistic since long time ago (regular workers vs non-regular workers such as *rinjikō* (temporary workers) and *shagaikō* (subcontractors) in manufacturing sectors from the 1950s, part-time workers from the late 1960s and agency workers from the mid-1980s) and the boundaries of core/periphery have changed over time according to diversified corporate strategy, with a decreasing number of core regular workers under lifetime employment, including internal transfer of

regular workers from headquarters to subsidiaries in the same corporate group, and an increasing number of non-regular workers (Goka 1999: 16–19, 22–5; Isogai 2012: 43–5; Kawakita 1997; Yamada and Hirano 2012: 19–20). It is true that labour market deregulation implemented by the LDP government from the 1990s was mostly aimed at non-regular employment, and the gap between relatively well-protected regular workers as insiders and poorly protected non-regular workers as outsiders can be identified, as scholars of labour market dualism have pointed out (Song 2012; Thelen and Kume 1999, 2006; Yun 2016). These scholars (including those with a ‘varieties of capitalism’ perspective) regard liberalization of the labour market in several ‘non-liberal’ market economies (such as Sweden, Germany and Japan, which differ among themselves in terms of unions’ policy-making access, the degree of centralization of collective bargaining, union density, the degree of labour mobilization and so on) as a process of ‘dualization’ (Emmenegger 2015; Emmenegger *et al.* 2012: 9–17; Hassel 2014; Palier and Thelen 2010; Thelen 2009, 2014). They claim that, in contrast to liberal market economies such as the United States and Britain that deregulated both regular and non-regular employment, non-liberal market economies responded to liberalizing pressure mostly by promoting dualism with deregulation of non-regular employment and continued protection of regular workers from dismissal.

However, this dualism perspective does not recognize recent changes in regular employment in non-liberal market economies that has become more flexible as a result of governments’ relaxation of employment protection for regular workers, such as the introduction of fiduciary compensation without employers’ obligation to reinstate workers to previous work positions in the case of unfair dismissal (Moreira *et al.* 2015: 206–8). In addition, the dualism perspective does not recognize the recent government policy to increase the protection of ‘non-regular’ workers possibly as a ‘de-dualization’ strategy (Moreira *et al.* 2015: 219–20). The puzzle for Japan in relation to theories of dualization is that, although it is categorized as a non-liberal market economy, where according to a dualism perspective the government attempts to implement deregulation only in non-regular employment and strong protection remains in regular employment, the government has actually deregulated or intended to deregulate regular employment as well to cope with a poor economic situation and promote economic growth, as in the cases of other non-liberal market economies such as Denmark, Italy and Spain. These cases challenge the simplistic dualism perspective by demonstrating the government intention to deregulate regular employment in response to employers’ demand. While the dualism perspective is useful for explaining cross-class alliances between employers and regular workers in competitive sectors to maintain their jobs, these regular workers’ behaviour has actually undermined unions’ power resources by intensifying the conflicts of interest between workers in competitive and non-competitive sectors and reducing labour solidarity. These regular workers’ tacit approval of the deregulation of non-regular employment also undermined labour’s power resources by increasing the number of unorganized non-regular workers. As a result of the

reduced power resources of labour, the LDP government has promoted, or attempted to promote, the flexibility of regular employment, contrary to the dualism perspective.

This article uses data collected from unions' policy documents, newspaper articles (those published by two major Japanese newspapers of *Asahi Shimbun* and *Nihon Keizai Shimbun*) and the minutes of government labour advisory councils and cabinet committees such as the Deregulation Committee and the Industrial Competitiveness Council. In addition, more than 30 interviews with labour unions in Tokyo and Osaka areas were conducted between 2013 and 2016. Interviewees were selected in a way to identify the opinions on labour market deregulation among unions at national, industrial, enterprise and local levels. Interviews were conducted with two national centres of Rengō (Japanese Trade Union Confederation, the largest national centre in Japan) and Zenrōren (National Confederation of Trade Unions, the second largest); industrial federations in manufacturing sectors such as electronics (Denki Rengō: Japanese Electrical, Electronic and Information Union, which is a member federation of JC-Metal (previously IMF-JC), for example) and in non-competitive service sectors such as retail, textile and finance/insurance (UA Zensen, the largest industrial federation in Japan, for example); enterprise unions; and community unions such as Zenkoku Union (Japan Community Union Federation). Most interviews were semi-structured and lasted for an hour or so, and questions were asked about interviewees' opinions on worker organizing, deregulation of both regular and non-regular employment and their perceptions of the working conditions of regular workers.

The structure of this article is as follows. Section 2 critically examines the perspective of labour market dualism. Sections 3 and 4 analyse the reform of regular employment in Japan and its political process from a perspective of unions' power resources and preferences. Section 5 summarizes the findings of the article and considers the implications of the diversification of the labour market for worker protection.

2. Dualism and power resources perspectives on labour market deregulation

Scholars with a dualism perspective claim that, in non-liberal market economies, liberalization of the labour market has been limited to non-regular employment and regular employment has been hardly deregulated (Emmenegger 2015; Emmenegger *et al.* 2012: 9–17; Hassel 2014; Palier and Thelen 2010; Rueda 2007; Thelen 2009, 2014; Thelen and Kume 1999: 496–7, 2006: 35). According to Emmenegger *et al.*, 'dualization is a process that is characterized by the differential treatment of insiders and outsiders and that can take the form of newly created institutional dualisms or the deepening of existing institutional dualisms' (2012: 10). Based on an insider–outsider theory, Rueda (2007) claims strong regulation of regular employment protects insiders to the detriment of outsiders. In this article, dualization is understood

as a process of the increasing segmentation of labour markets between the core of regular employment in the primary labour market, where regular workers (in large companies) are supposed to benefit from better working conditions and employment protection as ‘insiders’, and the expanding periphery of non-regular employment in the secondary labour market, where non-regular workers (and regular workers in SMEs) engage in inferior jobs with low protection as ‘outsiders’. Although scholars with a dualism perspective recognize that the core of regular employment has been shrinking, they claim that regular employment has hardly been deregulated, as unions’ core members are regular workers and unions make utmost efforts to protect their employment (Emmenegger 2015; Emmenegger *et al.* 2012: 9–17; Thelen and Kume 1999: 496–7). The maintenance of cooperative industrial relations between employers and core regular workers, that is, ‘cross-class’ alliance, is essential to ensure business productivity and competitiveness, so deregulation of regular employment is limited and job protection is maintained (Hassel 2014: 63; Thelen and Kume 1999: 496–7; 2006: 35).

Thelen (2014) categorizes ‘dualization’ as a type of liberalization along with two other different types of liberalization: ‘deregulation’ and ‘embedded flexibilization’ (pp. 13–15). In contrast to deregulation as wholesale liberalization as seen in the United States and Britain, liberalization in non-liberal economies is either dualization (liberalization occurs only in non-regular employment while regular employment remains regulated), as seen in the continental Europe, or embedded flexibilization (despite liberalization, solidarity is maintained), as seen in Scandinavia. As for labour market policy, Thelen identifies dualization in continental European non-liberal economies by examining active labour market policies (ALMPs) and short-time work (STW) policies. However, ALMPs and STW policies are not major indicators of labour market flexibility and Thelen does not assess the measures to deregulate employment protection and working-time rules in the case of regular employment and the scope of deregulation in the case of non-regular employment. These measures are more commonly used as indicators to measure the flexibility of regular and non-regular employment and are also used by the OECD.

In addition to the problem with Thelen’s indicators to measure labour market flexibility, several scholars questioned the dualism perspective. For example, Holst (2014) claims that the core-periphery boundaries between regular and non-regular employment blurred recently in the two key industries of the German economy (telecommunications and metalworking). As a result of outsourcing of call centres in telecommunications and use of temporary agency work in metalworking, regular workers find themselves in intensified competition with non-regular workers and their working conditions have deteriorated. Through this neoliberal process, labour relations have become more dependent on market mechanisms and German labour markets are experiencing ‘fragmentation’ after previous dualization. Miura (2012) also argues that the insider–outsider theory is inadequate for explaining the degradation of regular workers’ working conditions in Japan by referring

to the increased functional and wage flexibilities in the internal labour market (pp. 83–8). At the same time, unions do not necessarily pursue a dualization strategy to protect the interests of core regular workers. For example, Kornelakis (2016) shows the Italian case of ‘tempered’ labour market dualization and outsider ‘inclusion’ as unions’ strategies based on the ideology of class solidarity. Crouch (2015) also points out unions’ efforts to avoid the growth of non-regular workers as outsiders, as unions see it as a threat to their role in collective bargaining institutions, based on seven European country case studies of the hospital industry in the protected public sector and the metal industry (automotive and electronics) in the private sector exposed to international competition. In contrast to the dualization theory that regards insider–outsider divide as a result of a unions’ (second-best) strategy (Emmenegger 2015: 96), Crouch emphasizes employers’ business strategies as a factor that creates outsiders.

When we examine recent changes in European labour market policies, we notice a number of non-liberal market economies relaxed the degree of employment protection by facilitating dismissal of regular workers, contrary to the theoretical expectation of a dualism perspective. For example, Denmark is well known for its ‘flexicurity’ measures of relatively low employment protection and a high degree of unemployment protection through generous unemployment insurance (Appelbaum 2012: 316; Gooderham *et al.* 2015: 167–71; Madsen 2004: 189). Non-liberal market economies in Southern Europe such as Spain and Italy also relaxed dismissal rules (Moreira *et al.* 2015: 206–8). The centre-right government of the Partido Popular in Spain, where the highest rate of fixed-term contracts was recorded among European countries, relaxed the dismissal regulation related to regular workers in return for a limitation on the use of fixed-term contracts in the 1997 tripartite political pact (Molina Romo 2005: 18; Talani and Cerviño 2003: 220; Toharia and Malo 2000: 314–15). After the global financial crisis in 2008, the Socialist government permitted dismissal of regular workers for economic reasons (*Contrato de fomento del empleo*, Law 35/2010), contrary to the claim made by Rueda (2007) that the Socialist government would protect the interests of regular workers as the core supporters of the party. In addition, the Partido Popular government further relaxed dismissal regulation with Decree Law 3/2012. In Italy, while both centre-left and centre-right governments increased labour market flexibility by deregulating non-regular employment since the 1990s, the Monti-Fornero Reform of 2012 introduced a measure to allow dismissal of regular workers with fiduciary compensation instead of reinstatement of relevant workers in the case of unfair dismissal. In addition, the Jobs Act of 2014 relaxed the conditions of dismissal further. The use of fixed-term contracts also became more restricted by the Monti-Fornero Reform to rectify poor working conditions experienced by a large number of young workers (Tiraboschi 2012: 54–5, 81–3). In the Spanish and Italian cases, it may be argued that the governments introduced policies aimed at ‘narrowing’ insider–outsider gaps, or ‘reducing’ labour market dualism. Although it is not about dismissal regulation, some scholars claim that

Germany, a quintessential non-liberal market economy, introduced a more liberalized pension regime that reduced its dualistic nature (Bridgen and Meyer 2014; Naczyk and Seeleib-Keiser 2015: 362, 367). It is also claimed that the degree of dualism in German unemployment protection and ALMP was reduced as a result of the Hartz IV legislation (Clasen and Georne 2011).

In contrast to scholars with a dualism perspective, scholars with a power resources perspective (Esping-Andersen 1998; Huber and Stephens 2001; Korpi 1983, 2006) emphasize political conflict and the relevance of 'class' in determining the characteristics of social and labour market policies. According to these scholars, the power resources of working-class vis-à-vis employers are influenced by the level of union density, the type of unions (craft, industrial, enterprise and so on), the number of national confederations (concentrated or fragmented), the relationship between social democratic parties and labour unions and so on (Korpi 1983: 39). While scholars with a dualism perspective claim that employers and core regular employees in non-liberal market economies have maintained cooperative industrial relations by forming a cross-class coalition to maintain business competitiveness and job protection (Hassel 2014: 63; Thelen and Kume 1999: 496–7; 2006: 35) and it may be true to some extent, especially in manufacturing sectors, scholars with a power resources perspective claim that unions' political conflicts with employers are crucial in determining the degree of labour market flexibility and worker protection (Korpi 2006). In this case, what matters is the power resources of labour unions to mobilize workers and maintain class solidarity.

Unions' dualization strategies in cooperation with employers may eventually reduce their power resources as a result of an increasing number of unorganized non-regular workers and the reduced human and financial resources available to unions. In Japan, unions have to continue organizing workers to maintain their power resources in the context of declining union density and an increasing number of non-regular workers. For example, the Labour Standards Law stipulates that unions should represent a majority of workers in a workplace in order to exercise rights to engage in collective bargaining with employers to negotiate the maximum amount of overtime work (Article 36) and the introduction of 'discretionary work' (*sairyō rōdō*, to be explained later) among professional workers (Article 38-3). Given the remaining importance of unions as a political actor in industrial relations, this article examines the changing power relations between labour and capitalist classes from a power resources perspective to demonstrate that the political conflict between these classes has played a major role in deciding the characteristics of labour market policy, including deregulation of regular employment. However, the article also pays attention to a coalitional politics perspective emphasized by scholars of dualism and considers the different preferences of unions to explain the characteristics of labour market policy, without assuming that unions share common interests in maintaining class solidarity (Gordon 2015: 81).

The following sections analyse reform of regular employment from the 1990s until the current LDP administration of Prime Minister Abe by

examining the deregulation of working-time rules, several proposals to relax dismissal rules and the diversification of regular employment. These sections are aimed at demonstrating that, instead of maintaining dual labour markets, the LDP government has deregulated or proposed to deregulate not only non-regular employment but also regular employment in response to demands from employers. Labour unions have not been able to prevent the government from attempting to deregulate regular employment, however, as a result of their declining power resources.

3. Proposals for more flexible regular employment and labour market diversification

Japanese employers represented by Nikkeiren (Japan Federation of Employers' Associations, later Nihon Keidanren (Japan Business Federation) since 2002) issued a policy document titled 'Japanese management in a new era' and demanded labour market deregulation to increase business competitiveness by promoting flexibility in production and human resource management (Nikkeiren 1995). In addition to the pressure from shareholders to achieve short-term profits as a result of the 'financialization' of capitalism (Isogai 2012: 43, 46; Yamada and Hirano 2012: 15), the global and regional integration of production and the intensified economic competition from neighbouring Asian countries based on low-cost production required Japanese companies to increase functional flexibility and decrease production costs (Watanabe 2014, 2015a). In this economic context, labour market deregulation was considered appropriate, as well as the relocation of manufacturing plants overseas and the internationalization of supply chains (Nikkeiren 1995).

It is true that labour market deregulation was mostly aimed at non-regular employment (although regular employment has also been deregulated in terms of working-time regulation). For example, the 1999 amendment to the Temporary Work Agency Law liberalized temporary agency work except for a small number of occupations and the 2003 amendment expanded the scope of temporary agency work by allowing it to be used in manufacturing sectors (Watanabe 2012, 2014, 2015a). After the centre-left government of the Democratic Party of Japan (DPJ) increased the protection of temp workers in 2012, the current (second) Abe administration of the LDP implemented further deregulation of temporary agency work in 2015 by enabling employers to use it without any time limit as long as they change agency workers every three years in the same job position (Asahi Shimbun 2015b). The LDP government also deregulated fixed-term contracts through the 1998 and 2003 amendments to the Labour Standards Law, although the centre-left DPJ government increased the protection of fixed-term workers by amending the Labour Contract Law in 2012 (see Table 1 for deregulatory reforms in regular and non-regular employment passed since the 1990s). As for part-time work, there has been no restriction on its use in Japan,

TABLE 1

List of Major Deregulatory Measures Passed by the Japanese Government from the 1990s

Temporary Work Agency Law

1999 amendment

- liberalized temporary agency work except for a small number of occupations.
- set one year as the maximum period of temporary agency work, except for the original 26 occupations requiring professional and technical skills, for which three years was permitted.

2003 amendment

- permitted temporary agency work in the manufacturing sector.
- extended the maximum period of temporary agency work from one to three years, except for the original 26 occupations requiring professional and technical skills for which an open-ended contract was permitted.

2015 amendment

- allowed employers to use temporary agency work permanently for the same position or job as long as they change workers every three years.

Labour Standards Law

Discretionary work

1998 amendment

- introduced the planning-type (*kikaku gyōmugata*) discretionary work among white-collar regular workers (another type of the discretionary work for professional workers (*senmon gyōmugata*) was introduced in the 1987 amendment to the Labour Standards Law).

2003 amendment

- expanded the scope of the planning-type discretionary work.

Fixed-term contract

1998 amendment

- extended the maximum period of fixed-term contract from one to three years for newly employed highly-skilled workers and elderly workers aged 60 and over.

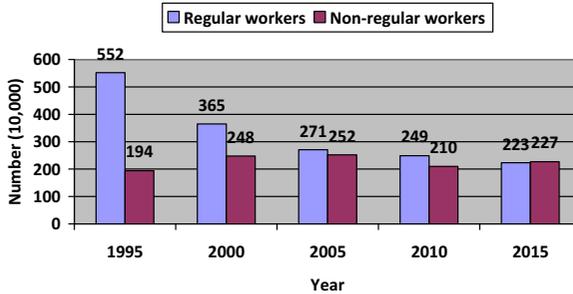
2003 amendment

- extended the maximum period of fixed-term contract from one to three years (from three to five years for highly-skilled workers and elderly workers aged 60 and over).
-

unlike in some continental European countries, so no deregulation was necessary.

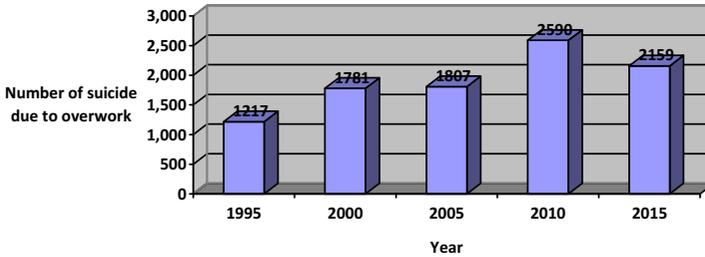
Deregulation of non-regular employment has deteriorated the working conditions of regular workers, however, by making it easier for employers to use non-regular workers instead of regular workers in not only service sectors but also manufacturing sectors (Interviews, Zenkoku Union, April 2013; Zenrōren, April 2014; see also Imai 2011: 163). An increasing number of non-regular workers who engage in jobs previously performed by regular workers has threatened jobs of regular workers by enabling employers to suggest they may be replaced with cheap non-regular workers in the case of their reluctance

FIGURE 1
The Number of Young Regular and Non-Regular Workers Aged 15–24.
[Colour figure can be viewed at wileyonlinelibrary.com]



Source: Labour Force Survey, 2016. Statistics Bureau.

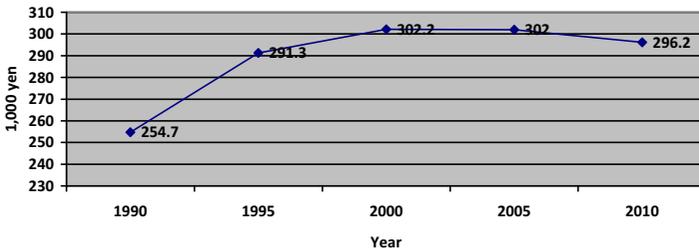
FIGURE 2
Number of 'karō jisatsu' (Suicide Due to Overwork).
[Colour figure can be viewed at wileyonlinelibrary.com]



Source: Karōshi nado bōshi taisaku hakusho, 2016. Ministry of Health, Labour and Welfare.

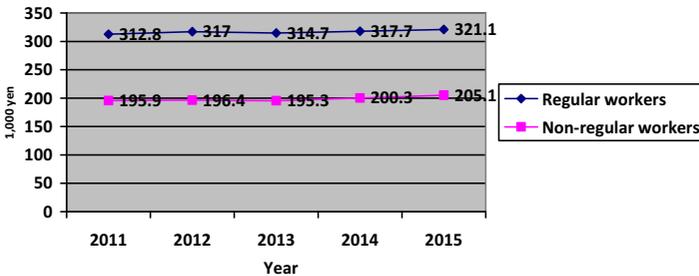
to work in poorer conditions (Interviews, Rengō Non-Regular Work Centre, April 2014; Shutoken Seinen Union, April 2013; see also Vlandas 2013 for the French case of a high possibility of replacement of regular workers with temporary workers). In fact, the number of regular workers aged 15–24 has decreased since the 1990s, especially as a result of both reducing the hiring of university graduates as regular workers and increasing their hiring as non-regular workers at the time of economic stagnation (Goka 1999: 83; Gotō 2011: 9–12; see also Figure 1).¹ As a result, the working conditions of regular workers have deteriorated, as seen in their work overload (a cause for *karō jisatsu*, committing suicide due to overwork) and stagnant wages since the mid-1990s (with little increase in the gap between regular and non-regular workers' wages), contrary to a dualism perspective that assumes protected work conditions of regular workers (see Figures 2–4). Despite the official stance of opposition by Rengō and some industrial federations to greater use of (unorganized) non-regular workers, enterprise unions in competitive sectors have not opposed it and allowed union density to decline further, as they consider non-regular workers as a necessary buffer for coping with

FIGURE 3
Monthly Wages of Regular Workers.
[Colour figure can be viewed at wileyonlinelibrary.com]



Source: Wage structure basic survey, 2014. Ministry of Health, Labour and Welfare.

FIGURE 4
Monthly Wages of Regular and Non-Regular Workers in Recent Years.
[Colour figure can be viewed at wileyonlinelibrary.com]



Source: Wage structure basic survey, 2016. Ministry of Health, Labour and Welfare.

economic fluctuations and maintaining business competitiveness (Mouer and Kawanishi 2005: 127). In this situation, national centres such as Rengō and industrial federations in service sectors, where there are a large number of non-regular workers, began to organize them and attempt to reduce an insider–outsider gap. However, the progress has been slow (Interviews, Rengō Non-Regular Work Centre, April 2014; UA Zensen, April 2014).

In addition to non-regular employment, however, the LDP government has implemented deregulation of regular employment by deregulating working-time rules. The current Abe administration since December 2012 has aimed to enable employers to use regular workers more flexibly and proposed several deregulatory measures. They include, among other things, (i) further deregulation of working-time rules, (ii) relaxation of dismissal rules by allowing fiduciary compensation in the case of unfair dismissal and (iii) diversification of regular employment by promoting the use of ‘semi-regular’ work and reducing the scope of regular workers under lifetime employment. Most recently, the Abe administration proposed ‘equal work, equal pay’ to increase the disposal income of non-regular workers and promote economic

growth with their greater spending power. This policy proposal was aimed at reducing the insider–outsider gap and labour market dualism, in contrast to a dualism perspective (Asahi Shimbun 2016; Nihon Keizai Shimbun 2016).²

As for working-time deregulation, ‘discretionary work’, which enabled employers to increase working-time flexibility of regular employment by linking regular workers’ salaries with work performance instead of actual hours worked, was introduced with the 1987 amendment to the Labour Standards Law. Although discretionary work enabled employers to reduce labour cost by not paying overtime except for late night work and work on weekends and holidays, it was initially applied only to professional workers with job discretion. However, employers represented by Nikkeiren demanded the expansion of the scope of discretionary work, and the 1998 and 2003 amendments to the Labour Standards Law expanded the scope by including the ‘planning-type’ (*kikaku gyōmugata*) white-collar workers engaged in business planning and analysis (Nikkeiren 1994).³ The 1998 amendment allowed employers to use discretionary work among the planning-type white-collar workers assumed to have job discretion in the headquarters and core divisions of companies.⁴ The 2003 amendment expanded the scope of discretionary work further by including the planning-type white-collar workers whether or not they worked in headquarters or core divisions. As a result, the number of companies that used discretionary work increased, including those in manufacturing sectors. The greater use of discretionary work exacerbated the working conditions of regular workers as a result of long working hours without overtime pay and greater use of performance-based job evaluation (Asahi Shimbun 2014b; Imai 2011: 104–11, 119–21; Isogai 2012: 45, 55).

After the scope of discretionary work was expanded in the late 1990s and early 2000s, the first Abe administration (2006–2007) attempted to introduce the ‘white-collar exemption’, which is complete exemption of white-collar regular workers from working-time regulation without any overtime pay (it has been already used in the United States). It is different from discretionary work, for which employers have to pay for overtime work during late night time, weekends and holidays. Although the first Abe administration had to give up introducing the white-collar exemption to avoid voter backlash in the House of Councillors election in July 2007, the second Abe administration since December 2012 has proposed to introduce it again by renaming it ‘highly professional work’ (Asahi Shimbun 2014a). During the policy discussion in the Industrial Competitiveness Council (*Sangyō Kyōsōryoku Kaigi*), a new cabinet committee established by the second Abe administration, a member of the Council Sakakibara Sadayuki, Chairman of Keidanren since June 2014, emphasized the necessity for promoting working-time flexibility and introducing the highly professional work. Although the bill was strongly criticized as ‘no overtime pay’ bill (*zangyōdai zero hōan*) by opposition parties such as the DPJ and labour unions led by Rengō, the bill is likely to pass eventually, as the LDP coalition government has a majority in both Houses of the Diet (Japanese Parliament) (Mizoue 2015: 14–16; Nihon Keizai Shimbun

2015c). Although the eligibility criteria for the highly professional work is set rather high and only those workers whose annual income is about 10 million yen (about US\$ 90,000 at the exchange rate of US\$1 = 110 yen) are targeted, unions are afraid that, once introduced, its eligibility criteria may be lowered through several revisions to the Labour Standards Law, as in the case of the expanded scope of temporary agency work through several revisions to the Temporary Agency Work Law (Mizoue 2015: 21–5). The second Abe administration also proposed expanding the use of discretionary work among regular workers whose annual income is less than about 10 million yen (Nihon Keizai Shimbun 2013, 2015a).

Although the dismissal of regular workers in large companies remains officially difficult, the LDP government has discussed the policy idea of relaxing dismissal regulation from time to time in response to demands from employers, who have regarded an inflexible labour market as one of what they call ‘six burdens’ on the Japanese economy (Nihon Keizai Shimbun 2015b).⁵ The current Abe administration has aimed to change Japanese employment based on lifetime employment and achieve economic growth by relaxing dismissal rules and promoting labour mobility from declining to new industries. For this purpose, the Industrial Competitiveness Council proposed the introduction of fiduciary compensation, which would exempt employers from their obligation to reinstate workers to previous work positions in the case of unfair dismissal, first in the newly established ‘strategic special economic zones’ (*senyaku tokku*) and then nationwide (Asahi Shimbun 2015a; Industrial Competitiveness Council 2013a, b; Nishitani 2014: 18–21). The membership of the Industrial Competitiveness Council has been dominated by business leaders (such as Sakakibara Sadayuki mentioned above, Mikitani Hiroshi, Chairman of a newly formed employer association ‘Shinkeizai Renmei’ (Japan Association of New Economy) and Hasegawa Yasuchika, who was then Chairman of Keizai Dōyūkai (Japan Association of Corporate Executives) and academics (such as Takenaka Heizo, who served as a Minister in charge of Economic and Fiscal Policy during the Koizumi administration) who are eager to deregulate the Japanese economy and labour market.

The current Abe administration has also aimed to diversify regular employment by increasing the number of ‘semi-regular’ workers (*gentei seishain*), whose job locations and responsibilities are limited in contrast to core regular workers under lifetime employment. Semi-regular workers are regular workers only in status, and their wages are lower than those of core regular workers although they are higher than those of non-regular workers. Employment protection of semi-regular workers is not as secure as that of core regular workers either (Morioka 2015: 141–4). In this sense, the increased use of semi-regular work may be considered as the diversification of regular employment and the labour market, not dualization. Although some companies have already been using semi-regular workers to improve work-life balance and increase the employment of female workers, the second Abe administration has attempted to promote the use of semi-regular workers as part of its economic growth strategy through more flexible

regular employment (Interview, Denki Rengō, April 2014; see also Industrial Competitiveness Council 2013c for Prime Minister Abe's intention to promote semi-regular work and eliminate the dual labour market). Critics of this measure argue, however, that the greater use of semi-regular workers is nothing more than a way to continue using female regular workers more cheaply and achieve easier dismissal, as jobs of semi-regular workers are not protected as much as those of regular workers under lifetime employment (Interview, Shutoken Seinen Union, April 2014; see also Asahi Shimbun 2013).

As a result of certain deregulation and more flexible use of regular employment, the Japanese labour market has diversified, if not deregulated as extensively as liberal market economies such as the United States, contrary to the dualism perspective that the labour market consists of protected regular employment and flexible non-regular employment. We can now identify greater diversity of workers consisting of a shrinking number of 'core' regular workers, who are protected under lifetime employment but increasingly suffer from deteriorated working conditions; 'professional' or 'specialist' regular workers, who are supposed to have job discretion and work under deregulated working-time rules without receiving overtime pay in most situations; 'peripheral' regular workers, who have become more vulnerable to employers' neoliberal offensives on job protection and do not benefit from seniority-based pay despite their status as regular workers; 'semi'-regular workers mentioned above; and non-regular workers, whose working conditions remain precarious. Although dualism between regular and non-regular employment still exists, the Japanese labour market has become more diverse rather than remain dualistic. Not only the scope of regular workers under lifetime employment has been shrinking but also an increasing number of regular workers have suffered from poorer working conditions in a more flexible standard labour market.

4. Power resources of unions to resist deregulatory proposals

This section analyses why labour unions allowed the second Abe administration to propose deregulation of regular employment by examining their power resources and preferences (see Gordon 2015 for a similar analytical perspective in the case of unemployment protection and ALMP among OECD countries). This article assesses the power resources of unions in terms of (i) access to government policy-making, (ii) union density and capacity to mobilize workers and (iii) unions' preferences for and conflicts of interest in labour market flexibility, to examine how the reduced power resources of unions have undermined their capacity to resist the government proposal to promote flexibility of regular employment, contrary to the theoretical expectation of scholars with a dualism perspective.

Labour policy-making in Japan was mostly based on the policy deliberation in the advisory councils (*shingikai*) in the Ministry of Labour, and unions as well as employers had regular representatives. However, the LDP government

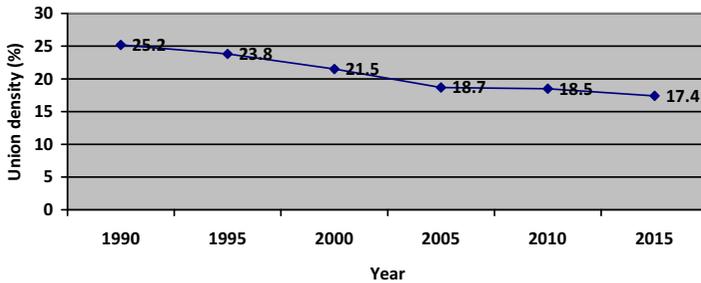
established the Deregulation Committee in the mid-1990s mostly to represent business interests (Miura 2012: 123–30; Watanabe 2012, 2014). The cabinet adopted policy proposals made by the Deregulation Committee and this new top-down policy-making process undermined the policy-making function of the advisory councils to some extent and weakened the political power of unions. In addition to the complete loss of access to policy-making in the Deregulation Committee soon after the inauguration of the neoliberal Koizumi administration in 2001, unions lost their veto power in the advisory councils when the Cabinet Order on the Labour Policy Council was issued at the time of ministerial reorganization in the same year (Watanabe 2012, 2014). Labour representatives in the advisory councils possessed the power to abolish bills consulted on by the Labour Minister by not sending any representative to advisory meetings. However, the Cabinet Order made it possible for employers' and public representatives to convene meetings and propose bills irrespective of labour opposition.

The centre-left DPJ government from 2009 until 2012 changed labour policy-making process to some extent. It restored tripartite policy-making among labour, employers' and public representatives in the advisory councils at the centre of the policy-making process by suspending cabinet committees established by the LDP such as the Council on Economic and Fiscal Policy and the Deregulation Committee. However, due to the control of the less powerful House of Councillors by the opposition coalition led by the LDP, the DPJ government was not able to introduce all the worker protective measures requested by Rengō (Interview, Rengō, April 2013). The current Abe administration of the LDP, which came back to power in December 2012, resumed cabinet committees. In addition, the administration established new cabinet committees such as the Industrial Competitiveness Council to promote economic growth. These cabinet committees proposed a number of measures aimed at deregulating not only non-regular employment but also regular employment, such as the relaxation of dismissal rules as mentioned above, by excluding unions from policy-making (Deregulation Committee 2013a,b; Industrial Competitiveness Council 2013a,b; Igarashi 2014: 51–63).

In addition to unions' reduced access to government policy-making, declining union density has weakened their power by reducing their human and financial resources. Union density in Japan has been declining, especially since the government's implementation of labour market deregulation in the 1990s (see Figure 5). Against this background, Rengō and some industrial federation made efforts to organize regular workers in SMEs and non-regular workers.

We have increased our efforts to organize not only regular workers in our group companies but also non-regular workers, as their number has been increasing in our industry and we need to organize them in order to continue representing a majority of workers in each group company (Interview, Seiho Rōren (National Federation of Life Insurance Workers' Unions), April 2014).

FIGURE 5
 Union Density in Japan.
 [Colour figure can be viewed at wileyonlinelibrary.com]



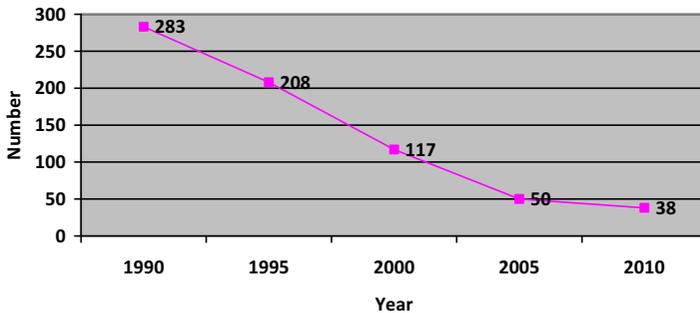
Source: Basic Survey on Labour Unions, 2016, Ministry of Health, Labour and Welfare.

We aim to organize non-regular workers to improve their working conditions and reduce the gap between regular workers and non-regular workers. However, it would also contribute to greater human and financial resources of our group unions and revitalize the labour movement in Japan (Interview, Rengō Non-Regular Work Centre, April 2014).

However, worker organizing has not progressed as intended by Rengō and declining union density has negatively affected unions' capacity to organize and mobilize workers. In addition, Rengō's human and financial resources remain small compared to those of enterprise unions (Interview, Rengō, April 2014; see also Suzuki 2006: 293), and industrial federations in competitive sectors such as JC-Metal and enterprise unions in general have been uninterested and made little progress in organizing non-regular workers (Interviews, Denki Rengō, April 2014; Headquarters of Hitachi group enterprise unions, April 2014; see also Suzuki 2012: 75). These unions have been more interested in maintaining cooperative industrial relations with employers in order not to lose productivity and competitiveness than fighting against employers by resorting to class solidarity and conducting strikes (Suzuki 2012: 79, 86; Watanabe 2014, 2015b; see Figure 6 for the decreased number of strikes since 1990).

It is true that region-based community unions (also called social movement unions) have increasingly empowered hitherto unorganized regular workers in SMEs and precarious non-regular workers by organizing and assisting them in bargaining with employers. Some community unions have also engaged actively in political actions such as holding meetings with DPJ and Communist Party politicians in the Diet and making policy requests to bureaucracy such as the Ministry of Health, Labour and Welfare (Interviews, Shutoken Seinen Union, April 2014; Zenkoku Union, April 2013; Zentōitsu Workers' Union/ Ijūren (Solidarity Network with Migrants Japan), March 2016). However, community unions have struggled to retain union members and their human and financial resources remain too small to revitalize the labour movement.

FIGURE 6
 Number of Strikes for More than a Half Day.
 [Colour figure can be viewed at wileyonlinelibrary.com]



Source: Labour Dispute Survey, 2016, Ministry of Health, Labour and Welfare.

Our membership has not increased because of low retention rates. Many members quit once their individual disputes are solved, as they cannot continue paying union fees because of their poor and precarious working situations (Interview, Shutoken Seinen Union, March 2016).

We have suffered from very small financial resources and now we can afford to hire only one full-time staff member. We depend on volunteers but they are also very busy in their own work or labour dispute. As a result, we can hardly engage in member organizing (Interview, Women's Union Tokyo, September 2013).

Japanese unions have also suffered from conflicts of interest caused by their different preferences for labour market flexibility, despite achieving a high level of organizational unity after the establishment of the largest national union confederation Rengō in 1989. Conflicts of interest weakened the political power of unions and made it more difficult for them to resist the government proposals to deregulate regular employment. Enterprise unions, especially those in manufacturing sectors, have mostly represented the interests of regular workers in large companies rather than promoting general class interests and often formed a cross-class alliance rather than maintaining class solidarity in the case of deregulation of non-regular employment and promotion of discretionary work.

Most enterprise unions are not interested in organizing non-regular workers. Instead, we seek material benefits for union members. What is the most important thing for us is the survival of companies and the employment protection of union members (Interview, Headquarters of Hitachi group enterprise unions, April 2014).

During the negotiation process of an amendment to the Labour Standards Law in the late 1990s, for example, enterprise unions in the internationally competitive sectors such as automobile and electronics formed a cross-class alliance with Nikkeiren to support an expansion of the scope of discretionary work as a measure to deregulate working-time rules despite opposition by other unions. The behaviour of these unions reflected their concern with the

maintenance of business productivity and competitiveness (Kume 2005: 173–5, 180–2; Watanabe 2012, 2014). Enterprise unions control a large amount of financial resources in comparison to Rengō, as enterprise unions collect union fees directly from their members and only a small percentage of these fees are allocated to industrial federations first and then Rengō (Interview, Rengō, April 2014; see also Suzuki 2006: 293). Human resources of Rengō are also relatively small in comparison to those of industrial federations and enterprise unions (Nakamura and Miura 2005: 193). As a result, Rengō was not able to unify the positions of its affiliated enterprise unions and industrial federations and allowed the LDP government to expand the scope of discretionary work.

As a result of reduced access to policy-making, declining union density and insufficient capacity to organize and mobilize workers, and the different preferences for and conflicts of interest in labour market flexibility, unions experienced decline in their power resources and the power relations between unions and employers shifted in favour of the latter. Despite the existence of different economic interests, Japanese employers, mostly represented by Nikkeiren and later Nihon Keidanren, have coordinated those interests and placed consistent demands for labour market deregulation, as seen in the minutes of cabinet committees such as the Deregulation Committee and the Industrial Competitiveness Council (Deregulation Committee 2013a,b; Industrial Competitiveness Council 2013a,b,c). The economic interests of employers have been well represented by the cabinet committees and they have been able to maintain institutionalized access to policy-making in contrast to labour unions, which lost such access after the inauguration of the neoliberal Koizumi administration (Watanabe 2014). Contrary to the theoretical expectation based on a dualism perspective, Japanese employers and the LDP government have attempted to promote deregulation of not only non-regular employment but also regular employment. This is because they have been eager to enhance competitiveness and promote economic growth by lowering labour costs and increasing labour market flexibility through a smaller scope of regular workers under lifetime employment in the context of economic stagnation and the intensified competition from neighbouring Asian countries. Most recently, the current Abe administration of the LDP, which has a two-thirds majority in both Houses of the Diet, has been eager to achieve economic growth with its Abenomics by enhancing labour productivity through deregulation. In this economic and political context, further amendments to the Labour Standards Law aimed at deregulating regular employment to a greater extent are likely during the current LDP administration.

5. Conclusion

This article has analysed deregulation of regular employment and the diversification of the labour market in Japan from a perspective of unions' power resources and preferences. The article has claimed that the LDP

government deregulated, or proposed to deregulate, not only non-regular employment but also regular employment to overcome economic stagnation and increase the competitiveness of the Japanese economy. In addition to deregulating working-time rules by expanding discretionary work and proposing to introduce the white-collar exemption, the LDP government has attempted to relax dismissal rules in response to demands from employers and diversify regular employment by promoting the use of semi-regular work. For this purpose, labour policy-making has been modified in a way to represent employers' interests to a greater extent by excluding labour unions from the policy-making process in cabinet committees such as the Deregulation Committee and the Industrial Competitiveness Council. Labour unions have not been able to resist management offensive and the government's proposals to increase the flexibility of regular employment as a result of their insufficient power resources to mobilize workers, which was caused by their conflicts of interest in labour market flexibility and reduced access to government policy-making.

Although the dualism perspective is useful for explaining the existing divide between supposedly stable regular employment and deregulated and flexible non-regular employment, it is not well suited to detecting changes in regular employment. The dualism perspective has also difficulty in explaining the recent trend of unions' and governments' efforts to narrow a gap between regular workers (in large companies) as insiders and non-regular workers (as well as regular workers in SMEs) as outsiders in some non-liberal market economies. The Japanese case shows that the government has deregulated or proposed to deregulate not only non-regular employment but also regular employment in a way to make regular employment more flexible and weaken the employment protection of regular workers. The recent changes in non-liberal market economies, including Japan, imply that we may be witnessing the process of 'de-dualization' (through more flexible regular employment and more protected non-regular employment), following extensive labour market dualism. In addition, the expansion of non-regular employment in Japan as a result of labour market deregulation has affected the working conditions of regular workers in negative ways, as employers have been able to urge regular workers to work in deteriorated working conditions by hinting that they could be replaced by increasingly available non-regular workers. Japanese employers have less commitment to the norms of lifetime employment than before, as seen in the decreased use of core regular workers even in the manufacturing sector. Precisely because of the threat coming from employers' increased use of non-regular workers and greater possibility of replacement (only if perceived so), regular workers have greater incentives to stick to regular employment, which explains little decline in the tenure/turnover of regular workers and their willingness to work in poorer conditions. However, the number of these regular workers has been decreasing.

In contrast to non-liberal market economies in continental Europe, where non-regular workers are less susceptible to unequal treatment as a result of the greater power resources of unions (and EC Directives stipulating

equal treatment between regular and non-regular workers), the expansion of low-paid non-regular employment with poor working conditions has made Japanese regular workers more vulnerable to downward pressures on their working conditions and employment protection. The Japanese case study in this article suggests that, without sufficient power resources of labour unions and class solidarity, the working conditions and employment protection of not only non-regular workers but also regular workers may deteriorate, in contrast to the views of scholars with a dualism perspective.

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Notes

1. In addition, many employers suspended recruiting female regular workers in the 'assistant' track (*ippan shoku*) and hired female university graduates as non-regular workers (Goka 1999: 119). In the worst cases, some employers dismissed female regular workers in the assistant track and then rehired them as non-regular workers in almost illegal manners (Nakano 2006: 29–30; Weathers 2001: 176).
2. In addition, the administration proposed to introduce the limit on overtime work hours by amending Article 36 of the Labour Standards Law. This proposal, however, is mostly aimed at improving labour productivity of regular workers (in addition to enabling regular workers to strike a better work-life balance so that the fertility rate would improve) rather than improving their working conditions *per se*.
3. 'Planning-type' discretionary work applies to autonomous work with job discretion related to business planning and decision making, research and analysis of business management and so on (Labour Standards Law, Article 38-4).
4. However, unions succeeded in including in the 1998 amendment some clauses that made the use of discretionary work more difficult (such as the requirement of unanimous agreement by a labour-management committee) as a result of the loss of the LDP government in the 1998 Upper House election.
5. 'Six burdens' include inflexible labour market, highly appreciated yen, high corporate tax, slow progress in forming economic partnerships with foreign countries, strict environmental regulation and insufficient electricity provision and its high price.

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