

# Japan Labor Issues

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## ● KEYNOTE LECTURE

María Emilia Casas Baamonde

## ● REPORTS

**China** Employment Opportunities and Income Growth for China's Migrant Workforce in the Post-Covid-19 Era

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**Taiwan** Challenges Arising from COVID-19 and Current Situation in Taiwan

Che-Yi WU

**Australia** Strengthening Australia's Workplace Laws to Promote Equality in the Post-Covid-19 Era

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**Philippines** Classes, Changes, and Challenges in the Post-Covid-19 Period

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Hwok-Aun LEE

The 6th JILPT Tokyo Comparative Labor Policy Seminar 2023  
*“Current Situation and Challenges of Inequality in Society: Overcoming Social Divisions towards the Post-COVID-19 Era”*



Japan Labor Issues

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\* Entries are arranged based on the seminar program.

\* The responsibility for opinions expressed in signed reports rests solely with their authors, and publication does not constitute an endorsement by the Japan Institute for Labour Policy and Training of the opinions expressed in them.

## *Preface*

The 6th JILPT Tokyo Comparative Labor Policy Seminar 2023

### *Current Situation and Challenges of Inequality in Society: Overcoming Social Divisions towards the Post-COVID-19 Era*

We have set this theme above for 2023 seminar held in March, following the discussion in the previous seminar held in 2022 under the theme of “The Impact of the COVID-19 on Labor Market and Policy Responses.” While the impact of the COVID-19 pandemic on the labor market varied across the countries, industries, occupations, and worker characteristics, it gave a particularly large impact on workers who were already vulnerable to begin with, such as women, young people, and those in informal sectors, thereby further widening the gap. Even before the pandemic, Asian countries faced major events that affected the labor markets, such as the currency crisis in the late 1990s and the Lehman shock in the late 2000s. Thereafter, they continued to achieve stable economic growth through the development of economic globalization, the transformation of industrial structures and the labor market reforms. On the other hand, the negative effects of rapid economic globalization were pointed out as they created or widened inequalities among people. In addition, a rapid digitalization, climate change, the demographic shifts, and rising food and energy prices due to Russia’s invasion of Ukraine have affected the labor markets on a global scale. There are concerns that these global changes will lead to further expansion in inequality including an increase in the number of informal workers, the digital divide, and declining real wages.

In the following pages, readers will find a keynote lecture by the President of ISLSSL and eight excellent reports presented by researchers from the Asia-Pacific regions on the most important problems and what measures can be taken to solve them, as well as the challenges associated with the disparities and inequalities created by these changes, towards future direction of labor policy which looks ahead to consider potential developments after the COVID-19 era. Taking this opportunity, JILPT would like to express our sincere gratitude to Prof. María Emilia Casas Baamonde and Dr. Michele Tuccio for their insightful keynote lectures. Furthermore, JILPT is grateful to the chairpersons, Prof. Hiromi Hara and Prof. Chikako Kanki for their outstanding comments. JILPT also would like to deeply thank Prof. Takashi Araki for his significant contribution to conclude the discussions. All of them provided rich comparative analysis and future policy suggestions to overcome social divisions towards the post-COVID-19 era.

# Keynote Lecture

**María Emilia Casas Baamonde**

Thinking about the 21st century requires reflection on the current problems of social democratic states, their functions and their means of exercise, and the failure of their main function of correcting social inequalities, whose extreme growth throughout the world is notorious as a consequence of the neo-liberal economic agenda, the coronavirus crisis and those that have followed it without yet bringing us back to normality (inflationary, energy, and war due to Russia's invasion of Ukraine). The recovery, which we believed could be tackled after the pandemic outbreak, is being delayed by the new humanitarian and economic difficulties that have arisen and, as we had predicted, it is not a uniform recovery, but one that is uneven across countries and groups of populations and workers.

In 2021, the global economy posted 5.5% growth according to the UN Department of Economic and Social Affairs, which noted its unevenness and marked slowdown by the end of 2021 in major economies with particularly unfavourable effects on emerging and less developed economies and scenarios of declines by 2022 and 2023 due to new waves of COVID-19 infections and uneven vaccination roll-out, persistent labour market challenges, protracted supply chain challenges, rising debt, and growing inflationary pressures. It estimated, however, that by 2023 GDP in developed countries would have recovered to pre-pandemic levels.<sup>1</sup>

The World Economic Forum also stressed that a divergent recovery threatens long-term prosperity for all and can lead to polarisation, social fractures and geopolitical tensions that impede collaboration in the face of global challenges.<sup>2</sup> Not to mention the effects of Russia's invasion of Ukraine.

Thinking about the 21st century, so far the century of inequality, also calls for a reconsideration of the effective validity of fundamental rights, the expression of universal values that defend personal dignity, autonomy and freedom, in the face of the unstoppable advance of technology and science and the emergence of technological giants that operate worldwide, beyond the borders of any one country. The advance of automation, robotisation, artificial intelligence and neuroscience will demand the recognition of new rights. The effects of climate change will increase migration.

It can safely be said that inequality is the biggest problem of our societies. But also of countries' economies and of the global economy, which negatively affects their efficient functioning, their productivity and competitiveness.

From the social point of view, the effects of inequalities are corrosive of social cohesion and political democracies, creating "discriminated minorities" and "discriminated majorities," for whom, unfortunately, there is no other way than social exclusion and poverty, which has increased worldwide, both among the unemployed and the employed, in the post-COVID-19 era. These discriminated majorities are made up, to a

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1. *World Economic Situation Prospects*, WESP 2022, 13 January 2022.

2. *The Global Risk Report 2022*, 17th ed., 7, 14.

greater extent, of women, young people, migrants and members of ethnic minorities, workers without training or with training or skills that are inadequate for the far-reaching socio-economic transformations, both current and future, workers with atypical contracts that place them in a considerable legal and social precariousness, and the unemployed.

The “social” market economy requires the special attention of social states in order to be social in a globalised world. However, it cannot be ruled out that the institutions of global governance, the world banks, faced with inflationary pressures and the accumulation of large public deficits and imbalances, will resort to policies of stabilisation and painful fiscal adjustments and will be reluctant to ensure the necessary stimuli to feed the objective of necessary social spending in the face of inequalities and poverty in such far-reaching transitional processes as the digital and climate ones, in which we are immersed. These transitions must be made with social justice, so as to ensure decent work and social protection, which will require associated fiscal policies of a structural nature to ensure these developments in the long term.

Although the macroeconomic debate will be arduous, especially in the face of new economic recessions, the solution must not be a return to the past, to the economic policy of stabilisation of the 2008 financial crisis, which has left its negative effects for more than a decade, deepening social inequalities. Also because the time that has passed, as well as serving as an experience, raises new problems.

Changes do not take place in the realm of the inevitable, driven by an ideology outside politics, but under democratic and social orders and states, which have to deploy their functions in order to prevent the increase of social inequalities, which inevitably lead to social expulsion and poverty.

COVID-19 revealed and accentuated the inadequacy and weaknesses of labour and social security or social protection legislation, i.e. the limitations of the capacity of States and their legislation to determine the living and health conditions of workers and, consequently, the inequalities that exist in the labour market.

The shifting sands of these legislations were diluted in countries with informal work and without social protection networks. The labour legislations of the states of what we can call the “European model” based their crisis governance on flexicurity institutions, on an undeniable return of regulatory imperativeness, on more extensive and better resourced health and social protection systems, and on social dialogue, tripartite agreements and collective bargaining, with varying degrees of intensity and effectiveness.

Labour doctrine from all over the world has agreed that the unusual experience “dramatically aggravated the existing problems” in labour law and the “criticality” of labour lawyers in relation to the normative evolutions followed in previous crises.

The health crisis highlighted the existing protection gaps in labour and social security law in the various countries, and the impossibility of resolving them with exceptional, temporary rules once the crisis has passed.

The task of economic and social recovery must give due importance to the recovery of labour systems, which must undertake structural reforms to address unresolved problems, equip themselves with new regulations and techniques to face future challenges, which are already here, and improve their capacity to adapt to systemic shocks.

Labour rights and social security or social protection are today living “between regulatory reforms.” The pandemic was a transformational event with proven effects of accelerating the “arrival of the future of work.”<sup>3</sup> In this sense, the virus has been described as “transformational” or an “accelerator of existing trends.”

The world of labour law doctrine was divided into four irreconcilable blocs in pairs: those who proclaimed that nothing would be as before and those who considered that nothing should be as before versus

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3. World Economic Forum (WEF), *The Future of Jobs Report 2020*, 5.

those who were confident that everything would be as before or even maintained that everything should be as before. A sterile doctrinal polemic, in my opinion.

The complete return to “legal normality” in the post-COVID-19 era could not consist of a return to the previous labour rights, a hypothesis that is impossible to fully realise, as that legality has already been partially reformed in many legal systems.

“Nothing would be worse than a return to business as usual,” it has rightly been said, i.e. without correcting the mistakes of the past, or moving towards labour and social protection systems that are commensurate with the complexity of the changes in production, the digital and climate transitions, the demographic transformation, and guaranteeing fair transitions. And without making the correction of social inequalities an essential objective.

Do we need a debate on the re-foundation of labour law, as the President of the French Republic said at the beginning of the pandemic crisis? But it was undoubtedly an excessive proposal, and such proposals are frequent in debates on labour law reforms at truly significant moments in its history. Certainly, the COVID-19 crisis was the deepest and most far-reaching crisis ever experienced, along with the digital transformation, which labour law should have faced long ago and whose effects on work, business models and the organisation of companies are increasingly demanding.

This is not to say that far-reaching legislative reforms are not necessary; they are essential. Nor do I mean that these reforms, which have already begun in all legal systems, do not need to be redirected towards a different social valuation of work and public social security systems, which is also indispensable. To such an extent is the regulatory transformation necessary that simple technical adaptations of existing laws, which are limited to “frequenting the future” by giving them a “green and digital” varnish, will not suffice for the reformist purpose.

The ILO has warned that the recovery will be slow, uncertain and uneven, and of the risk of falling into the mistakes of the past, chronicling, even widening, social inequalities instead of correcting them. The 109th International Labour Conference adopted a Global Call to Action for a people-centred, inclusive, sustainable and resilient response to the COVID-19 crisis.

Equality is the priority value of social states and liberal democracies at this moment in history; their social systems must be prepared to contribute to the “energetic correction” of the social inequalities that the pandemic has exacerbated.

It is true that the European labour law doctrine has not been optimistic about a future of labour law that would embrace the “virtuous legacy” of the pandemic, promoting a new regulatory model that restores the constitutional value of work and its protection in sustainable economic and social development, fearing the rearmament of deregulatory positions.

But the occasion should be conducive to this end. The democratic policy of labour law will require, in a world where inequality is the structural feature, “the ethics and responsibility of enterprises in the creation of material and immaterial wealth and, most especially, in the creation of work”: “the enterprise of the future will be social or it will not be;” “ending hunger, poverty and reducing inequalities is also the task of economic activity.”

Such regulatory action for structural reform must make use of instruments of social dialogue and consultation and collective bargaining. They should provide balanced socio-economic solutions and take care of those most in need. The participation of the social partners in decision-making, and of workers’ representatives in companies on their own choices, will ensure democratic spaces in the governance of companies, beyond a labour law that protects their working conditions to ensure their consumer position and the redistribution function of this law.



Regulatory reforms must take into account the particular dysfunctions of labour markets (women, young people, migrants, unskilled workers...) and the singularities marked by the economic and political-cultural assumptions of each legal system.

Technological change, the introduction of technologies with very high capacities and speed, is and will have such an intense impact on all markets that, without exaggeration, it can be said that it will force a general reform of labour and social security systems. Technological capacity requires investments, also in human capital, to correct digital gaps and prepare workers for the innovation needs of production and business systems.

Digitalisation, the “mobile” technology, is therefore the current and future scenario for labour law, which cannot be ignored by labour law and its actors, even if they are concerned about the employment adjustments it may entail. Workers and their organisations have discovered the beneficial effects of environmentally friendly technological change in improving sustainability, business competitiveness and workers’ living and working conditions. In any case, we cannot close our eyes. Technological change and the green and circular economy have transformed and will transform, with unstoppable force and speed, individual and collective labour relations.

The professional skills and competencies of workers have always been important for their work/employment, their remuneration, their retention and the working and living conditions of workers. They will be essential in the post-COVID-19 era. Their acquisition and renewal must be guided by the principle of equal opportunities in access to education, training and lifelong learning.

Professional skills have taken on a new relevance and require new approaches in the face of the unstoppable revolution in technologies and economic transformations, which have led to the emergence of new markets, new business models and new jobs, which, in addition to being provided in a technological environment, must be compatible with the habitability of the planet, which is not always harmonisable. There are already numerous scientific studies by labour law researchers, analysis centres and economic institutions on the changes in the professional profiles of the workers required in this decade and in the coming ones. They all agree that, in effect, there have been and will continue to be transformations in the demand for workers’ qualifications in the different productive sectors, traditional, with significant changes in jobs that are also traditional, and emerging or innovative, in which new professional profiles have emerged, which are expected to experience notable growth driven by digitalisation, automation, robotics and artificial intelligence and will require new specialised knowledge.

These new approaches are based on the premise that the accelerated economic transformations and the ageing of the population cause a shortage of professional skills. And they take as their starting point not only the need for their increase, but also their continuous adaptation and renewal, forced by the obsolescence of certain workers’ skills and their replacement by new ones, objectively demanded by the jobs, occupations and tasks provided and their organisational models.

The transformations of the economy and society, in particular the Green New Deal and the Digital Compass, promoted by the European Union, are driving a fourth industrial revolution, which, like the previous ones, will have a significant impact on work, the productive structure and professional skills, turning them, in turn, into factors of transformation and future, and on our personal lives and the functioning and guarantees of democratic institutions themselves.

Change is presented as an opportunity, but also as a necessity, so lifelong learning must be a reality.

In this transitional landscape, it is worth noting the statement of the recent study by the McKinsey Global Institute, *The future of work after COVID-19*, dated 18 February 2021, which analyses eight countries with different economic and labour market models: China, France, Germany, India, Japan, Spain, the United

Kingdom, and the United States; these eight countries together account for almost half of the world's population and 62% of GDP. The assertion, which should be striking, is that “the challenge of retraining and redeploying workers into new occupations over the long term” will be “greater than that of adapting to the crisis” of COVID-19 “as it unfolded.”

It is difficult to imagine a greater adaptation challenge, which resulted in millions of sick and dead, and which imposed confinement of people and paralysed economic activity in countries, as well as closing borders.

The Jobs Reset Summit, organised by the World Economic Forum (WEF) in October 2020, estimated that 50% of employed people would need to retrain by 2025, as the adoption of new technologies by the productive fabric increases, with companies consulted by the WEF considering that 44% of employed people would need to be trained in the use of new tools and methodologies.

According to the McKinsey Global Institute, if pre-COVID-19 calculations estimated that, by 2030, automation and robotisation could destroy or substantially transform 4.1 million jobs in Spain (21% of the workforce), post-COVID-19 that risk could reach 4.6 million workers (24%) with medium and low skills and wages in “declining” occupations (retail salespersons, administrative staff and office clerks, packaging and filling machine operators, accounting and auditing clerks, supermarket cashiers, parcel packers and warehouse inventory clerks, access controllers...), while employment would grow in the “declining” occupations (retail salespersons, administrative staff and office clerks, packaging and filling machine operators, accounting and auditing clerks, supermarket cashiers, parcel packers and warehouse inventory clerks, access controllers...), while the employment of professionals in health, personal care and STEM (science, technology, engineering and mathematics), business and law, creative and art management, home entertainment and food retailing, etc., also affected by digitalisation, will grow.

Digitalisation, automation and artificial intelligence require people with the skills of engineers, computer scientists, neuroscientists, programmers, algorithmic bias controllers, experts in communication and social networks, graphic design, renewable energies, energy efficiency and waste treatment; in general, health and pharmaceutical professionals and personal care, digital and environmental ecosystems. With women (3.9 times more affected than men in Spain, France and Germany), the young, the elderly, low-wage workers, those without a university degree and ethnic minority migrants being disproportionately affected by these large-scale forced employment transitions.

According to the McKinsey Global Institute, “almost all of the growth in labour demand could occur in high-wage jobs,” requiring new and more advanced and complex cognitive, technological, emotional and social skills that machines cannot replace, and which will need to be attained either for the first time through curricular studies or through job or career transitions from low- to medium-wage jobs, which is a challenge, as transitions from low- to high-wage occupations have historically been infrequent. Medium jobs may then decline, depending on the country, as they are not compensated for by low growth in low-wage jobs (in the personal care economy, home health aides and personal carers).

What about social security? In the aftermath of the pandemic, a compartmentalised conception of labour law and social security cannot be sustained. All over the world, there are calls for governments to establish social security systems with “components that can act as automatic stabilisers” without the need for “discretionary interventions” or “legislative action” in crisis situations. For many developing countries the creation of a national-state social security system is a challenge.

In the interests of equality, the post-COVID-19 era must address the organisation of unpaid and underpaid personal care work, mostly provided by women, in the family and in care institutions, with a new division of responsibilities between families and States. The commitment of labour law to this work is a commitment

to the goal of achieving gender equality, which will not be possible without substantial progress in the recognition and regulation of care work and its provision by men and women.

The emergence of COVID-19 showed that self-employed work was no less exposed to its effects than subordinate work, as the very fragility of their autonomy exposed these workers directly and unprotected to the turbulence of the market. In all countries, the pandemic has opened up the questioning of the meaning of the binary division of the world of work between salaried work and self-employment, a division that digitalisation has blurred and which, moreover, is not static but dynamic in the career paths of many workers. It is well known, however, that traditional trade unions have resisted their joint regulation within the labour law, considering it a mechanism for escaping from labour law. Is there a labour law without an employer, without a company and without genuine collective rights?

At the same time, the dependence of economies on global supply chains has renewed doctrinal proposals to build a labour law that applies to labour in value chains on the basis of international standards and global framework agreements of the leading business groups in these productive decentralisations, in addition to endowing state laws with standards that demand labour and environmental responsibilities from multinational companies along supply chains beyond their borders.

This brings the debate on the situation between labour law reforms to its final frontier, informal and casual wage work, the ultimate expression of non-standard work, inequality, and injustice, which has grown after the pandemic and places millions of human beings on the margins of all protection and livelihoods, including their health and life. The great challenge of integrating informal, or undeclared, work, as called for by the ILO, requires effective means to achieve it.

Labour law and social security law cannot be detached from the economic and social reality. But in a social and liberal-democratic state governed by the rule of law, it cannot be condemned not to be a political project aimed at guaranteeing the freedom and security of workers, not to exercise its institutional function of compensating for inequality by recognising workers' rights and their collective contractual power. Its political failure is that of the social state, lacking an essential factor of legitimisation of its existence and functions.

The achievement of the fundamental value of equality is an imperative of social states. The social democratic state requires the effective enforcement of people's fundamental rights, especially equality, while guaranteeing freedom, which is the essence of all fundamental rights.

**María Emilia Casas Baamonde**

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# Employment Opportunities and Income Growth for China's Migrant Workforce in the Post-Covid-19 Era

Tianyu WANG

- I. Basic situation of migrant workers in China
- II. Impairment of employment opportunities and income levels of migrant workers in the epidemic
- III. Structural employment difficulties faced by migrant workers
- IV. Challenges for migrant workers in the context of industrial intelligence
- V. Digital labor platforms create new employment forms and jobs opportunities for migrant workers
- VI. Policy system that combines flexible employment protection and labor skills upgrading

Low-skilled labor groups represented by migrant workers are most significantly affected by the epidemic prevention and control measures, with significant declines in employment opportunities and consequently lower incomes. As the pandemic draws to a close and the social scars from the control measures need to heal, it is critical to provide adequate employment opportunities for migrant workers and to find appropriate responses to boost incomes.

## I. Basic situation of migrant workers in China

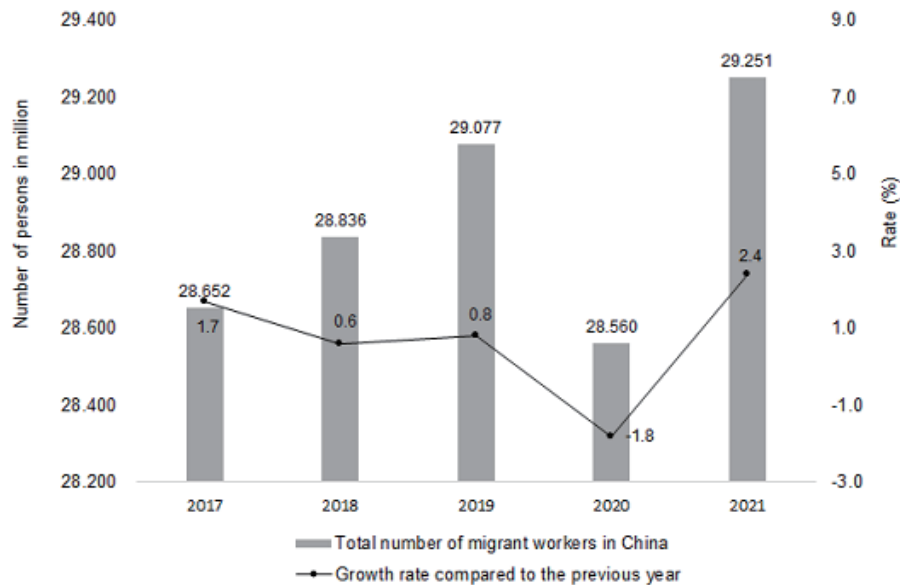
According to the National Bureau of Statistics, the total number of migrant workers in China was 292.51 million in 2021, an increase of 6.91 million or 2.4% over the previous year (Figure 1). Among them, 171.72 million migrant workers went out, up 2.13 million or 1.3% from the previous year; 120.79 million local migrant workers, up 4.78 million or 4.1% from the previous year. At the end of the year, there were 130.09 million migrant workers living in cities and towns, an increase of 2.08 million or 1.6% over the previous year.<sup>1</sup>

In terms of education and professional skills, 0.8% of all migrant workers have never attended school, 13.7% have elementary school education, 56.0% have junior high school education, 17.0% have high school education, and 12.6% have college education or above. The proportion of migrant workers with college education and above is 0.4 percentage points higher than that of the previous year. Among the migrant workers going out, 17.1% of them have college education or above, which is 0.6 percentage points higher than the previous year; among the local migrant workers, 8.5% have college education or above, which is 0.4 percentage points higher than the previous year.

In terms of age structure, the aging of migrant workers has become serious. In 2021, the average age of Chinese migrant workers is 41.7 years old, 0.3 years higher than the previous year. The proportion of migrant workers aged 40 and below is 48.2%, 1.2 percentage points lower than the previous year; the proportion of migrant workers aged 50 and above is 27.3%, 0.9 percentage points higher than the previous year (Table 1). From the perspective of the employment place of migrant workers, the average age of local migrant workers

1. The National Bureau of Statistics. 2021. *The 2021 Migrant Worker Monitoring Survey Report*. [http://www.stats.gov.cn/xxgk/sjfb/zxfb2020/202204/t20220429\\_1830139.html](http://www.stats.gov.cn/xxgk/sjfb/zxfb2020/202204/t20220429_1830139.html).

is 46.0 years old, of which 32.6% are aged 40 or below and 38.2% are aged 50 or above; the average age of migrant workers outside is 36.8 years old, of which 65.8% are aged 40 or below and 15.2% are aged 50 or above.<sup>2</sup>



Source: The National Bureau of Statistics, “The 2021 Migrant Worker Monitoring Survey Report.”

**Figure 1. Scale and growth rate of migrant workers in China**

**Table 1. Age composition of migrant workers by age (2017-2021)**

Age	2017	2018	2019	2020	2021
16–20	2.6	2.4	2.0	1.6	1.6
21–30	27.3	25.2	23.1	21.1	19.6
31–40	22.5	24.5	25.5	26.7	27.0
41–50	26.3	25.5	24.8	24.2	24.5
51–60	21.3	22.4	24.6	26.4	27.3

Source: The National Bureau of Statistics, “The 2021 Migrant Worker Monitoring Survey Report.”

## II. Impairment of employment opportunities and income levels of migrant workers in the epidemic

The number of low-skilled workers in China accounts for more than 90% of the labor market, and the number of their employment affected by the epidemic is much higher than that of high-skilled workers, showing a large and widespread impact.<sup>3</sup>

With 116.52 million migrant workers choosing local employment and 174.25 million migrant workers

2. See the National Bureau of Statistics at n 1.

3. See Zheng Xinzhu, Zhang Yaxin, Li Jin and Wang Can. 2021. “Economic Recovery and Green Development in the Post-Covid-19 Period: Trade-off or Win-win,” *Journal of China Population - Resources and Environment* 2021(2) (in Chinese).

choosing to go out for employment in 2019, which together account for 65.7% of the total urban employment of 442.47 million, the employment of migrant workers is significant. However, a survey organized by the National Bureau of Statistics in April 2020 showed that 17 million rural workers returned to their hometowns and did not go out to work due to the epidemic.<sup>4</sup>

Low-skilled migrant workers employed in the sectors most affected by the epidemic may face unemployment during the lockdown or face lower income growth due to weak domestic demand. For example, the average income of migrant workers increased by only 2.8% in 2020, well below the 7.8% increase in the previous year.<sup>5</sup>

### III. Structural employment difficulties faced by migrant workers

The contradiction between supply and demand in China's employment market is outstanding, and the difficulties of "recruiting" and "seeking jobs" coexist. From the demand side, in the process of industrial transformation and upgrading, the decline of traditional industries has shrunk the employment of enterprises; while there is a shortage of skilled workers needed for the development of new industries.

Migrant workers have been engaged in simple and repetitive manual labor with low skill levels for a long time, and their employment is mainly distributed in the labor-intensive industries of secondary and tertiary industries. According to the National Bureau of Statistics, the proportion of migrant workers engaged in the tertiary industry is 50.9%, down 0.6 percentage points from the previous year. Among them, the proportion of migrant workers engaged in residential service repair and other services is 11.8%, down 0.6 percentage points from the previous year; the proportion of migrant workers engaged in wholesale and retail trade is 12.1%, down 0.1 percentage points from the previous year; the proportion of migrant workers engaged in accommodation and catering is 6.4%, down 0.1 percentage points from the previous year. The proportion of migrant workers in the secondary industry was 48.6%, 0.5 percentage points higher than that of the previous year. Among them, the proportion of migrant workers engaged in the manufacturing industry was 27.1%, down 0.2 percentage points from the previous year; the proportion of migrant workers engaged in the construction industry was 19.0%, up 0.7 percentage points from the previous year (Table 2).<sup>6</sup>

**Table 2. Distribution of migrant workers by industry (2020, 2021)**

(%, percent point)

Industry	2020	2021	Increase
Primary industry	0.4	0.5	0.1
Secondary industry	48.1	48.6	0.5
Manufacturing	27.3	27.1	-0.2
Construction	18.3	19.0	0.7
Tertiary industry	51.5	50.9	-0.6
Wholesale and retail trade	12.2	12.1	-0.1
Transportation, storage and postal services	6.9	6.9	0.0
Accommodation and catering	6.5	6.4	-0.1
Residential services repair and other services	12.4	11.8	-0.6
Other	13.5	13.7	0.2

Source: The National Bureau of Statistics, "The 2021 Migrant Worker Monitoring Survey Report."

4. See the National Bureau of Statistics at n 1.

5. See Qi Wen. 2021. "Economic Recovery in the New Coronary Pneumonia Epidemic: China Shares its Experience." *ADB Briefs No. 194*, [https://www.adb.org/sites/default/files/publication/745086/adb-brief-194-economic-recovery-covid-19-prc\\_0.pdf](https://www.adb.org/sites/default/files/publication/745086/adb-brief-194-economic-recovery-covid-19-prc_0.pdf).

6. See the National Bureau of Statistics, *the 2021 Migrant Worker Monitoring Survey Report* at n 1.

#### IV. Challenges for migrant workers in the context of industrial intelligence

Industrial intelligence is the basis of China's economic structural transformation and will profoundly affect the employment quality of migrant workers. The demand for some low-skill and procedural jobs is decreasing, and the phenomenon of technical unemployment is increasing significantly. A survey by the Chinese Academy of Social Sciences shows that the adoption rate of industrial robots and digital technologies has reached 18.0% in manufacturing companies, resulting in a 19.6% drop in demand for frontline workers in related companies. According to the quantitative assessment, the manufacturing industry has been negatively impacted by robotics and AI technologies by 3.5%, most notably in jobs related to the employment of migrant workers. Approximately 1.6 million to 1.8 million migrant jobs are replaced in the manufacturing industry each year, with a total of 8–10 million in the 13th Five-Year Plan period.<sup>7</sup>

In the future, industrial intelligence has a “substitution effect” and an “intelligence effect” on the employment quality of migrant workers. On the one hand, industrial intelligence will promote the industry to enter the intelligent era and reduce the labor intensity of the labor force, thus producing the “intelligent effect” and improving the employment quality; on the other hand, the development of industrial intelligence will gradually put the labor force at a comparative disadvantage compared with the automation technology, with a sharp increase in unemployment risk, employment advantage and salary bargaining power, thus undermining the employment quality. In general, the impact of industrial intelligence on the employment quality of migrant workers is mainly based on the “substitution effect,” that is, the development of industrial intelligence will make migrant workers fall into the dilemma of high-quality employment by reducing job stability and social security level.

Industrial intelligence does not have an “income effect” on the employment quality of migrant workers. That is, the development of industrial intelligence will not improve the labor compensation and welfare level of migrant workers. They are at a disadvantage in job competition and do not have the bargaining power of wages and benefits so they cannot enjoy the income benefits brought by industrial intelligence to enterprises.

The impact of industrial intelligence on the employment quality of migrant workers is heterogeneous. First-generation and foreign migrant workers, migrant workers with lower levels of social capital and skills, migrant workers in jobs with routine characteristics, and migrant workers in eastern regions and regions with lower labor protection are more likely to be replaced by robots, and their employment quality decreases more significantly.

#### V. Digital labor platforms create new employment forms and jobs opportunities for migrant workers

Under the strategy of industrial intelligence, entrepreneurship, innovation awareness and internet usage skills are three effective paths to break the dilemma of high-quality employment of migrant workers. The reason is that the development of new technology has given rise to “entrepreneurship-driven employment” and “innovation-driven employment.” Entrepreneurship is a form of “self-employed” labor, which has higher stability of employment, more guaranteed salary and more autonomy of working hours. Innovation, on the other hand, is the driving force behind China's high-quality employment and development. The more innovative residents are, the more they will be able to identify job opportunities and the more capable

7. See Zhang Che-Wei, Gao Wen and Cheng J. 2019. *Green paper on population and labor: Report on China's population and labor issues No. 20*. Beijing: Social Science Literature Press, 191–210 (in Chinese).

and efficient they will be in adapting to new jobs. Moreover, these new employment forms are created through the interconnection of information technology platforms represented by the Internet with various industries. Therefore, promoting migrant workers' entrepreneurship, cultivating innovation awareness and improving their Internet skills can help them grasp the new employment forms and contribute to high-quality employment.

Research shows that 20.4% of full-time drivers on the Didi platform are engaged in online taxi work due to layoffs and unemployment, of which 41.1% are from the manufacturing industry, 13.6% are from the transportation industry, and 4.9% are from steel, coal and other de-capacity industries.<sup>8</sup> Besides, platform companies and new employment forms can adjust the supply of labor in a timely manner according to changes in market supply and demand, promoting cross-sectoral labor mobility and reducing frictional unemployment. During the epidemic, rider jobs on the Meituan platform absorbed a large number of secondary and tertiary industry workers, with 35.2% of riders coming from factory workers, 31.4% from people starting their own businesses or running their own small businesses, and 17.8% from office workers.<sup>9</sup>

The study shows that the deeper the perception of digital value, the more migrant workers are aware of the importance of integrating into the digital era, and the more likely they are to use digital tools and digital information to effectively solve employment-related problems, such as searching for well-paying, contractually guaranteed employment positions. The stronger the digital active adaptation, the faster migrant workers can adapt to the digital transformation of new digital industries and employers, to obtain higher and stable labor compensation, fair labor contracts, and a good working environment.<sup>10</sup>

However, such new employment forms are not perfect. The platform employed people are mainly migrant workers, most of whom have participated in resident pensions and medical insurance in their hometown in rural areas, but their working environment is complex, intensive, and with high incidence of work-related injuries, the problem of insufficient work-related injury protection is particularly prominent. The current Regulations on Work Injury Protection stipulate that the insured workers must have a labor relationship and be paid by their employers. Most of them do not have a traditional legal labor relationship with the Internet platform, and most of them are employed on multiple platforms at the same time, which makes it difficult for them to meet the requirements of the current work injury protection system. Meanwhile the existing commercial insurance products generally have narrow coverage, low standards, difficult claims and high fees, which make it difficult to fully solve the problem of work injury protection for people employed in the new industry.

The current employment-related laws and regulations in China do not include new employment forms. For example, the Employment Promotion Law, which is the most important regulation in China's employment field, does not mention the concept of flexible employment. The existing laws and regulations are obviously unable to meet the development needs of the new employment forms. Many mandatory provisions of the labor law show obvious incompatibility with the new employment forms, and if they are forcibly applied, they will cause restrictions to enterprises and workers. For example, the Labor Contract Law provides many restrictive clauses on the form, conclusion, performance and termination of labor contracts, and these mandatory legal provisions will produce many restrictions on both labor and management in the platform employment.

8. See Yu Fengxia. 2020. "Research on the Development of New Employment Forms under the Background of Stable Employment." *Journal of China Institute of Labor Relations* 2020(6) (in Chinese).

9. Meituan Research Institute. 2020. *Report on Employment of Meituan Riders during the Outbreak in 2019 and 2020*. <https://mri.meituan.com/research/report>.

10. See Jiang Weiguo, Huang Wenmin and Li Xiangrong. 2022. "Research on the Impact of Digital Literacy on the Employment Quality of Migrant Workers." *Journal of Hebei Normal University of Science & Technology* 2022(4) (in Chinese).



## VI. Policy system that combines flexible employment protection and labor skills upgrading

Flexible employment based on employment platforms can increase the employment opportunities of migrant workers and improve their income, which can be well adapted to the current employment needs of migrant workers. Since China lacks a systematic protection system for flexible employment, the current policy focuses on incorporating flexible employment into legislative content or planning, guiding and encouraging local governments to study and formulate policies and systems to promote flexible employment, and revising and improving regulations and systems such as the Employment Promotion Law, unemployment insurance regulations and work injury insurance regulations in due course. Research and improve employment support and subsidy policies for newly employed groups, reduce unreasonable institutional regulations that restrict the development of new occupations, and take effective measures to actively respond to the demands of newly employed groups in various aspects such as access to employment subsidies, training subsidies, employment guidance, and skill development. Based on the principle of inclusiveness and prudence, support enterprises to use flexible employment and support the development of various shared employment and employment security platforms. Give full play to the role of third-party platforms in promoting the matching of supply and demand in shared employee enterprises, the rapid execution of the processes in all aspects of employee transfer, the simplification of the employment process and the settlement of expenses, tax declaration, legal consultation, and dispute resolution in the employment process. Provide and implement relevant employment and entrepreneurship support policies for those who rely on the platform enterprises for flexible employment and self-employment.

The Opinions of the General Office of the State Council on Supporting Multiple Channels of Flexible Employment, issued in 2020, made collective consultation an important means of employment governance for platforms, including consultation between platforms and affiliated enterprises and workers, and consultation between industrial (industry and local) unions and industry associations. In December 2021, the Trade Union Law was amended to provide for the right of practitioners in new employment forms to join and organize trade unions, without the labor relations as a prerequisite. The All-China Federation of Trade Unions (ACFTU) issued the “Opinions on Effectively Safeguarding the Labor Rights and Interests of Workers in New Employment Forms,” making collective bargaining the main task of trade unions in safeguarding the legitimate rights and interests of practitioners.

Trade unions have the right to negotiate with industry associations, platform enterprises or enterprise representative organizations on piece-rate unit prices, order distribution, draw ratios, labor quotas, compensation payment methods, rules for entering and exiting the platform, working hours, rest and vacation, labor protection, reward, and punishment systems, etc., to safeguard the rights and interests of participants in new employment forms. Trade unions also have the right to urge platform enterprises to strictly comply with laws and regulations in the formulation of regulations and algorithms and other important matters, and to listen to the opinions and demands of participants through democratic management forms such as workers’ congresses and labor-management forums to protect the participants’ democratic political rights such as the right to information, participation, expression, and supervision.

While alleviating the current employment pressure of migrant workers, the labor capacity enhancement program is being implemented simultaneously. The government supports enterprises with difficulty carrying out work-based training. For small and medium-sized enterprises affected by the epidemic that have temporary difficulties in production and operation resulting in work stoppage and shutdown, if they organize migrant workers waiting for work to carry out work-based training and stabilize their jobs with training, they

are given vocational training subsidies according to the number of people organized for work-based training.

The government of the migrant worker importing area is responsible for organizing targeted orientation, job training and special skills training to improve the skills of transferred and unemployed migrant workers and support local industrial development. The local labor department is responsible for carrying out training in construction, machinery, maintenance, home economics, elderly care, catering, security, logistics and other skills suitable for the employment of migrant workers and training in new occupations and new business models such as couriers, online delivery workers, live salesmen and car valet drivers according to the shortage of occupations urgently needed in the market.

The government of the migrant worker exporting area is responsible for organizing employment and entrepreneurship training for returning migrant workers, combining the county's economic development and the demand for public welfare positions, focusing on skills training in the county's production manufacturing industry, construction industry, service industry, native industry, leisure tourism and catering industry, etc., improving the vocational conversion and re-employment ability of returning migrant workers and promoting re-employment of returning migrant workers. The labor-management department encourages migrant workers who are ready to start their own businesses and those in the early stage of business to participate in training courses on starting a business, practical training on entrepreneurship, and business management to improve their abilities in project selection, market assessment, capital forecast, and business plan, and to promote entrepreneurship among returning migrant workers.

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# Challenges Arising from COVID-19 and Current Situation in Taiwan

Che-Yi WU

- I. An overview of the measures taken by the government during COVID-19 in Taiwan
- II. An overview of the labor market in Taiwan during COVID-19
- III. Challenges in labor market in Taiwan

The world has changed significantly since the COVID-19 outbreak in 2020, and Taiwan is no exception. This article aims to give an insight into the challenges arising from COVID-19 or the problems highlighted by COVID-19 in Taiwan's labor market, which are the difficulty of enterprise transformation, possible discrimination against the COVID-19 patients, the wage gap, and the vulnerable situation of non-standard workers.

## I. An overview of the measures taken by the government during COVID-19 in Taiwan

Upon the COVID-19 outbreak in Taiwan, a nationwide Level 3 alert was announced on May 19, 2021. Level 3 alert was turned into Level 2 on July 26, 2021, and the alert was finally canceled on February 28, 2022. During the nationwide Level 3 alert period, the government took the following measures:

1. For all schools, teaching should be conducted online instead. Tutoring centers, kindergartens and day-care services are closed. Employers should allow paid or unpaid leave for workers who need to look after their underage children.
2. For businesses and offices that remain open, compliance with COVID-19-related preventive measures is required.
3. All members of the public are required to wear masks at all times except at home.
4. Cinemas, sports centers, libraries, exhibitions, bars, and adult entertainment venues are closed.
5. Gatherings of more than five people indoors or more than 10 people outdoors are prohibited.
6. Restaurants are required to use ID-based registration, social-distance seating and/or partitions or provide take-out/delivery services only.
7. Members of the public are advised to avoid unnecessary travel.

Similar but looser measures were taken during the nationwide Level 2 alert period. It seems that controlling the pandemic's impact had been taken priority over economic concerns, but the government still was trying to strike the balance between the control of the pandemic and the impact on the economy at the same time.

To mitigate the economic impact of this pandemic, the Executive Yuan, or Cabinet, proposed a stimulus package worth NT\$ 60 billion (about USD 2 billion). On February 25, 2020, the Legislative Yuan (the Cabinet) passed the stimulus package and the "Special Act for Prevention, Relief and Revitalization Measures for COVID-19."<sup>1</sup> The Ministry of Economic Affairs also introduced stimulus coupons to encourage citizens to buy

1. Laws and regulations database of the Ministry of Justice. Taipei, Taiwan: Working Group of the Ministry of Justice. <https://law.moj.gov.tw/>

commodities.<sup>2</sup> Taiwan Capitalization Weighted Stock Index had decreased by over 13.1% due to COVID-19 as of March 12, 2020, and foreign investors have sold over NT\$ 200 billion.<sup>3</sup> Therefore, the National Financial Stabilization Fund decided on 19 March that it was essential to intervene in the stock market.<sup>4</sup> On April 3, 2020, former Premier Su Tseng-chang announced an expansion of the stimulus package to NT\$ 1.05 trillion (USD 34.64 billion).<sup>5</sup>

On April 16, 2021, to protect vulnerable groups from the rapidly changing environment, the Executive Yuan approved a bill on “Financial relief subsidies for disadvantaged groups during the epidemic period,” and the allowances are as follows:

1. Living allowance for physically and mentally disabled people.
2. Living allowance for low- and middle-income elderly.
3. Living allowance for vulnerable children and youth.
4. Emergency living assistance for children and youth in vulnerable households.
5. Living allowance for children in low-income households.
6. Living allowance for students in low-income households.
7. Living allowance and education allowance for children (including grandchildren) in families in hardship.
8. Children and youth in low- and middle-income households listed by the government (under 18 years old).

## II. An overview of the labor market in Taiwan during COVID-19

In Taiwan, the unemployment rate reached its first peak in April and May 2020 and reached its second peak in June and July 2021. As an export-driven economy, Taiwanese manufacturing has suffered a sharp drop in demands overseas during the first half of 2020, and the labor market also showed significant job losses or unpaid leaves along with cutting regular earnings for those fortunately still on the payroll. The outbreak of COVID-19 in Taiwan is considered to result in a second peak in June and July 2021. See Table 1 for the unemployment rates in 2020, 2021, and 2022 in Taiwan.

**Table 1. Unemployment rates in Taiwan 2020–2022 (%)**

2020											
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
3.72	3.72	3.77	<b>4.10</b>	<b>4.13</b>	3.95	3.89	3.83	3.78	3.76	3.76	3.75
2021											
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
3.66	3.70	3.67	3.64	<b>4.11</b>	<b>4.80</b>	<b>4.53</b>	<b>4.24</b>	3.96	3.83	3.66	3.64

gov.tw/ENG/LawClass/LawAll.aspx?pcode=L0050039.

2. “Economics minister introduces ‘stimulus coupon’ plan.” *Focus Taiwan - CNA English News*, March 20, 2020. <https://focustaiwan.tw/business/202003040011>.
3. “Taiwan stocks see record-breaking outflows as markets tumble.” *Reuters*, March 12, 2020. <https://www.reuters.com/article/taiwan-markets-outflows/taiwan-stocks-see-record-breaking-outflows-as-markets-tumble-idUSL4N2B52XN>.
4. “Stabilization fund authorizes intervention in financial markets.” *Focus Taiwan - CNA English News*, March 19, 2020. <https://focustaiwan.tw/business/202003190026>.
5. “Virus Outbreak: Economic stimulus package expanded.” *Taipei Times*, April 3, 2020. <https://www.taipetimes.com/News/front/archives/2020/04/03/2003733902>.

2022											
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
3.61	3.65	3.66	3.62	3.68	3.74	3.78	3.79	3.66	3.64	3.61	3.52

Source: National Statistics, R.O.C. (Taiwan).<sup>6</sup>

### III. Challenges in labor market in Taiwan

There are some challenges or problems in the labor market in Taiwan that were raised or highlighted by COVID-19. First, the difficulty of enterprise transformation in Taiwan is pointed out as a problem. The pandemic has made the industry understand the importance of digital transformation at all levels, which includes supply chain reconstruction, human resource allocation, and management in the post-epidemic era.<sup>7</sup> However, most enterprises in Taiwan are small and medium enterprises, and it is difficult for them to make the transformation since the labor costs in Taiwan are way too low compared to the costs of automation or transformation.<sup>8</sup>

Second, there might be discrimination against the COVID-19 patients. When recovered workers return to the workplace, they may face problems such as employers not wanting to continue hiring or discrimination in the workplace, and it is indicated that there have been sporadic cases in Taiwan.<sup>9</sup> There are provisions for protecting personal data and preventing discrimination or unfair treatment in the Communicable Disease Control Act and the Occupational Safety and Health Act, however, whether recovered workers all safely returned to the workplace and did not encounter discrimination still needs investigation.<sup>10</sup>

Third, the wage gap is also pointed out as a problem. It is indicated that the wage gap among the employed does not appear only within industries such as the transportation industry.

The higher income earned by the upper white-collar class, especially the high-tech engineers, lifts average monthly regular earnings to NT\$ 42,394 in 2020.<sup>11</sup> Therefore, there is no drop between the average monthly regular earnings in 2019 (NT\$ 41,776) and 2020.<sup>12</sup> However, many working-class people, in general, were suffering from either job losses or low salaries during the pandemic. Income inequality is thought to deteriorate in the next few years because of dismal prospects of job opportunities and low starting salaries for new entrants, and this primarily impacts those with only high school or lower education, the newly graduated, or those losing jobs in their middle age.<sup>13</sup>

Forth, the vulnerable situation of non-standard workers was highlighted by COVID-19. An online questionnaire survey on workers' satisfaction with the government's relief measures conducted by the Department of Social Welfare of National Chung Cheng University in May 2020 showed that 39.53% of the respondents said that their work was negatively affected after the outbreak of COVID-19. Among the respondents whose work was negatively affected, 58.91% of the respondents' working hours were reduced, 23.04% were thus unemployed, and 2.61% said that they felt pressure to finding a job because of the

6. <https://www.stat.gov.tw/Point.aspx?sid=t.3&n=3582&sms=11480>.

7. Ministry of Science and Technology. 2021. "Taiwan's S&T Challenges and Opportunities in the Post Pandemic Era." *Taiwan Research Highlight*, February 20, 2021. <https://trh.gase.most.ntnu.edu.tw/en/article/content/183>.

8. Ping-Lung Hsin. 2021. "Changes and responses to labor relations in the post-pandemic era." *Journal of Occupational Safety and Health* 29(4): 9 (in Chinese).

9. *Id.* at 11.

10. *Id.* at 11.

11. The Directorate-General of Budget, Accounting and Statistics of the Executive Yuan (Chinese version only). [https://earnings.dgbas.gov.tw/query\\_payroll.aspx](https://earnings.dgbas.gov.tw/query_payroll.aspx).

12. *Ibid.*

13. Chin-Fen Chang. 2020. "Pandemic, Labour, and Inequality." *Taiwan Insight*, April 24, 2020. <https://taiwaninsight.org/2020/08/24/pandemic-labour-and-inequality/>.

deterioration of family income.<sup>14</sup>

In addition, the survey showed that from the perspective of age, education, work type, occupation, and technical level, those over 55 years old with lower levels of education (high school/higher vocational education or below), and those who were semi-professionals with unstable jobs were more dissatisfied with the relief measures than satisfied.<sup>15</sup> The relief measures could not precisely target the vulnerable groups due to the design of administrative procedures and identification standards, and this also led to dissatisfaction.<sup>16</sup>

It is also indicated that the unemployment risk of temporary or dispatched workers was higher than that of full-time workers. 60% of the temporary or dispatched workers were negatively affected, and nearly 25% applied for the relief measures.<sup>17</sup> This group might be those who were outside Taiwan's social safety net since the inconsistent identification standards of various ministries and departments, and the application design of the Employment Insurance Act impeded a timely relief while they were in instant need of help.<sup>18</sup> To sum it up, the survey showed that nearly 18.1% of the public were outside Taiwan's social safety net during the pandemic, thus it is a challenge for the government to find out this group of people more accurately and provide timely financial assistance to tide over the economic difficulties.<sup>19</sup>

Another study on film and TV industry workers also showed that non-standard workers faced difficulties when they applied for the relief measures. Since most workers in the film and TV industry are freelancers, they often merely make a verbal agreement without a written contract and have no fixed employer.<sup>20</sup> In addition, according to a survey conducted by the Taipei Film and Drama Union, on the one hand, only 35% of the workers signed a written contract when accepting a work, but on the other hand, as 60% of the workers almost always accepted the work with a "verbal agreement," there were no supporting documents for the workers to apply for the relief measures. It is also indicated that many part-time workers were not employed as the company's employees, which excluded them from the relief measures.<sup>21</sup>

Before the epidemic, these workers were already in a fragile state regarding labor and health insurance subsidies. Moreover, during the epidemic, due to the design of the identification for relief measures which is based on the traditional concept of labor, the ordeals that these workers are facing as well as the inadequate social safety net have been further highlighted.<sup>22</sup> The government is called on to develop a new social welfare system that could apply to freelancers since the workers in the film and TV industry basically work on a piecework basis as a freelancer.<sup>23</sup>

In fact, the Art Creation Union investigated the labor conditions of cultural workers and released the "Cooperative Group Report on the 'Taiwan Art Workers Labor Situation Survey'" in 2018, which pointed out three major crises of the labor conditions of cultural workers: (1) low wages, (2) long working hours and (3) incomplete occupational accident protection.

According to the survey, more than half of the cultural workers had an average total monthly income of less than NT\$ 30,000, and 88.7% of them had a monthly income that does not reach the average salary

14. Jen-Der Lue. 2020. "Who Is 'Us': COVID-19, Social Inequality and New Social Contract." *Taiwanese Journal of Sociology* 67: 247–257 (in Chinese). DOI: [https://dx.doi.org/10.6786/TJS.202006\\_\(67\).0009](https://dx.doi.org/10.6786/TJS.202006_(67).0009).

15. *Ibid.*

16. *Ibid.*

17. *Ibid.*

18. *Ibid.*

19. *Ibid.*

20. Hui-Ju Tsai and Yu-Peng Lin. 2021. "Precarious Media Labor in the Era of Post COVID-19: Rethinking the Supporting Policy for Film and TV Industry in Globally and in Taiwan." *Mass Communication Research* 148: 23–24 (in Chinese).

21. *Id.* at 24.

22. *Id.* at 24.

23. *Id.* at 29.

of laborers in Taiwan. In 2018, the average weekly working hours in Taiwan was 41.4 hours, but cultural workers worked more than 52 hours a week, and less than 50% of them had insurance coverage, which will also lead them to face a highly insecure old age.<sup>24</sup>

To improve cultural workers' working environment, the "Culture and the Arts Reward and Promotion Act" has been amended on December 10, 2020, and six new articles as follows have been added<sup>25</sup> These guarantees for cultural workers are important administrative support for a reasonable cultural and creative ecology.<sup>26</sup>

**Article 9<sup>27</sup>**

To protect the rights and interests and employment of culture and arts workers, the central supervisory authority shall provide guidance to professional unions to help their members enroll in labor insurance and other related insurance schemes.

Where the income of culture and arts workers fails to reach a defined standard, the central supervisory authority may, where necessary, work within existing regulations or draw up a budget to provide funding for and provide help to such individuals to enroll in social insurance schemes.

Concerning the previous paragraph, the central supervisory authority will negotiate with related supervisory authorities about the recipients, the scope of funding, the amount, and the method of assistance.

**Article 10<sup>28</sup>**

Vendors working with government agencies (organizations), public schools, and public enterprises purchasing goods and services related to culture and the arts that enter into a direct contractual relationship with workers who have not enrolled in labor occupational accident insurance shall, for this project, enroll them in other commercial insurance schemes that offer accident, disability, and death protections.

**Article 11<sup>29</sup>**

Where emergencies, disasters, or major turmoil affects culture and arts workers and enterprises, the supervisory authority may work with related units to offer needed assistance.

**Article 12<sup>30</sup>**

The central supervisory authority shall draft guiding principles for the retention and signing of contracts with vendors to protect the rights and interests of culture and arts workers and promote the development of culture and arts enterprises.

These guiding principles shall include the period of time that the contract is being reviewed, copyright agreements, broker authorizations, insurance, and other items that affect the rights and interests of culture and arts workers.

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24. *Id.* at 34–35.

25. *Id.* at 30.

26. *Id.* at 36.

27. Laws and regulations database of the Ministry of Justice. Taipei, Taiwan: Working Group of the Ministry of Justice. <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=H0170006>.

28. See above at n 27.

29. See above at n 27.

30. See above at n 27.

**Article 13<sup>31</sup>**

The supervisory authority shall conduct promotional efforts and provide assistance to help culture and arts workers obtain information about their legal and labor rights and interests.

The central supervisory authority shall, on a regular basis, conduct surveys and research on the labor situation of culture and arts workers and the labor environment to serve as reference for making policies that concern culture and the arts.

The aforementioned surveys and research shall be made publicly available and published on the Internet.

**Article 14<sup>32</sup>**

When government agencies (organizations), public schools, juridical persons established with donations from the government, administrative institutions, and public enterprises grant awards, funding, commission, or make purchases from culture and arts enterprises, they are to ensure that the intellectual property rights of culture and arts workers and enterprises are respected.

Regulations concerning the content, scope, method, and other issues addressing protection of intellectual property rights shall be drafted by the central supervisory authority in cooperation with the Ministry of Economic Affairs.

In conclusion, there are some challenges and problems raised or highlighted by COVID-19, such as the wage gap and the inadequate social safety net for non-standard workers. It would be the government's responsibility to improve the situation during the post-era of COVID-19 or after COVID-19.

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31. See above at n 27.

32. See above at n 27.



# Strengthening Australia’s Workplace Laws to Promote Equality in the Post-Covid-19 Era

Dominique ALLEN\*

Introduction  
 Part I. The legal framework for tackling inequality  
 Part II. Recent legislative changes  
 Part III. Future directions  
 Conclusion

## Introduction

In March 2020, as Australia, like the rest of the world, prepared to respond to the threat of COVID-19, the Australian Human Rights Commission (AHRC) released a lengthy report of its national inquiry into sexual harassment in the workplace. *Respect@Work* (AHRC 2020) was the culmination of 18 months of research including interviews with workers, employers, industry, government, unions and academics. Overall, the AHRC consulted with over 600 individuals and received 460 written submissions to its inquiries, including from victims of sexual harassment.

In her Foreword to *Respect@Work*, Sex Discrimination Commissioner, Kate Jenkins, wrote that the “current legal and regulatory system is simply no longer fit for purpose” and called on employers to join her in creating “safe, gender-equal and inclusive workplaces” (AHRC 2020:10). *Respect@Work* contained 55 recommendations for improving the current framework. Throughout the COVID-19 pandemic and ensuing lockdowns, Commissioner Jenkins tirelessly promoted the findings in the report. Indeed, the pandemic itself highlighted the inequality of women in the workplace. Women shouldered more of the burden for caring for children during the extensive periods of government-imposed lockdowns in 2020–21 (WGEA 2020) and women dominated the industries that continued to work ‘in person’ and care for others during the pandemic such as nurses, midwives, aged care workers and teachers (Lipton et al. 2021; WGEA 2020). As women are more likely than men to be employed on a casual basis and in insecure work (Victoria. Department of Premier and Cabinet 2021), they were more likely to be prevented from working by the lockdowns.

However, women are not the only group to experience discrimination and inequality in the workplace, before the pandemic, during it or since. In 2021–22, the AHRC received 3,736 discrimination complaints, 1,960 were about disability discrimination<sup>1</sup> (AHRC 2022). Australia has an aging population (ABS 2020b) that it is racially diverse<sup>2</sup> (ABS 2022b). The workforce features a high level of casualisation, particularly amongst women and young people (Gilfillan 2020). People with a disability have a much lower participation in the workforce (ABS 2020a). The gender pay gap is 22.8% and it has remained the same for the past two years. It is highest in the Professional, Scientific and Technical Service industry at 25.3% (WGEA, n.d.).

\* The author thanks Renee Burns for excellent research assistance and to the participants in the 6th JILPT Tokyo Comparative Labor Policy Seminar for valuable comments and feedback on the draft.

1. The AHRC does not separate employment complaints from non-employment complaints.

2. The last national census revealed that 27.6% of the Australian population was born overseas and the top five countries of birth were England, India, China, New Zealand and the Philippines. 3.2% of the population identify as being of Aboriginal and/or Torres Strait Islander origin.

The impact of the COVID-19 pandemic and the ensuing internal and external border closures and lockdowns were felt across the workforce. The Australian Bureau of Statistics (ABS) reported that in 2020, young people experienced the greatest fall in jobs, the income disparity between male and female workers increased and, not surprisingly, Accommodation, Food Services and Retail Trade were the industries hardest hit by the pandemic (ABS 2022a). There is, therefore, work to be done to address inequality in the post-COVID era which is not limited to anti-discrimination laws.

In late 2020 the then Morrison federal government made a commitment to implement some of the 55 recommendations in *Respect@Work* (Attorney-General's Department of Australia 2021). The Opposition (which won government in early 2022) committed to implementing the remaining legislative changes. All except one of them has now been implemented.<sup>3</sup> This article considers two changes which represent a departure from how the law has addressed discrimination and inequality to date. It is argued that this approach is transferable and could be utilised to tackle discrimination faced by other workers. Part I contains an overview of the legal framework for addressing workplace inequality in Australia, considering both the equality law framework and the *Fair Work Act 2009* (Cth) (FW Act). Part II presents two recent changes which are designed to prevent workplace harm and shift the burden for addressing discrimination away from the individual worker. Part III suggests that this new approach could be extended to other forms of discrimination and canvasses future directions for law reform in this area.

## Part I. The legal framework for tackling inequality

Workplace discrimination is prohibited by equality laws at both the State and Territory and federal levels, as well as by federal labour laws. Since this article primarily considers the *Sex Discrimination Act 1984* (Cth) (SDA), it will be used as a point of reference.<sup>4</sup> As Part I explains, three systems operate in parallel, but employees are prohibited from lodging claims under more than one system in relation to the same course of conduct.<sup>5</sup>

### Equality laws

Legislation in each State and Territory and at the federal level prohibits workplace discrimination on the basis of a range of attributes including race, sex, age, disability.<sup>6</sup> Sexual harassment and victimisation are also prohibited.<sup>7</sup> Typically, the legislation applies across the employment relationship to employees, job applicants and contractors.<sup>8</sup>

3. Currently employees may be subject to an adverse costs order if they pursue the claim in the federal courts. *Respect@Work* recommended that parties should bear their own costs unless one party acted vexatiously or unreasonably in pursuing the claim: Recommendation 25. At the time of writing, the government was conducting an inquiry into the most appropriate model for determining costs in all types of discrimination claims with a report expected in the second half of the year. See [https://consultations.ag.gov.au/rights-and-protections/cost-model-anti-discrimination-laws/user\\_uploads/discussion-paper-review-appropriate-cost-model-commonwealth-anti-discrimination-laws.pdf](https://consultations.ag.gov.au/rights-and-protections/cost-model-anti-discrimination-laws/user_uploads/discussion-paper-review-appropriate-cost-model-commonwealth-anti-discrimination-laws.pdf).

4. Separate federal legislation deals with race, age and disability discrimination in a similar fashion.

5. See eg FW Act ss 725, 734.

6. See for example s 6 of the *Equal Opportunity Act 2010* (Vic) which applies to 20 attributes: age, disability employment activity, expunged homosexual conviction, gender identity, industrial activity, lawful sexual activity, marital status, parent and carer status, physical features, political belief or activity, pregnancy and breastfeeding, profession, trade or occupation, race, religious belief or activity, sex, sex characteristics, sexual orientation, spent conviction, and personal association with someone who has or is assumed to have an attribute.

7. See eg SDA, ss 28A, 47A.

8. See eg SDA Part II Div 1.

Direct and indirect discrimination are prohibited. Direct discrimination occurs when an employee is treated less favourably because of a defined attribute, in this instance, their sex.<sup>9</sup> Indirect discrimination occurs when an employer imposes a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons of the same sex as the employee in question which is not reasonable.<sup>10</sup> The employee bears the onus of proof, so they must establish a causal connection between their sex and the way in which they were treated or show the disadvantageous effect on them because of their sex. In most instances, the employee must also show that the requirement, condition, or practice was not reasonable in an indirect discrimination claim.

Specific action taken to address past disadvantage, known as ‘special measures,’ is permitted such as advertising for an Indigenous only job applicant<sup>11</sup> or implementing female focused training programs.<sup>12</sup> Overall, the legislation contains few provisions requiring positive action to address inequality; discrimination is addressed retrospectively.

The process of enforcing a discrimination claim varies only marginally in each jurisdiction. An employee who has experienced discrimination is required to lodge a complaint at the statutory equality commission in their jurisdiction or at the AHRC before they can litigate.<sup>13</sup> Provided the complaint has substance and falls within the equality commission’s jurisdiction, it will attempt to resolve it through conciliation.<sup>14</sup> If the claim does not settle, the employee can refer it to court.<sup>15</sup> However, discrimination claims have a low success rate due in part to the fact that the employee bears the onus of proof and the narrow, restrictive approach successive judges have taken to interpreting the law (Gaze 2002; Thornton 2009; Smith 2008). If an employee succeeds in their claim, they usually receive compensation, but this is often awarded at low amounts and may not be adequate to cover their legal fees (Allen 2010).

The equality commissions do not play a role in enforcing the law nor can they advise or assist employees. They are a neutral player in the enforcement process and their primary role is to handle discrimination complaints and provide specialist dispute resolution services.<sup>16</sup> They are also charged with educating the community about discrimination law. Specialist Commissioners at the AHRC are responsible for specific type of discrimination, such as the Sex Discrimination Commissioner.<sup>17</sup>

### ***Labour law***

Since 2009, federal labour laws have prohibited discrimination that occurred because of an employee or prospective employee’s race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer’s responsibilities, pregnancy, religion, political opinion, national extraction or social origin.<sup>18</sup> The FW Act uses quite different terminology from equality laws in that employers are prohibited from taking “adverse action” because of a listed attribute.<sup>19</sup> Adverse action is defined as dismissal, injuring the employee

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9. See eg SDA, s 5(1).

10. See eg SDA, ss 5(2), 7B.

11. See eg *Racial Discrimination Act 1975* (Cth) s 8.

12. See eg SDA, s 7D.

13. See eg the *Australian Human Rights Commission Act 1986* (Cth) (AHRC Act), Part IIB.

14. The exception is Victoria where employees have the option of lodging the claim at either the equality commission or a civil tribunal. The tribunal will most likely try to resolve the complaint informally in the first instance.

15. AHRC Act, Part IIB.

16. See eg AHRC Act, Part II.

17. See eg SDA, Part V.

18. FW Act, s 351. The list of prohibited attributes was expanded in December 2022 and now includes breastfeeding, gender identity and intersex status.

19. Section 351.

in their employment, altering the employee's position to their detriment, or discriminating against the employee.<sup>20</sup> Employees and unions can bring claims, and so can the regulator, the Fair Work Ombudsman (FWO). Claims are lodged at the Fair Work Commission (FWC) which will attempt to resolve the claims via conciliation and if that is unsuccessful, the employee can pursue their claim in the Federal Court or the Federal Circuit and Family Court. If the claim relates to a termination, it must be lodged within 21 days of the dismissal.<sup>21</sup> The court can make any order it deems appropriate but employees usually seek compensation or reinstatement.<sup>22</sup> Employees can also ask for financial penalties to be imposed on the employer which could be up to AUD\$16,500 per contravention for an individual and up to AUD\$82,500 for an employer.<sup>23</sup>

## Part II. Recent legislative changes

The AHRC's weighty inquiry into workplace sexual harassment, *Respect@Work*, is over 900 pages in length and contains 55 recommendations for improving not only the law in relation to sexual harassment and sex discrimination but also the systems for responding to and addressing this behaviour in the workplace. The AHRC described its proposed approach as victim-centred, practical, adaptable for business of all sizes and in all industries and designed to minimise harm (AHRC 2020: 34). To that end, many of its recommendations focused on improving the culture of organisations particularly at the upper levels, supporting workers who have been subject to unlawful behaviour, and collecting data about the status of workplaces.

Twelve recommendations required legislative reform and all except one were implemented, first by the Morrison government in 2021<sup>24</sup> and then by the incoming Albanese government in 2022, as part of its raft of changes to federal labour laws.<sup>25</sup> There is not scope to discuss all of the *Respect@Work* changes, some of which were technical in nature. This Part focuses on two changes which shift how discrimination is understood and addressed, an approach which could be transplanted to other forms of discrimination. These changes attempt to address two significant problems with the existing system – it operates retrospectively once the harm has already occurred, and it relies on the individual to remedy discrimination and harassment by enforcing the law.

### *Preventing harm*

As described above, the law currently addresses discrimination once harm has already occurred, without placing any obligation on an employer to do anything in advance to identify issues before they become problematic. Some employers may do so to avoid being held vicariously liable for their employee's actions.<sup>26</sup> But there will be others who weigh up the risk of having a claim lodged against them compared to the cost of taking action pre-emptively and then deciding what to do, if anything.

Central to the proposals in the *Respect@Work* report is the importance of preventing harm. This was modelled on framework used in workplace health and safety and the acknowledgement that workers have a right to be free from sexual harassment at work and that this is a safety right, as well as a human right (AHRC

20. Section 342.

21. Section 366.

22. Section 545.

23. Sections 539, 546.

24. *Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021* (Cth).

25. *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth); *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* (Cth).

26. Under the SDA, for example, an employer will not be liable if it can show that it took "all reasonable steps" to prevent the employee's unlawful behaviour from occurring: s 106.

2020: 26). Two mechanisms were introduced to encapsulate this approach.

The first enables a worker to seek a ‘stop order’ from the FWC if they are being sexually harassed at work and there is a risk that they will continue to be sexually harassed at work.<sup>27</sup> The FWC can make any order it considers to be appropriate to prevent the worker from being sexually harassed<sup>28</sup> other than an order for compensation.<sup>29</sup> This may include ordering an individual to stop behaving in a specific way, changing working arrangements and requiring an employer to monitor workplace behaviour.<sup>30</sup> Contravening a stop order can result in the imposition of financial penalties.<sup>31</sup>

The other new mechanism is that employers now bear a duty to eliminate sex discrimination. The duty requires employers and persons conducting a business or undertaking to take reasonable and proportionate measures to eliminate sex discrimination, sexual harassment and acts of victimisation.<sup>32</sup> The obligation is not discretionary; employers are required to take action to eliminate discrimination. Failure to comply does not amount to discrimination but non-compliance may result in the AHRC conducting an inquiry, as considered below. The AHRC is preparing guidelines and other materials to assist employers to understand their obligations and what they need to do to comply. Factors used to assess compliance include the employer’s size, nature of the organisation, its resources and the practicability and cost of the measures required to eliminate discrimination.<sup>33</sup>

The stop order and the positive duty redirect equality and labour law at prevention instead of compensation. They are designed to identify and remove the drivers of discrimination, thereby preventing harm before the behaviour escalates. In doing so, they shift the focus away from the individual worker towards the employer as it has the means to change the workplace.

### ***Shifting the burden***

One of the significant failings of Australia’s equality laws are that they rely on the individual victim to enforce their rights; there is no scope for a regulator to take action on behalf of an employee. Two changes shift the burden of enforcing the law away from the individual to a statutory body with the knowledge and experience to seek compliance with the law.

From December 2023 the AHRC will have the power to conduct an inquiry into whether an employer has complied with the new positive duty in the SDA.<sup>34</sup> If the President of the AHRC finds that the person has not complied, it must provide them with written notice of this decision which sets out the failure to comply, the actions needed to rectify the failure and give them a reasonable period to take such action.<sup>35</sup> Compliance notices are enforceable.<sup>36</sup>

Unlike equality laws, labour laws do not rely on an individual for enforcement; the FWO enforces the FW

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27. FW Act, s 527J(1).

28. FW Act, s 527J(1).

29. FW Act, s 527J. An employee would have to seek compensation under an equality law, such as the SDA. Since 2023 they can also pursue a sexual harassment claim under the FW Act.

30. Revised Explanatory Memorandum, Fair Work Amendment Bill 2013 (Cth), p. 36 [121].

31. FW Act, s 527K.

32. SDA, s 47C.

33. SDA, s 47C(6).

34. Schedule 2 Part 2 of the *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* (Cth) inserted s 35A(d) and (e) into the AHRC Act.

35. Schedule 2 Part 2 of the *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* (Cth) inserted s 35F into AHRC Act.

36. Schedule 2 Part 2 of the *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* (Cth) inserted s 35J into the AHRC Act.

Act including the prohibition of discrimination in s 351. The FW Act did not prohibit sexual harassment until 2023. *Respect@Work* recommended that the FW Act prohibit sexual harassment, and this recommendation was implemented in 2022.<sup>37</sup> Consequently, the FWO now has the power to enforce compliance with the prohibition of sexual harassment. Its compliance powers include issuing a notice which sets out actions the recipient needs to take to comply, accepting an enforceable undertaking from the employer, and seeking the imposition of civil penalties.<sup>38</sup>

The statutory equality commissions in each State and Territory and the national AHRC are responsible for tackling equality<sup>39</sup> but they cannot enforce the law;<sup>40</sup> their role is to educate employers and employees about their rights and obligations, receive discrimination complaints and provide dispute resolution services. The burden of addressing discrimination rests on the individual worker. Both of these changes shift that burden away from the individual onto an agency that can work with employers to change practices and behaviours across the organisation instead of being restricted to acting in response to an instance of unlawful behaviour. The FWO also wields the ‘big stick’ of court action and penalties, which may mean an employer is more willing to comply voluntarily rather than risk court action (Allen 2015).

### Part III. Future directions

For quite some time, discrimination law scholars in Australia and elsewhere have recognised that the existing approach of addressing unlawful behaviour once the harm has occurred is not effective. Nor is addressing discrimination on a case-by-case basis without addressing the systems that may well have caused the harm. The changes described above show the beginnings of a conceptual shift in how discrimination is understood by policymakers. However, this shift has only taken place in relation to sex discrimination and sexual harassment, and it was no doubt fuelled by the worldwide #MeToo movement.

Having made this change in relation to one form of discrimination, there is no reason that it could not be extended to other types of discrimination. Take for example employees with a disability. There will be many instances in which an employee with a disability will require an adjustment so that they can perform the job and the type of adjustment they need will depend on the nature of the work and of the disability. Under equality laws, employers are only required to make ‘reasonable adjustments’ unless doing so would impose an unjustifiable hardship on the employer<sup>41</sup> and there is no obligation on employers in the FW Act to make adjustments so that an employee can perform a job. Victoria is the only state or territory where the employer must make reasonable adjustments unless the employee could not perform the genuine and reasonable requirements of the job even after the adjustments were made.<sup>42</sup> Extending the proactive approach now found in the SDA to disability discrimination would mean that employers would be required to take measures to eliminate discrimination encountered by employees with a disability provided those measures were reasonable and proportionate. Similarly, there is no reason that the duty to take reasonable and proportionate measures to eliminate sex discrimination could not be introduced into the *Racial Discrimination Act 1975*

37. Schedule 1 Part 8 Division 1 of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth) inserted s 527D into the FW Act.

38. FW Act, ss 539(2), 715.

39. The Fair Work Ombudsman can take discrimination and sexual harassment claims on behalf of employees (FW Act, s 539) but it has not pursued very many workplace discrimination claims. Unions can also take claims on behalf of their members.

40. However, the AHRC will have the power to enforce the positive duty in regard to sex discrimination from December 2023 by conducting inquiries into an employer’s compliance with the duty.

41. *Disability Discrimination Act 1992* (Cth), ss 5(2), 11.

42. *Equal Opportunity Act 2010* (Vic), s 20.

(Cth), *Disability Discrimination Act 1992* (Cth) and the *Age Discrimination Act 2004* (Cth).

## Conclusion

The recent changes implemented in Australia in relation to sex discrimination and sexual harassment are a radical shift away from how the law has historically dealt with these forms of behaviour in the workplace. The changes have created a system designed to prevent discrimination and sexual harassment from occurring, complemented by the duty to eliminate sex discrimination which requires employers of all sizes and compositions to consider the impact on equality when making decisions. The individual complaints-based system (whether that is used to seek a stop order or to make a discrimination complaint) operates in parallel and is reinforced by these mechanisms, and by the AHRC's new role of investigating compliance with the duty. It remains to be seen whether this new approach will be applied to other forms of discrimination, and if the outdated approach to dealing with inequality will be reevaluated in the post-COVID era.

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# Classes, Changes, and Challenges in the Post-Covid-19 Period Philippines

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- I. Overview of the Philippines class system
- II. Changes in social classes
- III. Challenges in the post-Covid-19 period
- IV. Conclusion

## I. Overview of the Philippines class system

Colonization and changes in the political and economic climate of the Philippines have shaped and influenced its social system. The more than 300 years of Spanish colonization in the country, and followed by the American colonization have among others contributed to its rich history which has inevitably changed the way Filipinos live.

### The pre-colonial era

Filipinos during the pre-colonial period belong to three classes. These are the nobles, the freemen, and the dependents (Agoncillo 1990). For Lee (2021), Filipinos at that time were divided into four classes such as the noble class or ‘maginoo,’ the freemen or commoners or ‘timawa,’ the warriors or ‘maharlika’ and the servants or ‘alipin.’

The Datu or Rajah and their families belong to the noble class. They rule over the people in their barangay which is considered the smallest political and administrative unit in the country. Because of this, they enjoy rights which other members of society do not have, were treated with high respects in their community, and they naturally wield great influence on the people. Becoming a noble is by virtue of one’s family lineage, economic status, bravery or wisdom (Morrow and Romualdez 1955).

Following the social class hierarchy are the freemen. The freemen were either literally free men or dependents who earned their freedom. They can acquire properties, work at any job, choose wives, and keep a slave. It is said that the ‘timawa’ are actually illegitimate off springs of a Datu from a commoner or slave (Lee 2021).

Next are the warriors or the ‘maharlika’ who don’t pay taxes and who enjoy the same rights as the ‘timawa.’ They are also respected in their barangays as they defend the people during wars. They can migrate to another barangay if they so want, provided that they pay the existing Datu a sum of money for this purpose (Ibid.).

Belonging to the lowest rung of the social class are the servants or ‘alipin.’ One becomes an ‘alipin’ because of inheritance, captivity at war, failure to pay debts, purchase, or a sentence handed for a crime committed (Agoncillo 1990). Servants were either ‘aliping namamahay’ or ‘aliping sagigilid.’ The ‘aliping namamahay’ have their own house inside the property of their master, can own properties, have the liberty to choose whom to marry, and are compensated for their labor. On the contrary, the ‘aliping sagigilid’ do not have their own house so they live with their masters, can be sold by their masters, are not compensated with their work, and cannot marry without the master’s consent (Agoncillo 1990; Lee 2021).

### **The Spanish era (1565–1898)**

With the colonization of the Spaniards in the 15th century, the existing social class system was changed. This time, it was based on one's race. Spaniards who were born in Spain or the 'peninsulares' were considered at the top of the class system, followed by the 'insulares' or Spaniards born in the Philippines, then the 'mestizos' or those with mixed Filipino and Spanish ancestry, and lastly, the 'indios' or the native Filipinos at the bottom of the social order (Agoncillo 1990).

However, the expanded agriculture and trade by Filipino merchants led to the rise of a middle class. They are the mestizos of Spanish and Chinese descent who gained control over the Filipino population by rising to positions of leadership in the financial and educational sectors. They are the propertied class Filipinos and the intellectual class. To secure their change in status and be more influential, they yearned for official or bureaucratic power. A move which was not welcome by the Spanish authorities because they were not 'peninsulares' or part of what is considered as the inner circle (Ibid.).

### **The American era (1898–1946)**

On 1 May 1898, the American forces led by Commodore George Dewey sailed into Manila Bay. The Spanish fleet who at that time was stationed in Manila Bay was easily defeated by the Americans as their ship capsized. A Spanish-American war then ensued but ended months after in December 1898 when Spain sold the Philippine archipelago to the United States for US\$20 million (FRONTLINE/World 2003).

Considered one of the major influences in the Philippines by the Americans is the system of education. Schools were established and Filipinos were required to learn the English language. Soon, it became the medium of instruction in all educational institutions in the country (Agoncillo 1990). The free trade relations practiced at that time was a key impetus in the economic development of the country. The mining industry boomed which became the most important industry then. Likewise, with better infrastructure in transportation and communication, domestic trade improved. Factories of textile, cigar and cigarette were built as well as sawmills, coconut oil mills, alcohol distilleries, sugar centrals, etc. (Ibid.). Meanwhile, the 'hacenderos' or the landed elites during the Spanish period made much money by exporting their produce to the world market. Sugar for example was largely exported to the US. Against this economic prosperity, a new class structure emerged based on economic status. The 'hacenderos' who own large plantations became wealthier and thus was a dominant class not only in terms of economy but also in the political scene. Their families have likewise engaged in politics and soon, their power and influence can be felt in the social, political and economic life of Filipinos. Professionals, government workers and merchants compose the middle class while farmers, laborers, and factory workers were considered the working class.

### **Post-World War II era (1946–present)**

The damages of the war left the economy of the country in dismal condition. Livelihoods were affected, buildings, roads, bridges, and agriculture were destroyed. Poverty rose dramatically as income of people decreased radically. However, as the Philippines gradually recover, the demand for and supply of professionals increased. In addition, small businesses intensified. All of these led to the growth of the middle class who before the war belong to the lower middle class and were now in the middle or upper middle class. Agoncillo (1990) noted that this condition caused the widening gap between those at the base of the Philippine society pyramid and those at the top. Overtime, the rich became richer while the poor became poorer.

## II. Changes in social classes

As manifested in the history of the country, changes in its social classes have largely been impacted by three interrelated major factors. These are economic opportunities, access to education, and political power.

### **Economic opportunities**

During the pre-colonial period, economic opportunities were limited to those in the upper rung of the social class. For example, the ‘aliping sagigilid’ cannot own properties and were not even paid for services rendered to their master. These practices clearly perpetuated their poor economic condition for generations to come.

The Spanish colonial era was no different either. The ‘indios’ or native Filipinos have no choice as they were reduced to being workers and used basically as domestic workers mostly the women, in the houses of the ‘peninsulares,’ ‘insulares’ and ‘mestizos.’ For the men, forced labor was then implemented by the Spaniards called ‘polo y servicios.’ Filipino males between 16 to 60 years old provided labor for 40 days annually to wherever they were assigned. They build bridges, roads, construct buildings, churches, cut timber, work in shipyards and serve during Spanish military expeditions. Abuse and injustice were rampant. Injuries and death were common because of unhealthy and dangerous working conditions. Despite all of their hard work and sacrifices, Filipinos either received low pay or worst they were not paid at all (Lim 2021). Moreover, the practice of ‘haciendas’ where vast areas of land are owned by a few families left many farmers and generations of their descendants to wallow in poverty. With an economic system heavily reliant on agriculture, the feudal system was perpetuated as farmers who do not own land were left with no recourse but to accept the excessive land rent rates and high loan interest rates among other abuses of landlords (Smith 2017). These practices continued during the American period as ‘haciendas’ still existed. And while Filipinos can now engage in businesses, the lack of financial capital for example has definitely limited their opportunity to improve their economic standing.

### **Access to education**

A major determinant of social class in the country is education. To most Filipinos, having formal education is perceived as one way to get out of poverty. The importance of education has been ingrained in the Filipino culture that parents would go to great lengths to send their children to school. Before the colonization of the Spaniards, children were taught by their parents or tribal tutors. It was not organized, informal, and lacked methodology (Department of Education). The ‘babaylans’ or priestess likewise served as teachers aside from being spiritual leaders. Knowledge and skills which basically revolved around basic survival skills such as fishing and farming were handed down through oral traditions in the form of storytelling among others. Dances, songs, literatures, and poems were all part of cultural expression that teach generations of their traditions, customs, and beliefs. A system of writing thought to be influenced by Sanskrit and Arabic was also in place (Agoncillo 1990).

With the colonization of the Spaniards, education was reserved for the elite leaving the majority of the population illiterate. The enactment of Educational Decree of 1863 eventually liberalized education. Under the supervision of Jesuits, primary schools were established in every town. Though primary instruction was free, still it was not enough, and education was restricted and controlled (Department of Education). Schools became instruments to condition Filipinos to be obedient subjects of the Spanish King. And considering that the church was in control of the educational system, the Christianization of Filipinos was a primary objective and the ‘hispanization’ of upper-class Filipinos. Preparation for more active political roles was an unintended

by-product of Spanish education (Lande 1965). In the case of children from underprivileged families, the opportunity to get formal education seemed remote. As they need to help their parents at the farm for planting and harvesting, they had to skip school. This situation alone prevented them from having better-paying jobs and opportunities for social mobility. Meanwhile, public education gave birth to a new social class of educated Filipinos known as 'ilustrados' (Aguinaldo 2011). They are sons of well-off Filipino families who sent their children to Europe for further studies.

Increased educational opportunities during the American era resulted to a growth of the middle class while the working class still found it difficult to obtain high-quality education. Access and opportunity were both limited. Again, social inequality played a role as those who both have the means and the opportunity were able to pursue studies in universities offering better quality education or they studied abroad. Moreover, with English as the medium of instruction in educational institutions, it left Filipinos at a disadvantage particularly those who belong to poor families. They do not have access to English-language education and they do not speak English at home except their native language depending on the province where they live in. It is estimated that the country has more than 120 spoken languages (Translators without Borders).

Overall, the educational system served as a potent tool to reinforce the existing power structure not only of the Americans but also of the Filipino ruling class or the elites who were able to advance their interests with the colonial relationship.

### **Political power**

If economic opportunities and education reinforced and strengthened the prevailing social classes, political power perpetuated it and made it legitimate. Considering that the *Datu* system in pre-colonial Philippines is a family affair as it is exclusively passed down from one generation to another in the family of the *Datu*, naturally, other classes then had no chance to rule the community. Depending on where one belongs in the social hierarchy, a person can either have great power or influence in the community or none at all.

Friars wield great political power during the Spanish colonization. From education to governance, the Spaniards were in charge. To make it easier to rule the native Filipinos, the Spaniards implemented the 'reduction' or resettlement. From living along water routes and river banks, native Filipinos, particularly those who were converted to the Christian faith were required to build their houses near churches. According to Agoncillo (1990), this move was to "civilize" the native Filipinos so that they would become law-abiding subjects of the Spanish crown and eventually accept Hispanic culture and civilization. This strategy clearly separated those who were Christians as those who rejected the faith still lived in the hills. Naturally, native Filipinos who converted to Christianity won the favor of the colonizers.

The American period was no different from the Spaniards. Political power was concentrated among a small group of elites as Americans relied on them in the political and economic aspects of governance. Overtime, as wealth and power were concentrated on a small group of individuals or families, political dynasties and patronage politics became a common practice in the country which are still visible at present. As reported by the ASEAN Today, rich families still dominate in Philippine politics since it gained independence from the US in 1946. Hence, the existing class system was reinforced and further strengthened its status quo. As Constantino (1975) in his book on Philippine history explained, remnants of certain basic economic structure persists long after it is gone that these eventually serve as barriers to the development of a new socio-economic base.

### III. Challenges in the post-Covid-19 period

Given this situation of Filipinos, here comes the pandemic. The Covid-19 pandemic has impacted every nation. However, for a developing country like the Philippines, recovering from the impacts of the pandemic is far more difficult. For Filipinos, the pandemic has highlighted even more the existing financial and social inequalities in society.

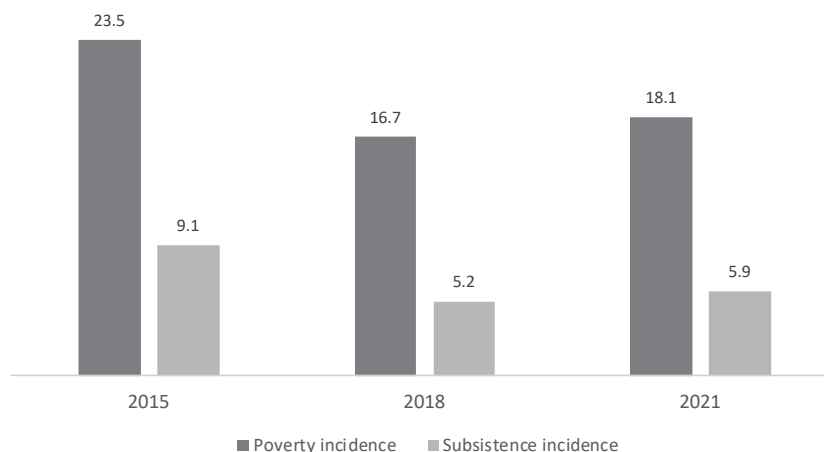
The challenges in the post-Covid-19 period may be endless. But this paper will focus into the interrelated problems of poverty, economy, and labor.

#### The persisting problem of poverty

For decades now, programs to address poverty in the Philippines have always been a priority by all administrations. In fact, in 1997, the National Anti-Poverty Commission was created by virtue of Republic Act 8425 or the Social Reform and Poverty Alleviation Act of 1997. Its primary function is to oversee, coordinate, and provide advice on the social reform and poverty reduction agenda. There are also programs and services for the poor such as the Pantawid Pamilyang Pilipino Program, KALAHI-CIDSS (Kapit Bisig Laban sa Kahirapan - Comprehensive and Integrated Delivery of Social Services), Sustainable Livelihood Program, Social Pension Program, Supplementary Feed Program, and Unconditional Cash Transfer among others (Department of Social Welfare and Development).

But despite efforts to reduce poverty, inequality of income and growth still persist. Positive results from these government programs were slow or hardly felt. For example, Figure 1 shows a slight decrease in both the poverty and subsistence incidences between 2015 and 2018. Yet, both increased in 2021 which can be attributed to the effects of the Covid-19 pandemic.

The World Bank (2022) reports that poverty decreased by two-thirds at 16.7% in 2018 from 49.2% in 1985. The same report noted a 12 million rise in the middle class and a growth of 44 million Filipinos considered as economically secure. The Philippine Statistics Authority (PSA) estimated that in 2021, a family of five members to be able to meet the basic food requirements should earn at least PhP8,379. It further reported that 13.2% or 3.50 million families were poor in 2021 while 3.9% or 1.04 million families live below the poverty line. That year, the population of the country was more than 111 million (StatisticsTimes.com).



Source: Philippine Statistics Authority.

Figure 1. Poverty and subsistence incidence among population in 2015, 2018 and 2021 (%)

Figures released on poverty by the PSA does not reflect the actual number according to Palatino (2022). He believes that Filipinos who live below the poverty threshold are in reality more than what is being reported by the PSA. The poverty threshold set by the PSA he explained is unrealistic considering that a family with five members only need to earn US\$1.41 daily to survive and meet their daily food requirements. The IBON Foundation, a research group, shares the same observation as they likewise believe that poverty in the country is worsening as millions of Filipinos are still struggling to cope with high prices of basic commodities.

The cycle of poverty or intergenerational poverty is something which ordinary Filipinos find it difficult to emerge from. According to Hirai and Hiyane (2021) intergenerational poverty traps families for generations because they do not have access to essential resources such as financial assets, human capital, and socio-cultural and psychological foundations. This situation is a consequence of the many factors that come into play. Pernia (2014) identified that unmanaged population growth, joblessness, and ineffective agrarian reform program contribute to the cycle of intergenerational poverty. He then suggested focusing on job generation, skills training and education, addressing the increasing population as well as youth pregnancies, and reforming the Comprehensive Agrarian Reform Program (CARP). For Pennington (2019) a coordinated unified effort by all stakeholders is needed to lift so many Filipinos out of poverty. In addition to better enforcement of the family planning law, he emphasized the need to increase the funding for the 4Ps program or the Pantawid Pamilyang Pilipino Program, ensure steady economic growth, and provide better paying jobs outside of agriculture.

### **Contracting or recovering economy**

The economic prospect of the country before the Covid-19 pandemic was bright. It was on track to achieve upper-income status (Future Learn 2021). The World Bank (2022) described it as “one of the most dynamic economies in the East Asia Pacific region.” With an increase in average annual growth from 4.5% in previous years to 6.4% from 2010–2019, the economy was taking off. Industries such as the real estate, tourism, finance and insurance, BPO (business process outsourcing), and the services sector were doing well. In addition, strong consumer demand and remittances among others fueled the good economic performance of the country. Then, the Covid-19 pandemic happened and the tables were turned. All of a sudden, the economic gains reaped through the years were gone.

To manage the spread of the virus, measures were undertaken nationwide such as local border controls, community quarantines, contact tracing, etc. Mobility of people was restricted, homes became workplaces as companies shifted to work from home arrangement, classes were online and most establishments were not operational except for those considered as essential such as hospitals and clinics, and with some limitations, drugstores, groceries, banks, food establishments, public markets, and public transportation were also operating. However, during these times, the BPO companies were given a special privilege as they remained open.

Overtime, restrictions were relaxed as well as the community quarantine protocols. But the long implementation of lockdown nationwide had already severely damaged the economy. The lockdown was so extended that it was referred to by the Time (See 2021) as “one of the world’s longest Covid-19 lockdowns.”

With many businesses closed and mobility restricted, its effect on the economy was devastating. Millions of Filipinos lost their jobs as numerous businesses had no choice but to close them. Future Learn (2021) reported that: (a) 88% in business sales dropped from April to July 2020; (b) 66% of businesses have no money to pay for wages, suppliers, taxes, and loan repayment; (c) gross national product (GDP) dropped by 9.5% in 2020 which further shrank in the second quarter of 2020 to -16.9%; (d) foreign direct investments

decreased from US\$8.7 billion in 2019 to US\$6.5 billion in 2020; (e) national debt increased to PhP10.3 trillion at the end of January 2021 from PhP9.7 trillion in 2020; and (f) the budget deficit reached PhP1.37 trillion due to increased government expenses and a reduction in tax revenues at 11.4%.

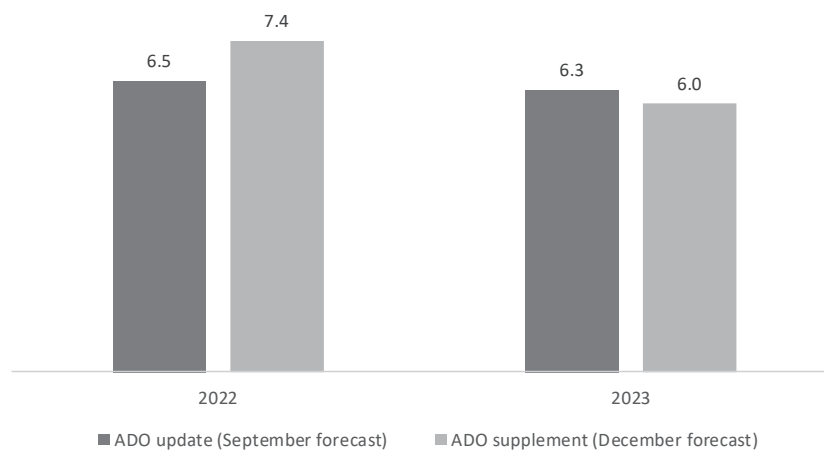
The road to economic recovery is indeed difficult. It may take more time to fully recover but at least growth is projected. The Asian Development Bank (ADB 2022) sees a growth of 6.0% in the GDP of the country by December 2023 as shown in Figure 2.

The ADB (2022) expressed confidence in the economic growth of the country as it predicted to be at the higher end of the range as compared to its Southeast Asian neighbors. In 2023, Southeast Asia's GDP growth is predicted to drop to 4.7%.

The PSA reported that the GDP of the country grew by 7.2% in the last quarter of 2022 or a 7.6% growth for the said whole year. Figure 3 shows that since the third quarter of 2021 until the fourth quarter of 2022, the average GDP of the country is 7.55%. Wholesale and retail trade was the highest contributor to the GDP in 2022. The services sector posted a growth of 9.8% in the fourth quarter of 2022, but agriculture, forestry and fishing contracted at -0.3%. At the same period, household final consumption expenditure (HFCE) increased by 7.0% and the gross national income (GNI) likewise increased by 9.3%. Based on these figures, the Philippine economy is indeed recovering from the devastating effects of the Covid-19 pandemic.

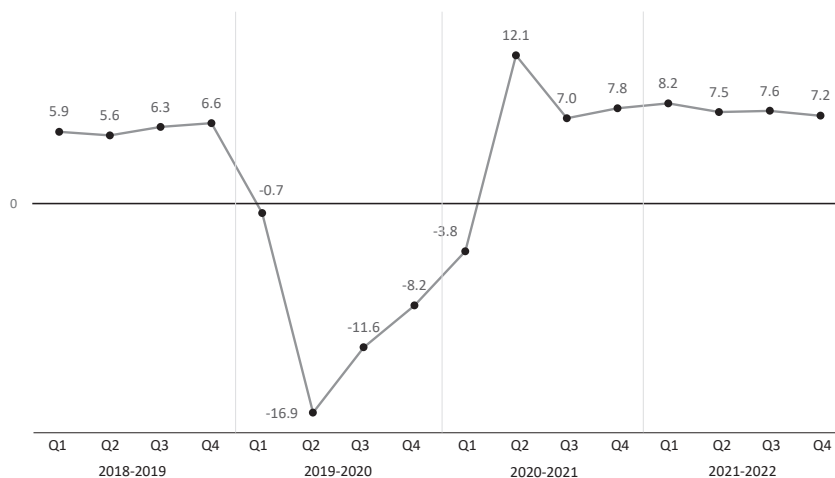
IBON Foundation executive director Sonny Africa, however, warned against taking the purported strong economic improvement at face value. He explained that the recent growth is more of a rebound than a true recovery because of growing spending among upper middle- and high-income groups (IBON Foundation 2022).

Generally speaking, social classes at present in the country can be classified into low, middle, and upper class. Using the *2017 Family Income and Expenditure Survey* for a family of five members by the PSA, Albert, Santos, and Vizmanos (2018) however came up with seven income clusters as shown in Table 1.



Source: *Asian Development Outlook (ADO)*, Asian Development Bank (ADB).

**Figure 2. GDP growth forecast for the Philippines, 2022–2023 (%)**



Source: Philippine Statistics Authority.

**Figure 3. Gross Domestic Product (at constant 2018 prices), year-on-year growth rates (%), 2018–2022 by quarter**

**Table 1. Indicative range of monthly family incomes for a family of five members, 2017**

Income cluster	Definition: per-capita income	Indicative range at 2017 prices
<b>1 Poor</b>	Less than official poverty threshold	Less than PhP9,520
<b>2 Low-income class (but not poor)</b>	Between the poverty line and twice the poverty line	Between PhP9,520 and PhP19,040
<b>3 Lower middle-income class</b>	Between two and four times the poverty line	Between PhP19,040 and PhP38,080
<b>4 Middle middle-income class</b>	Between four and seven times the poverty line	Between PhP38,080 and PhP66,640
<b>5 Upper middle-income class</b>	Between seven and 12 times the poverty line	Between PhP66,640 and PhP114,240
<b>6 Upper-income class (but not rich)</b>	Between 12 and 20 times the poverty line	Between PhP114,240 and PhP190,400
<b>7 Rich</b>	At least equal to 20 times the poverty line	At least PhP190,400

Source: Calculations by Albert, Santos, and Vizmanos (2018) based on the 2017 *Family Income and Expenditure Survey*, Philippine Statistics Authority.

Though these income clusters were identified before the Covid-19 pandemic, these are still reflective of the extent of diversity and inequality of income in the country at present. In fact, it can be said that the pandemic further highlighted this situation. Well-off families are in a better position than those who are not, because not only do they have the financial resource but also the material and physical resources such as access to the internet, facilities for entertainment or recreation, and much better housing conditions which can



all ease the consequences of prolong lockdowns. Their day-to-day needs are not a problem while the poor Filipinos have to struggle to find ways in order to put food on their tables on a daily basis.

Financial inclusion is indeed a major problem in the country. While its economy is said to improve, only a few families are able to enjoy its fruits. According to the World Bank (2022), the country has the highest rates of income inequality in East Asia. Only 14% of the nation's income is shared by the poorest 50% while the top 1% receive 17% of it. If this situation is not properly addressed by the Philippine government, the income gap between the rich and poor families in the Philippines will definitely be much wider considering that the country is experiencing its highest inflation rate at the national level since November 2008. The PSA (2023) reports that inflation rate went up in January 2023 at 8.7% from 8.1% in December 2022, inflation of food increased to 12.7%, and at the National Capital Region, using 2018 as reference year, the purchasing power of the peso went down to 0.85 in January 2023. The Trade Union Congress of the Philippines (TUCP) in a press statement then called on the government to bring down the rising cost of food and electricity rates. Hence, to recover from the effects of the Covid-19 pandemic, it is necessary to give more attention to financial inclusion among others (ADB 2022).

### Labor problems

Livelihoods of both formal and informal workers were severely affected by the Covid-19 pandemic. Joblessness was everywhere. For formal workers who lost their jobs and for informal workers who lost their means of income are one in saying that they will not die because of the virus but more so because of hunger. A record high of 17.6% or 7.2 million Filipinos were unemployed as of April 2020. Using April 2019 as reference, employment rate went down by 12.4 percentage points while underemployment rate went up by 5.6 percentage points as Table 2 shows.

**Table 2. Summary of labor statistics, April 2019 and April 2020**

(Unit: persons in thousand, %)

	April 2020	April 2019
Total 15 years old and over	73,722	71,794
Labor force	41,058	44,038
Labor force participation rate	55.7	61.3
Employment	33,830	41,770
Employment rate	82.4	94.8
Unemployment	7,228	2,268
Unemployment rate	17.6	5.2
Underemployment	6,398	5,567
Underemployment rate	18.9	13.3

Source: Philippine Statistics Authority, *Labor Force Survey*.

The case of informal workers is more miserable. Their employment vulnerability was readily felt as 80% of those who belong to the informal sector was affected by the Covid-19 pandemic (Simeon, 2021). They were either displaced or their hours of work was significantly reduced which means less income. The situation of Overseas Filipino Workers (OFW) was not good either. Deployment decreased by 74.5% in 2020 and as of April 2021, more than 600,000 OFWs were jobless. The drop in cash remittances and personal remittances between 2019 and 2020 was obvious, from US\$30.1 billion to US\$29.9 billion and from US\$33.5 billion to US\$33.2 billion respectively (Senate of the Philippines 2021). To a country whose economy is fueled by remittances of OFWs, this condition added to its already ailing economic situation.

Be that as it may, in December 2022, the labor force participation rate increased at 66.4% from 65.1%

in the same month of the previous year as shown in Table 3. The PSA likewise estimated an increase in employment rate at 95.7%, a decrease in underemployment and unemployment rates at 12.6% and 4.3% respectively. At this same period, the PSA reported that: (a) 61.6% of those employed are wage and salary workers; (b) 27.7% are self-employed without any paid employees; (c) 8.7% are unpaid family workers; and (d) 2.0% are engaged in own family-operated farm or business.

The PSA noted that wholesale and retail trade, repair of motor vehicles and motorcycles; other service activities; administrative and support service activities; accommodation and food service activities; and transportation and storage were the sectors with the highest increase in employment. While the top five sectors with the highest decrease in employment are those in human health and social work activities; agriculture and forestry; public administration and defense, compulsory social security; real estate activities; and professional, scientific and technical activities.

Africa of IBON Foundation (2022) explained that the labor market conditions of the nation have not actually improved. Job growth is declining and employment is largely part-time only, many are self-employed and are engaged in informal work. This condition is the reason for the decrease in family incomes even with the reported low unemployment rate and strong employment rate by the PSA. The IBON Foundation then pointed out that the Marcos Jr. administration should find practical ways to strengthen the economy and address the rising unemployment and poverty problems. The same sentiment was voiced by Josua T. Mata, secretary-general of the Sentro ng mga Nagkakaisa at Progresibong Manggagawa [Center of United and Progressive Workers]. Ordoñez (2023) cited Mata who believes that the government cannot expect the private sector to be able to generate all jobs that are needed considering the lasting consequences of the Covid-19 pandemic, the increasing inflation, and an impending recession that many feel could happen.

**Table 3. Labor statistics December 2021–December 2022 (%)**

	Dec.	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.
	2021 <sup>f</sup>	2022 <sup>p</sup>	2022 <sup>p</sup>	2022 <sup>p</sup>	2022 <sup>p</sup>	2022 <sup>p</sup>	2022 <sup>p</sup>	2022 <sup>p</sup>	2022 <sup>p</sup>	2022 <sup>p</sup>	2022 <sup>p</sup>	2022 <sup>p</sup>	2022 <sup>p</sup>
Labor force participation rate	65.1	60.5	63.8	65.4	63.4	64.0	64.8	65.2	66.1	65.2	64.2	67.5	66.4
Employment rate	93.4	93.6	93.6	94.2	94.3	94.0	94.0	94.8	94.7	95.0	95.5	95.8	95.7
Underemployment rate	14.7	14.9	14.0	15.8	14.0	14.5	12.6	13.8	14.7	15.4	14.2	14.4	12.6
Unemployment rate	6.6	6.4	6.4	5.8	5.7	6.0	6.0	5.2	5.3	5.0	4.5	4.2	4.3

Source: Philippine Statistics Authority, *Labor Force Survey*.

Note: f - estimate is final; p - estimates are preliminary and may change.

#### IV. Conclusion

The nation's history is full of valuable lessons which those in the current administration and every stakeholder can learn from. Except for a growing middle class, which has been threatened with the Covid-19 pandemic, little has actually changed in the social hierarchy in the country through the years. The vulnerabilities of those who belong to the lower class of the Philippine social hierarchy have indeed been

exposed with the Covid-19 pandemic which has also brought to light the fragility of the nation's economy.

But the post-Covid-19 pandemic, one finds the resiliency of the economy as well as its people. Nonetheless, the government cannot always bank on this resiliency. It is imperative for the government to act quickly in addressing its current social, political and economic challenges. Closing the social inequality gap entails among others seriously giving priority to alleviating the quality of life of the poor, working on the existing skills gap necessary to be gainfully employed, helping farmers raise their productivity, creating an enabling environment to encourage people to engage in business and supporting them, lowering prices of commodities, raising the quality of education, and eradicating corruption. Progress may be slow, but the hope towards a more equitable and sustainable society should not be lost no matter how long it takes.

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# Gender Gaps in Skill Use: The Case of Japan

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1. Introduction
2. Overview of changes in the working environment of Japanese women and the current situation from a historical and international perspective
3. Trends in task distribution of men and women in Japan, 2005-2015
4. Gender gaps in skill use in Japan in comparison with South Korea, the UK and Norway
5. Conclusion

## 1. Introduction

With the declining birth rate, an aging population, and globalization, the effective utilization of women's skills has become a major policy issue in Japan, in order to secure the workforce and increase the utilization of diverse human resources. Since the enactment of the Equal Employment Opportunity Law in 1986, related laws and systems have been developed and expanded to encourage women to enter the workplace and to be able to balance work and family life. Over the past 35 years, the employment rate of women has significantly increased, and women's human capital has risen due to the increase in the percentage of women entering college and the length of their average working years.

However, when comparing the current situation of Japanese women internationally, the Gender Gap Report by the World Economic Forum in 2022 ranked Japan 116 out of 146 countries, placing it at the bottom among advanced economies. In particular, gender disparity in the economic and political spheres contributed to the low overall ranking. Looking at the employment of Japanese women over time, while there have been improvements in the "quantity" of employment for Japanese women in the past 35 years, international comparisons indicate that issues remain in terms of "quality".

In this context, the Act on Promotion of Women's Participation and Advancement in the Workplace was enacted in 2015. From the perspective of "utilization of female capacities," this legislation is highly important as it improves productivity and competitiveness. This paper focuses on the challenges in the "utilization" of women's skills in the labor market by focusing on what is referred to as "tasks". Here, "task" is the unit of work activity that produces output, and "skill" is the worker's ability to perform various tasks (Acemoglu and Autor 2011).

This paper first provides an overview of changes in the working environment and the current situation of Japanese women based on national and OECD statistics. Next, this paper presents two empirical analyses: (1) changes in the task distribution of men and women from 2005 to 2015; and (2) an international comparative analysis of gender differences in use of literacy skills. Finally, we discuss the analytical results and policy implications from the two empirical analyses.

## 2. Overview of changes in the working environment of Japanese women and the current situation from a historical and international perspective

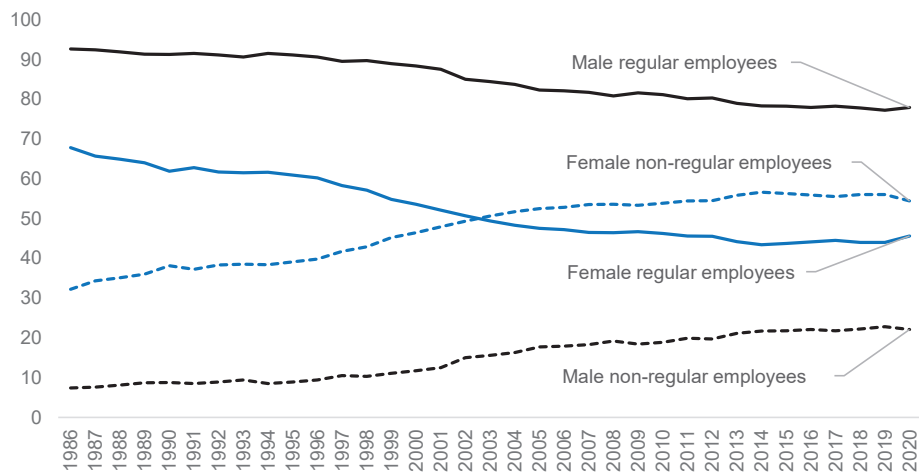
First, we will provide a brief overview of the legal reforms and changes in the economic and social environment in Japan from 1986 to the present. We will examine changes in the legal system in three periods: (1) 1986–1998, (2) 1999–2012, and (3) 2013–2023.

An important change in the first period from 1986 to 1998 was the enactment of the Equal Employment Opportunity Act and the Child Care Leave Act. The former was enacted in 1985 to ratify the United Nation’s Convention on Elimination of All forms of Discrimination Against Women, and came into force in 1986. Although it was a major step towards equal employment opportunities for men and women, the law only required employers to make efforts toward equal treatment in recruitment, hiring, placement, and promotion. Although this law opened up career-track positions to women, only a few of these women were able to continue working if they were married or raising children. During this period, the Child Care Leave Act was enacted in 1991 to help women balance work and family life. This was expanded into the Child Care and Family Care Leave Act in 1995 to cover the care of the elderly.

The second period, from 1999 to 2012, saw the revision of the above laws. The 1999 revision of the Equal Employment Opportunity Law, which prohibited discrimination in recruitment, hiring, placement, and promotion, increased the use of women in career track positions. On the other hand, it induced some companies to replace women in regular employment with “non-regular employees”—a category that includes part-time, dispatched, and other workers. Furthermore, during this period, the Law on Child Care and Family Care Leave was amended (1999, 2002, 2005, 2010) and other systems to support a good work-life balance were expanded.

During the third period, from 2013 to the present, there has been policy progress from “support for balancing work and family” to “utilizing women’s capacities”. In 2015, the Act on Promotion of Women’s Participation and Advancement in the Workplace was enacted, which obliged companies to create plans for the promotion of women. In 2018, laws related to working style reform were enacted with a aim of reducing long working hours, eliminating the gap between regular and non-regular workers, and promoting diverse working styles. Furthermore, the Law on Child Care and Family Care Leave was amended (2017, 2021, 2022, 2023). In this context, the rate of women continuing to work after the birth of their first child—which had hovered around 40% for decades—reached 58% between 2010 and 2014 and 70% between 2015 and 2019. However, there have been large disparities between regular and non-regular employees (National Fertility Survey).

The economic and social environment has also undergone significant changes over the past 35 years. On the labor demand (employer) side, there have been shifts in the industrial structure, with a decline in manufacturing employment and a rise in service sector employment, driven by globalization and an aging population. The expansion of the service sector, including the health and welfare industry that employs a high proportion of women, has resulted in a surge in the number of female employees. Meanwhile, Japanese employment practices altered during the recession and globalization of the 1990s, with a decrease in the hiring of regular employees and an increase in the number of non-regular employees with fewer entitlements. This period saw a rapid shift towards non-regular employment among women workers. While about 32% of female workers were non-regular employees in 1986, this figure rose to approximately 54% in 2020 (compared to 7% in 1986 to 22% in 2020 for men) (Figure 1).



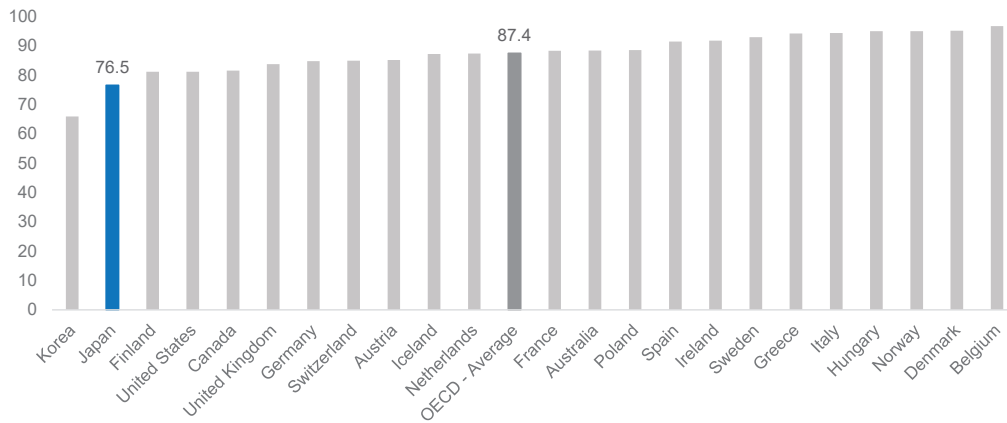
Source: Labor Force Survey

**Figure 1. Trend in the ratio of regular and non-regular employment, by gender (1986-2020)**

There have also been changes in the (female) labor supply side, such as increase in higher education, later marriage and non-marriage, and a surge in dual-income households. According to the School Basic Survey, approximately 51% of women entered a four-year university after graduating from high school in 2020, up from approximately 13% in 1986 (compared to 34% in 1986 to 58% in 2020 for men). Meanwhile, the proportion of unmarried women aged 25-29 and 30-34 years has been on the rise, from approximately 31% and 10%, respectively, in 1986 to approximately 61% and 35% in 2015, indicating a trend towards delayed marriage and non-marriage. Moreover, over the same period, the number of full-time homemaker households declined while the number of dual-income households increased, with the latter accounting for 68% of all households in 2020 (Labor Force Survey).

Finally, we compare internationally the gender gap in the Japanese labor market using Organization for Economic Cooperation and Development (OECD) data. According to the 2011 OECD Programme for the International Assessment of Adult Competencies (PIAAC), Japanese women have the highest average scores in literacy and numeracy skills among OECD member countries. However, Figures 2 and 3 show that in terms of pay for full-time workers and the proportion of female managers, Japan (along with South Korea) has one of the largest gender gaps among OECD member states. This indicates that, although Japanese women have high cognitive skills in literacy and numeracy, these skills are not fully utilized in the Japanese labor market.

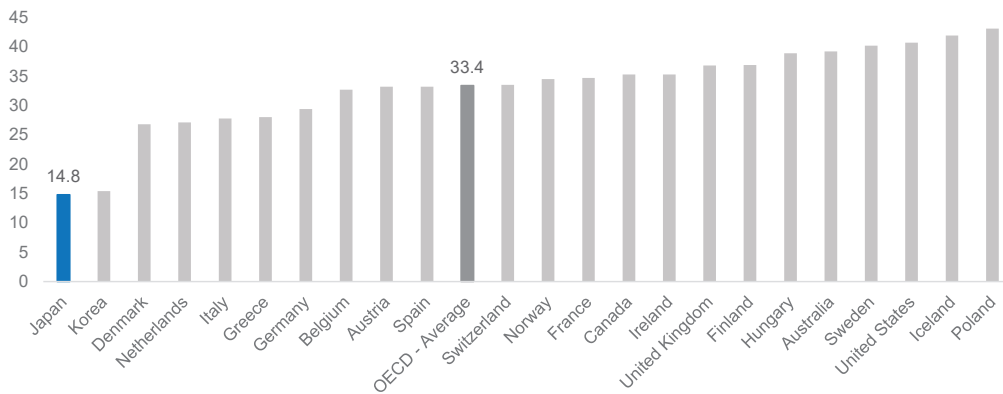
In summary, women's participation in the labor market in Japan has increased in quantity over the past 35 years due to the establishment and expansion of legal systems and changes in the economic and social environment. However, the quality of their work remains an issue, as many women are in non-regular employment.



Source: OECD Statistics

Note: The percentage of the median income of full-time female workers with the median income of full-time male workers as 100.

**Figure 2. Ratio of women's wages to men's wages (%) (2018)**



Source: OECD Statistics

**Figure 3. Percentage of women in managerial positions (%) (2019)**

### 3. Trends in task distribution of men and women in Japan, 2005-2015

Amid growing wage inequality due to the advances in IT and globalization, many studies have been conducted on the polarization of the labor market, focusing on the tasks in which workers are engaged in Europe and the United States (e.g., Autor et al. 2003, Spitz-Oener 2006, Goos and Manning 2007, Goos et al. 2009, Ikenaga 2009, Acemoglu and Autor 2011, Autor and Dorn 2013, Ikenaga and Kambayashi 2016). In their landmark study, Autor et al. (2003) classified the tasks of workers according to whether it is routine or non-routine, and whether it is intellectual or physical. There are five task categories: (1) non-routine analytical tasks that require problem solving using abstract thinking (e.g., research and design); (2) non-routine interactive tasks that create value through advanced interpersonal communication (e.g., management, consulting and education); (3) routine cognitive tasks, which are clerical tasks that follow explicit rules (e.g., clerical and accountancy work); (4) routine manual tasks, which are physical tasks that follow explicit rules



(e.g., manufacturing and agriculture); and (5) non-routine manual tasks, which are physical tasks that require a flexible response to a particular situation without advanced expertise (e.g., services and hospitality) (Ikenaga and Kambayashi 2016). These studies indicate that the demand for routine tasks will decrease because they can be replaced by automation, while the demand for non-routine tasks will increase because they are complementary to automation.

Now, let's examine changes in the distribution of tasks for men and women in the Japanese labor market from 2005 to 2015. Task scores were obtained by matching occupations in the Population Census with those listed in the Occupational Information Network of Japan (Japanese O-NET), which is similar to the O\*NET in the United States. The Japanese O-NET allows for the comparison of skill levels and required tasks for approximately 500 occupational categories.<sup>1</sup> We used quantitative information from the Japanese O-NET to calculate the scores of the five types of tasks for each occupation. Table 1 presents the definitions and indicators used for each category. We constructed five task categories following the method of Acemoglu and Autor (2011), with some modifications.

**Table 1. Definitions and measurements of the five types of tasks**

Five task categories	Definitions	Acemoglu and Autor (2011) US O*NET	Komatsu and Mugiyama (2022) Japanese O-NET
Nonroutine Analytical	Task involving advanced expertise and solving of problems based on abstract thinking Examples: Research, Surveys, Design	<u>Generalized Work Activities</u> • Analyzing data/information • Thinking creatively • Interpreting information for others	<u>Generalized Work Activities</u> • Analyzing data/information • Thinking creatively • Interpreting information for others
Nonroutine Interactive	Tasks that create and deliver value through advanced interpersonal communication Examples: Law, management and administration, Consulting, Education, Arts, Performing arts, Sales	<u>Generalized Work Activities</u> • Establishing and maintaining personal relationships • Guiding, directing and motivating subordinates • Coaching/developing others	<u>Generalized Work Activities</u> • Establishing and maintaining personal relationships • Guiding, directing and motivating subordinates • Coaching/developing others
Routine Cognitive	Clerical tasks requiring precise fulfillment of predetermined standards Examples: General clerical worker, Accounting clerk, Testing and observation	<u>Work Context</u> • Importance of repeating the same tasks • Importance of being exact or accurate • Structured v. Unstructured work (reverse)	<u>Work Context</u> • Importance of repeating the same tasks • Importance of being exact or accurate • Structured v. Unstructured work (reverse)
Routine Manual	Physical work requiring precise fulfillment of predetermined standards. Examples: Agriculture, Manufacturing	<u>Work Context</u> • Pace determined by speed of equipment • Spend time making repetitive motions <u>Generalized Work Activities</u> • Controlling machines and processes	<u>Work Context</u> • Pace determined by speed of equipment • Spend time making repetitive motions <u>Generalized Work Activities</u> • Controlling machines and processes

1. The Japanese O-NET was developed with reference to O\*NET in the United States. Information on jobs, tasks, skill and knowledge requirements, generalized work activities and so forth for about 500 occupations is provided online. They were collected between 2018 and 2021 through an online survey of workers conducted by JILPT and a supplementary paper-based survey. For more information on the details of the survey contents, see Kamakura et al. (2020).

Five task categories	Definitions	Acemoglu and Autor (2011) US O*NET	Komatsu and Mugiyama (2022) Japanese O-NET
Nonroutine Manual	Physical work not requiring a high degree of specialized knowledge, but requiring flexible responses depending on the situation. Examples: Service, Hospitality, Security, Operation of transport equipment, Maintenance and repair	<u>Generalized Work Activities</u> • Operating vehicles, mechanized devices, or equipment <u>Work Context</u> • Spend time using hands to handle, control or feel objects, tools or controls <u>Abilities</u> • Manual dexterity • Spatial orientation	<u>Generalized Work Activities</u> • Performing general physical activities • Handling and moving objects • Assisting and caring for others • Performing for or working directly with the public

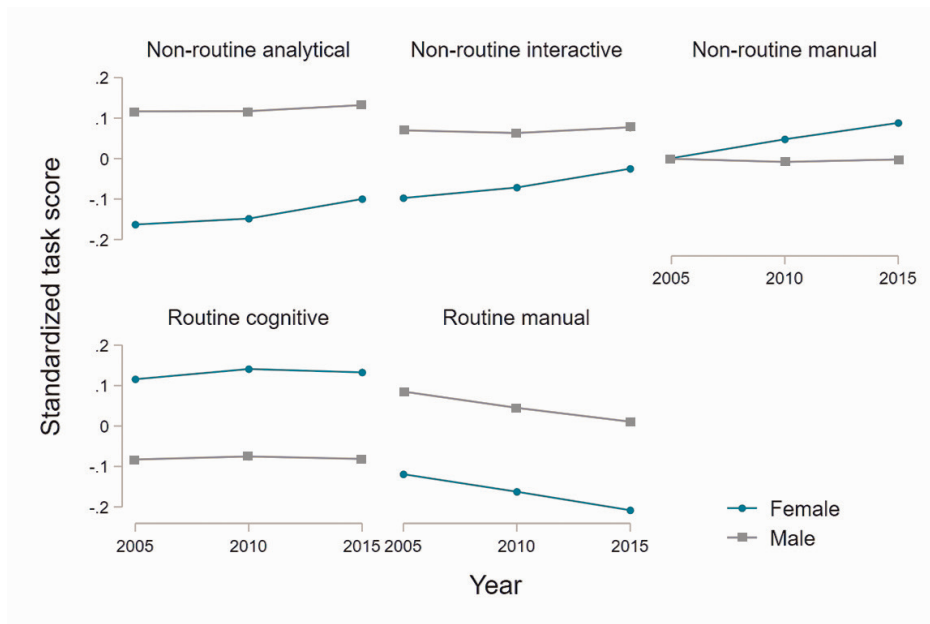
Source: Autor et al. (2003), Ikenaga and Kambayashi (2016), Acemoglu and Autor (2011) and Komatsu and Mugiyama (2022)

Figure 4 illustrates the changes in the task distribution of men and women in the Japanese labor market from 2005 to 2015, categorized by gender. It is important to note that we assume the task information obtained from the Japanese O-NET remains constant across the observation periods. Therefore, task index scores change only when there are changes in the occupational composition. For instance, an increase in non-routine analytical task scores at the aggregated level could indicate either a rise in the share of occupations that require more non-routine analytical tasks or a decrease in the share of occupations that require fewer non-routine analytical tasks.

When examining the distribution of the five task types, we observe that more men than women perform non-routine analytical and non-routine interactive tasks. On the other hand, more women than men perform non-routine manual tasks. With routine tasks, we find that women perform more cognitive tasks, while men perform more manual tasks. This suggests that fewer women are engaged in highly skilled and high-paying non-routine tasks.

Examining the changes since 2005, we observed a decrease in the proportion of routine manual tasks for both men and women. On the other hand, the share of non-routine manual tasks has increased for women, while it has remained unchanged for men. In addition, the increase in non-routine analytical and interactive tasks for women is more significant than that for men, indicating a narrowing of the gender gap.

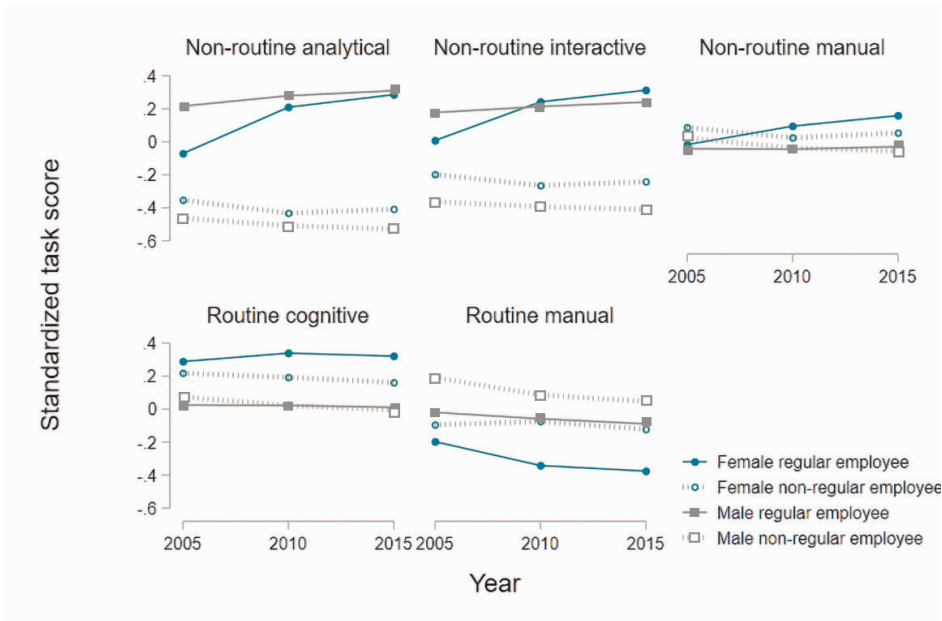
Moving on to Figure 5, it illustrates the changes in the distribution of tasks by employment status from 2005 to 2015. There are notable shifts in the distribution of tasks assigned to female regular employees, indicated by the red solid lines. There has been a major increase in the share of women engaged in highly advanced, non-routine analytical and interactive tasks. However, the share of women performing low-skilled, non-routine manual tasks (with lower wages) has also increased, indicating that the tasks performed by women have become more polarized in recent years. While the narrowing gender gap for regular employees who perform highly advanced non-routine tasks is a positive development, it's worth noting that non-regular employees, regardless of gender, are not involved in such tasks. Additionally, the gap between regular (full-time) and non-regular female employees has widened since 2005.



Source: Authors' calculations using data from the Population Census (Ministry of Internal Affairs and Communications) and Occupational Information Network of Japan (Japan Institute for Labor Policy and Training)

Notes: The task scores on the vertical axis are based on the number of workers in each occupation in 2005, with a mean of 0 and a standard deviation of 1. The data show the extent to which each task score has increased or decreased compared to 2005. For more details, see Komatsu & Mugiyama (2022).

Figure 4. Trends in the distribution of the five types of tasks, by gender (2005-2015)



Source: Authors' calculations using data from the Population Census (Ministry of Internal Affairs and Communications) and Occupational Information Network of Japan (Japan Institute for Labor Policy and Training)

Notes: Same as Figure 5. Excluding the self-employed. For more details, see Komatsu & Mugiyama (2022).

Figure 5. Trends in the distribution of the five types of tasks, by gender and employment status (2005-2015)

#### 4. Gender gaps in skill use in Japan in comparison with South Korea, the UK and Norway

As mentioned in Section 2, Japan (along with South Korea) has a significant gender gap in its labor market among OECD member countries. In this section, we will discuss the current status and challenges of skill utilization by Japanese women through international comparison based on data from the 2011 OECD Programme for the International Assessment of Adult Competencies (PIAAC). The PIAAC measures three types of skills (literacy, numeracy, and problem-solving using IT) and the frequency of these skills used at work in OECD member economies.

To examine the actual situation and challenges of skill utilization by Japanese women, we will compare with countries that have different social and welfare systems. Specifically, we will compare with Norway, which is categorized as a social democratic regime, and the UK, which is categorized as a liberal regime, based on the “welfare regime” theory by Esping-Andersen (1990, 1999). We will also compare with another Asian country, South Korea, to see if there are any similarities. Esping-Andersen (1999) noted that strong family policies that support the employment of women in social democratic regimes enable women to achieve high employment rates. In contrast, the strength of familism in conservative regimes makes it difficult for women to balance their careers with their family life. Japan and South Korea, which can be described as a family-oriented conservative regime, have a high awareness of gender roles in the division of labor and low gender equality. On the other hand, Norway, which is a social democratic regime, has a good gender balance support system and high gender equality. In the UK, which is a liberal regime, gender equality is higher than in Japan and South Korea, but the gender balance support system is not as extensive as that in Norway.<sup>2</sup>

Figures 6-1, 6-2, and 6-3 depict gender differences in (1) literacy skills and employment rates, (2) literacy skills and literacy skill use, and (3) literacy skill use and wages, respectively. The sample includes men and women aged 25–44 (excluding students) as the child-rearing cohort at the time of the survey and the targeted age range for which work-family balance support programs were being expanded in Japan. The data for women are divided into those with and without children.

Figure 6-1 shows that in Japan, for women without children, the employment rate increases as literacy skill levels increase. However, for women with children, the employment rate declines as literacy skill levels increase, a trend similar to that of South Korea. In contrast, in the UK and Norway, the employment rate for women with children increases as their skills increase. It is also worth noting that in Norway, which has a well-developed support system for balancing work and family life, there is no difference in employment rates between those with and without children.

Figure 6-2 shows that in Japan, women without children who are employed tend to use their literacy skills more as their literacy skill levels increase. However, employed women with children tend not to use their high literacy skills as their literacy skill levels increase. In contrast, in the UK, Norway, and South Korea, the skills of employed women with children are used more as their skill levels increase.

2. The difference in the amount of time men and women spend on housework is approximately 4 hours in Japan, 3 hours in South Korea, 2 hours in the UK, and 1 hour in Norway (OECD, 2015). According to the ISSP International Survey conducted in 2015, approximately 70% of respondents in Japan, 80% in South Korea, 50% in the UK, and 20% in Norway answered affirmatively to the question, “Doing housework as a homemaker is equally fulfilling as working for an income.” In Japan, South Korea, and the UK, tax benefits are offered for low-income spouses, whereas Norway does not offer such benefits. The parental leave system in Japan allows for up to 52 weeks of leave (extended up to 24 months if waiting to enter a nursery school), with 67% of the monthly salary paid for the first 6 months and 50% of the monthly salary paid for the next 6 months. This system is comparable to that in Norway, which allows for up to 42 weeks (at 100% benefit) or 52 weeks (at 80% benefit) of leave.

Finally, Figure 6-3 shows that women with children who make full use of their skills have a smaller wage gap with men in Japan. Although not shown in the figure, women in full-time and managerial or professional positions in Japan make better use of their literacy skills (Komatsu 2021).

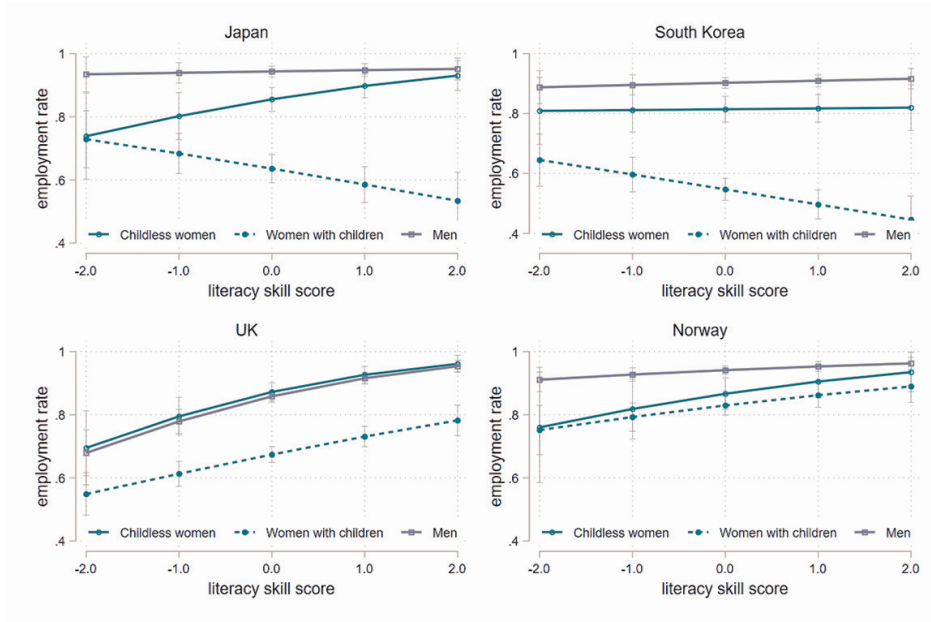


Figure 6-1. Literacy skills and employment rates by gender

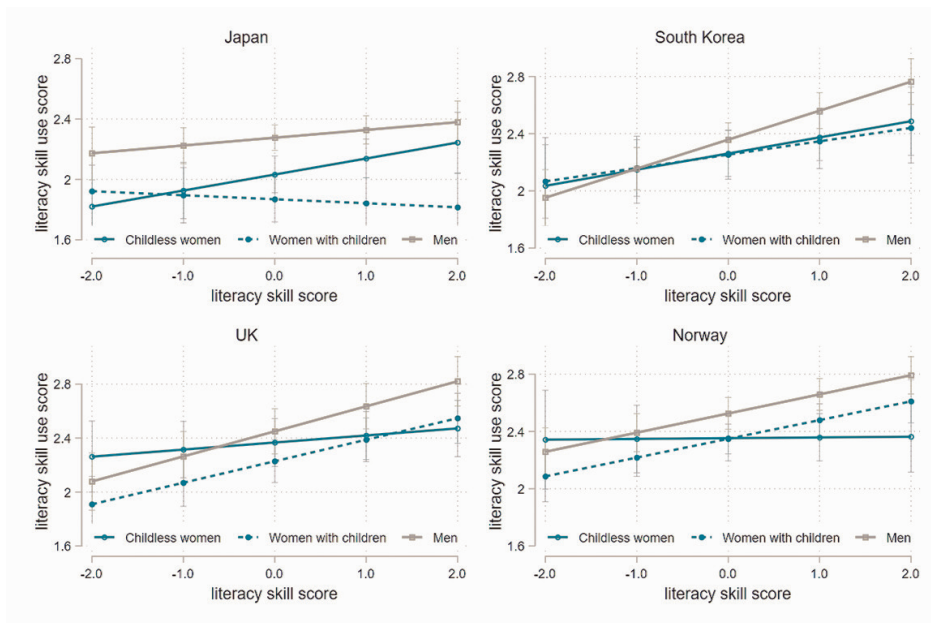
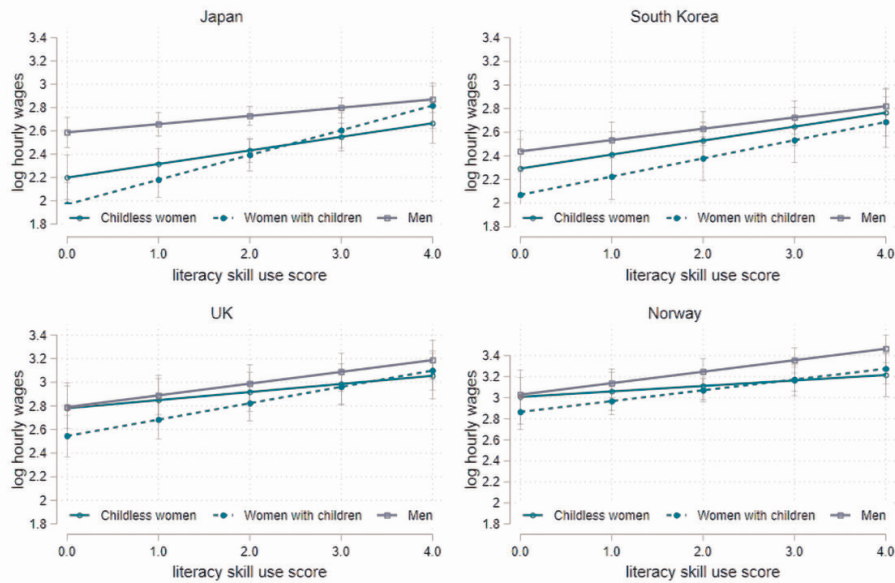


Figure 6-2. Literacy skills and literacy skill use by gender



Source: Author's estimates based on PIAAC (OECD)

Notes: (1) Employment rate is controlled by years of education, age, age squared, and spouse's type of employment; (2) literacy skill use score and (3) log hourly wage are controlled by years of education, literacy skill, age, and age squared (estimates produced using the Heckit model in order to adjust for selection bias in the sample of employed persons). The literacy skill use score is standardized to have a mean 0 and a standard deviation 1, the literacy skill use score is standardized to have a mean 2 and a standard deviation 1. The vertical lines for all scores indicate the 95% confidence interval of the predicted values.

**Figure 6-3. Literacy skills use and wage by gender**

The analysis suggests that having children is a major obstacle for highly skilled women in Japan to take on challenging jobs. Despite the development and expansion of laws to support work and child-rearing, why is it difficult for these women to utilize their skills in the workplace? In addition to deep-rooted perceptions regarding gender roles, tax and social welfare systems that discourage women from full-time employment, another often-cited factor is Japan's unique employment practices.

Regular employees in Japan, who have the possibility of promotion, have no restrictions on their work type or working hours. Moreover, they are expected to relocate whenever and to any location directed by their superiors. In this context, it is very challenging for women with housework and child-rearing responsibilities to meet the demands of such a position. Furthermore, unlike in the United States and Europe, the tasks and skills required for a job in Japan are not clear, making it difficult for women to find another full-time job of an equal or higher level that utilizes the skills developed in their previous job, once they quit. As a result, many women, upon re-entering the workforce after marriage or childbirth, have little choice but to take on non-regular (part-time) jobs, regardless of their skills.

Finally, Table 2 shows that, according to the OECD's 2018 Programme for International Student Assessment, Japanese high school girls had significantly lower occupational aspirations compared to boys. When asked about their expected job at the age of 30, Japanese girls were unique among developed countries in that "homemaker" was one of the top 10 responses. This may be attributed to the lack of role models for women who hold high socioeconomic positions while also being mothers.

**Table 2. Top 10 occupations high school students would like to have at age 30**

Japan							South Korea								
	Girls	ISEI Score	Share (%)	Boys	ISEI Score	Share (%)		Girls	ISEI Score	Share (%)	Boys	ISEI Score	Share (%)		
1	General office clerk	43	10.0	Office supervisor	62	12.9	1	General office clerk	43	8.0	General office clerk	43	11.3		
2	Nursing professional	69	9.3	General office clerk	43	9.8	2	Secondary education teacher	82	7.4	Secondary education teacher	82	5.8		
3	Child care worker	25	8.5	Teaching professional	76	5.6	3	Nursing professional	69	4.4	Police officer	52	4.7		
4	Office supervisor	62	6.0	Building architect	80	3.1	4	Product and garment designer	80	4.0	Regulatory government associate professional	64	4.0		
5	Teaching professional	76	4.1	Software developer	75	3.0	5	Regulatory government associate professional	64	3.8	Applications programmer	75	3.6		
6	Hairdresser	31	3.0	Medical doctor	89	2.3	6	Beautician and related worker	31	3.5	Mechanical engineer	77	3.2		
7	Homemaker	17	2.7	Fire-fighter	51	2.3	7	Travel attendant and travel steward	47	3.4	Shop keeper	35	3.0		
8	Pharmacist	81	2.5	Sport and fitness worker	46	2.3	8	Police officer	52	3.3	Building architect	80	2.7		
9	Dietician and nutritionist	65	2.5	Cook	25	2.2	9	Social work and counselling professional	71	3.2	Other arts teacher	69	2.6		
10	Graphic and multimedia designer	80	2.0	Science and engineering professional	79	2.1	10	Generalist medical practitioner	89	2.8	Generalist medical practitioner	89	2.3		
Average ISEI Score		55	100.0	Average ISEI Score		59	100.0	Average ISEI Score		62	100.0	Average ISEI Score		63	100.0
UK							Norway								
	Girls	ISEI Score	Share (%)	Boys	ISEI Score	Share (%)		Girls	ISEI Score	Share (%)	Boys	ISEI Score	Share (%)		
1	Lawyer	87	7.2	Engineering professional	79	4.2	1	Nursing professional	69	10.0	Building and related electrician	36	7.2		
2	Teaching professional	76	6.9	Athlete and sports player	51	3.8	2	Lawyer	87	6.8	Science and engineering professional	79	6.0		
3	Generalist medical practitioner	89	5.5	Software developer	75	3.2	3	Teaching professional	76	6.6	Police officer	52	5.2		
4	Psychologist	86	5.3	Lawyer	87	3.2	4	Generalist medical practitioner	89	6.5	Carpenter and joiner	27	5.0		
5	Nursing professional	69	5.0	Accountant	77	3.2	5	Police officer	52	6.2	Athlete and sports player	51	4.9		
6	Botanist, zoologist	80	3.0	Generalist medical practitioner	89	2.9	6	Psychologist	86	4.6	Motor vehicle mechanic and repairer	31	4.5		
7	Primary school teacher	76	2.9	Police officer	52	2.8	7	Veterinarian	84	3.4	Pilot and related associate professional	81	2.9		
8	Social work and counselling professional	71	2.9	Carpenters and joiner	27	2.7	8	Specialist medical practitioner	82	2.8	Electrical engineer	74	2.9		
9	Beautician and related worker	31	2.5	Teaching professional	76	2.7	9	Physiotherapist	68	2.3	Lawyer	87	2.5		
10	Veterinarian	84	2.3	Mechanical engineer	77	2.4	10	Social work and counselling professional	71	2.0	Generalist medical practitioner	89	2.3		
Average ISEI Score		69	100.0	Average ISEI Score		62	100.0	Average ISEI Score		68	100.0	Average ISEI Score		56	100.0

Source: Author's calculation from PISA (2018)

Note: Responses exclude 'don't know', 'vague answers', etc.

## 5. Conclusion

From a historical and international comparative perspective, this paper provides an overview of the changes and challenges faced by Japanese women, with a focus on skill utilization. Over the past 35 years, the legal, economic, and social environment in Japan has changed significantly, leading to more women participating in the labor market. However, women's career challenges have become increasingly diverse. Empirical analyses indicate that although the proportion of women employed in full-time jobs for non-routine tasks is increasing, the underutilization of highly skilled women with children and women in part-time positions remains a problem. While the gender gap for skill utilization is gradually narrowing, divergence according to skill level is expanding between women with children and without children. The high proportion of women in non-regular (part-time) jobs also contributes to the gender pay gap in Japan.

Simply developing the laws and systems to support work-life balance is not enough to solve the problem of underutilization of women's skills. What is needed is a change in the work culture, where companies shift away from the assumption that employees should work unlimited hours and offer different working styles, such as remote working and flexible arrangements. It is also important to clarify work responsibilities and create methods to evaluate employees based on tasks and skills. Regular and non-regular employees should be treated equally in terms of these criteria.

Moreover, to reduce the gender pay gap, it is not enough to simply encourage women's participation in the workforce. It is necessary to increase opportunities for women to move or be hired into full-time positions where training is available and skills are utilized. This, in turn, requires the government to expand programs designed to assist women in re-entering the workforce, which should include education and training, as well as support for part-time employees who want to improve their skills.

The Covid-19 crisis has led to the expansion of remote work and provided an opportunity to rethink of traditional working styles in Japan. At the same time, it has highlighted the challenges faced by women in informal employment and essential workers in difficult living and working environments. Furthermore, the importance of supporting these women was also widely recognized. In addition, digital transformation has been progressing rapidly since the Covid-19 pandemic, and technological innovations, including the introduction of AI and RPA (Robotic Process Automation), will continue to significantly change the working environment in this future. In the context, a new challenge for companies is to shift from uniform personnel management centered on male full-time employees to diverse management that takes into account the needs of diverse human resources, including women, foreign workers, elderly, disabled, and others. In particular, eliminating differentiated treatment based on gender and employment status has become an important policy issue. Creating a society in which everyone can fully utilize their skills in challenging jobs is an urgent task facing Japan.

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# A Glance at Dual Structure of Labor Market in South Korea

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- I. A welding worker who locked himself in a cage
- II. Several dimensions of labor market duality
- III. Responses to dual structure problem
- IV. Remarks

## I. A welding worker who locked himself in a cage

Despite the crisis of a population cliff, South Korea has been listed as a country with a per capita GDP of more than USD30,000 and has continued to grow even during the COVID-19 era. However, this glory does not seem to have led to an improvement in the standard of living of individual citizens, and a pessimistic economic outlook has recently emerged.

On June 22, 2022, a welder with 20 years of experience welded a steel cage-like structure with only one meter in width, length, and height respectively, and confined himself inside the cage-like structure for 31 days. He is a worker at a subcontractor of Daewoo Shipbuilding & Marine Engineering (“DSME”). Around that time, the so-called labor union at DSME’s subcontractors went on strike, demanding better working conditions including higher wages. In 2016, during the shipbuilding business recession, the subcontractors accepted the demand for a 30% wage cut by the primary contractor, DSME, and after that, despite the return of the business boom, the reduced wages were not recovered to their original level.

Representatives of partner companies of DSME (not DSME itself) and the subcontracted workers’ union have reached a provisional agreement on a 4.5% wage increase at the end of July 2022, 51 days after the strike. However, DSME filed a lawsuit against the union for damages worth about KRW 50 billion (USD 38 million) due to the shutdown during the strike. The key point of the case is that it is a representative example of the problem of the dual structure of the labor market in Korea.

## II. Several dimensions of labor market duality

### 1. Introduction

The Korean labor market is divided into the primary sector, which guarantees working conditions such as wages and job security at a relatively high level, while the other is the secondary sector. The two sectors can be evaluated as structured and fixed in its labor market, they show a significant qualitative gap from each other and that it is not easy to move from the secondary sector to the primary sector. This dual structure has been pointed out as one of the long-standing tasks of the Korean labor market along with the youth job problem. Recently, the Korean government has shown great interest in the issue.

### 2. Example of dimensions of dual structure

#### A. Differences by employment type: Regular vs. non-regular

The primary cause of the dual structure of the labor market is the employment type, regular or non-regular

**Table 1. Average monthly wage by employment type<sup>1</sup> (unit: thousand KRW)**

	Wage and salary workers	Regular workers (A)	Non-regular workers (B)	Ratio (B/A*100)
August 2004	154.1	176.9	115.3	65.2%
August 2006	165.6	190.5	120.2	63.1%
August 2008	184.7	212.6	129.9	61.1%
August 2010	195.0	229.4	126.0	54.9%
August 2012	210.9	246.2	139.8	56.8%
August 2014	224.0	261.1	145.9	55.9%
August 2016	237.2	279.9	149.8	53.5%
August 2018	255.8	300.9	164.4	54.6%
August 2020	268.1	323.4	171.1	52.9%
August 2022	288.0	348.0	188.1	54.1%

Source: Statistics Korea, *Economically Active Population Survey*.

workers. In Korea, non-regular workers are considered to have poor working conditions and job security compared to those of regular workers, and this is exactly consistent with the characteristics of the dual structure of the labor market. The wage gap according to the type of employment is widening over time as shown in Table 1.

#### B. Differences by company size: Large vs. small businesses

It is widely known that Korea has been experiencing economic growth centered on large companies (“LCs,” especially those run by chaebol [family-owned conglomerate]). LCs in Korea have provided the highest level of remuneration and benefits to their workers. On the other hand, small and medium-sized enterprises (“SMEs”) have provided a relatively low level of them, and the problem is that over time, the wage gap between LCs and SMEs has been widening to a comparable level of the differences between regular and non-regular workers (Table 1). As a result, a large number of people want to work at LCs, and young people, in particular, are eager to start their careers at LCs and tend to prepare for long-term employment.

Table 2 shows the average hourly wage by company size in 2021. According to this data, compared to regular workers at companies with 300 employees or more, regular workers at companies with less than 300 employees show a wage level of 58.6%, and non-regular workers at the same companies show a wage level of 45.6%, respectively. As the ratio differences indicate, the wage gap according to the size of the company is significant. The wage ratio of workers at LCs to workers at SMEs is likewise the ratio of regular to non-regular workers seen earlier.

This statistic can also be understood from the perspective of the supply chain or the value chain. LCs in Korea often manage their value chains by subordinating SMEs through subcontracting arrangements. As seen in the case of DSME, the company has many subcontractors. In Korea, the relationship between LCs and SMEs is usually called a subcontracting relationship. The question is whether a surplus produced within a single value chain is fairly distributed among the companies and workers constituting the value chain. The wage gap between workers at LCs and SMEs also implies unfair distribution in the subcontracting relationship.

1. For reference, at the time of the survey in August 2022, regular and non-regular workers accounted for 62.5% and 37.5%, respectively.

**Table 2. Average hourly wage comparison by number of employees**

	Companies with 300 employees or more	Companies with less than 300 employees
Regular	KRW 32,699 (A) 100%	KRW 19,148 (D) 58.6% (D/A*100)
Non-regular	KRW 22,602 (B) 69.1% (B/A*100)	KRW 14,899 (E) 45.6% (E/A*100)
Total	KRW 31,290 (C) 100%	KRW 18,024 (F) 57.6% (F/C*100)

Source: Ministry of Employment and Labor, 2021 Survey Report on Labor Conditions by Employment Type.

### C. Other dimensions

Other dimensions of the labor market duality are (1) differences in the presence or absence of labor unions, (2) generational differences, and (3) chronic gender gap, etc.:

- (1) The difference between the existence and non-existence of labor unions is emphasized by the government and management, focusing on the fact that Korea's wage system is centered on seniority rather than performance-based pay. The logic is that strong labor unions use their bargaining power to widen the wage gap.
- (2) The generation gap is a problem caused by the conflict between the existing labor market culture and the values that the younger generations place importance on, and the conflict is drawing social attention in line with phenomena such as low economic growth, aging population, and low birth rate.

## 3. The effects of COVID-19

The key issue in the dual structure of the labor market is the wage gap. As the wage gap widens, the dual structure becomes more solid. It is still difficult to know how the COVID-19 era affected this gap. In the early days of the pandemic, the economic pain in Korea tended to be concentrated on self-employed workers. However, according to a survey, no meaningful change was observed in the distribution of average monthly wages. Therefore, it is reasonable to say that the wage gap itself has had no significant impact.<sup>2</sup> When it comes to wage gap the influence of the dual structure remained the same even during the pandemic period. Rather, the gap in working conditions is widening again, according to a recent survey at a time when the pandemic is losing its steam. If that is the case, the pandemic is not significantly related to the dual structure of the labor market. It has not fundamentally changed the existing tendency. In other words, by getting used to non-contact life through digitalization, the future has only come sooner.

## III. Responses to dual structure problem

Remedy for the dual structure of the labor market differ among labor unions, employers, and the government.

### 1. Employers' response

Employers' organizations allege that overprotection of regular workers at LCs is the biggest cause of deepening labor market duality. Once hired as a regular employee at a LC, their wages are automatically

2. While the job security of non-regular workers must have been significantly affected by the pandemic, please note that this article focuses on the wage gap and does not deal with the job security.

raised according to a seniority-based system, and strict dismissal restrictions are applied. To solve this problem, they argue that, along with a wage system reform based on job performance, implementing policies such as easing employment regulations, enhancing flexibility and stability in the labor market, and expanding win-win strategy on cooperation between LCs and SMEs should be promoted first.

## **2. Unions' response**

The labor unions' side believes that the problem of the wage gap due to the dual structure of the labor market depends on the difference in the ability of companies to pay wages. Their argument is as follows: In relation to SMEs, laws and systems are established in favor of LCs with economic power, pay more wages and provide better working conditions to attract talented human resources, which inevitably widens the wage gap with SMEs. Even if a company changes its seniority pay system to a performance-based pay system, it will only be a change at the corporate level and will not resolve the wage gap due to the dual structure. The solution to this problem must be approached from the perspective of democracy. Therefore, in addition to the continuous increase in the minimum wage and the expansion of regular jobs, other efforts such as the democratization of the economic structure, which is the structural cause of wage inequality, are needed.

## **3. Government's response**

In March 2022, South Korea held a presidential election. The Korean public chose a regime change from moderate to conservative. Newly inaugurated President Yoon said on December 13, 2022, "Improving the dual structure of the labor market, which is directly related to the competitiveness of our industry and the jobs of future generations, is a task that can no longer be postponed." The government sees the wage gap as the key link in the dual structure of the labor market, and is pointing to the seniority-based wage system as the main cause of the wage gap. According to the government's claim, under the seniority-based wage system, workers organized in unions (who are mainly regular employees in LCs) receive excessive benefits, while unorganized workers (who are mainly SMEs' employees or non-regular workers) are not properly compensated for their work. As a result, the dual structure is solidified. From this point of view, recently, the government is preparing policies.

## **4. Comment on responses**

Inequality in the dual structure of the labor market is mainly due to the wage gap. The wage gap can be resolved by either raising wages of the lower tier, lowering wages of the upper tier, or both. It is understood that the expansion of the performance-based wage system advocated by employers' organizations, and the government took the second method that is lowering the higher wages. They focused on the fact that the seniority system is relatively widely adopted by LCs with unions. This logic is in line with the trickle-down effect theory that has been believed in for a long time in the Korean economy. It is the labor version of the theory that if the LC does well, then the SME and the nation will do well. In principle, the wage system reform requires workers' agreement, therefore a deeper understanding of labor unions composed of employees at LCs must be preceded to implement this policy. However, even if this policy is implemented with these conditions met, it is unclear whether the effect will lead to wage increases for workers in the lower tier. This is because a change in the distribution method of labor costs within a particular company does not guarantee a change in the method of distribution of labor costs outside that company such as subcontractors. This claim, just like the trickle-down effect theory, has clear limitations in that the intended final effect cannot be guaranteed.

While the measures proposed by trade unions may be considered the ultimate solution in principle, it is

equally important for the unions themselves to make efforts in overcoming their own dual structure. This includes transitioning from specific company-based union structures to industry-based union structures, thereby fostering a more inclusive and solidarity approach to addressing labor market issues.

## IV. Remarks

### 1. Need to determine wages by industry-wide or occupation-wide

The problem of labor market duality is related to the entire economic sphere. Consequently, resolving the wage gap needs to be approached from an industrial and occupational perspective beyond the walls of individual companies.

Therefore, the wage level needs to be determined not in which company you are employed, but in terms of what industry you are engaged in and which job you are doing. Korea also applies the principle of equal pay for equal work, but there is a limit in that it cannot break down the barriers across companies. As for labor unions, there is little room for improvement through collective bargaining because, in Korea, company-level trade unions are mainly established. In order to overcome these problems and make an industry-wide and/or occupation-wide collective agreement, establishing a bargaining system at the industry and/or occupation level must be preceded. In other words, a broader perspective beyond the company level is required.

Recently in Korea, there is a lively debate about whether primary contractors should respond to collective bargaining requests from the so-called unions at subcontractors. This was also an issue in the DSME case mentioned earlier. It is a legal attempt to overcome the walls of individual companies called primary contractor and subcontractors. In the past, the prevailing opinion was that collective bargaining was not feasible as there was no direct employment contract between the members of the subcontractors' union and the primary contractor. However, the Central Labor Relations Commission and a lower court recently ruled that the primary contractor must comply with the collective bargaining request of the subcontractors' union. These decisions are evaluated as being influenced by the Supreme Court's more active interpretation of the constitutional right to association, collective bargaining, and collective action, and the recent ratification of ILO Convention No. 98. If collective bargaining beyond the company level is widely used, it will considerable help resolve the gap caused by the dual structure.

### 2. Attempt to utilize the constitutional concept of adequate wage

To add one more idea, one may point out the legal principle of guaranteeing adequate wages stipulated in the Constitution of Korea. According to the Constitution, the state is obliged to make efforts to ensure adequate wages and achieve adequate income distribution.<sup>3</sup> Based on these articles, the government can set adequate wages for each occupation and industry and apply them to the public sector, and by providing incentives to the private sector, national-wide expansion of adequate wages could be encouraged. If the application of adequate wages becomes common, it can contribute to reducing the wage gap due to the dual structure. Currently, there are similar policies in the construction and trucking industry, although it is recognized as a charitable character rather than a constitutional order, thus there is a tendency that the policy may not be continuously implemented.<sup>4</sup>

In addition, it is important to consider the concept of an adequate wage within the framework of adequate

3. See meaning of Korean constitutional adequate wage: KIM, Lin. 2019. "A Study on Constitutional Adequate Wage Guarantee Obligation." *Labor Law Review* 47, SNU Society of Labor Law.

4. The Safe Rates System on road freight trucking industry, which was implemented from March 2020, ended in December 2022, due to the conflict between the new government and the Trucking Workers' Federation.

income distribution. By taking a more assertive approach to this concept, wages can be increased for those in the lower tier while simultaneously imposing certain limitations on excessive wages at the top. This approach actively works towards reducing the wage gap and reinstating a sense of social solidarity. However, addressing the issue of setting limits on top wages is a complex and long-term challenge that necessitates extensive social dialogue and deliberation.

### 3. Overcoming similarity between dual structure and caste system

The problem of the dual structure of the labor market is that it is difficult to move from the lower tier to the upper tier, and the gap between two tiers is wide. This is the cause of inequality, and I see the shadow of the caste system in this form. More than 100 years ago we moved “from status to contract,” and now we are back to status again, by contract.

For reference, a case in which the issue is whether a particular type of employment falls under social status, which is one of the grounds for prohibiting discrimination under the Labor Standards Act (the “LSA”), has been pending in the Korean Supreme Court for years. According to the precedents of the Constitutional Court of Korea, “social status” is a position held by an individual for a long period of time, accompanied by a certain social evaluation. In some workplaces in Korea, it is almost impossible for someone to be promoted to a regular employee later once they have joined the company as a fixed-term (non-regular) employee. In these workplaces, if she or he was promoted only with working conditions that is intermediate between regular and fixed-term workers (for example, the contract period is the same as that of a regular worker, but the pay is the same as that of a fixed-term worker), the issue becomes whether her or his status can be regarded as a “social status.” Some lower courts have recognized it as a “social status,” while others have denied it.<sup>5</sup> If it is recognized as a “social status,” such discrimination is recognized as illegal under the LSA; otherwise, it is considered legally justified. The dual structure of the labor market causes inequality and becomes the cause of social polarization. It is highly likely to function as a modern version of the caste system in that it weakens mobility between classes and consolidates the structure. South Korea is one of those countries with a strong desire for equality. The more the dual structure fortifies, the more it will stimulate the people’s desire for equality, which will intensify social conflicts. The Supreme Court is expected to play a role in resolving social conflicts. If the type of employment is recognized as a social status, the government will have no choice but to present a stronger solution to the dual structure.

### 4. Approach in value chain perspective

Today is an era in which value chains, not individual companies, compete. Taking smartphones as an example, not only are Samsung and Apple competing, but also are Samsung’s supply chain and Apple’s supply chain. The dual structure of the labor market is also related to whether the companies that make up the value chain can receive the final performance fairly. Fair distribution of performance is not only necessary between employers and workers within a company, but also among companies. In resolving the dual structure, solidarity and dialogue between members of the same value chain are required. Particularly, this should be borne in mind by the primary contractors. While South Korea does have prominent trade union federations such as the Korean Confederation of Trade Unions or the Federation of Korean Trade Unions, it is true that most unions in the country are organized within individual companies and operated on a company-

5. Under the Fixed-Term Workers Protection Act, the prohibition of discrimination against fixed-term workers is widely stipulated. In principle, the Act is not applied to employees without contract period. Only the Labor Standards Act applies to them. However, Article 6 of the Labor Standards Act specifies only gender, nationality, religion, and social status as reasons for prohibiting discrimination by employers. This is the legal background of this case. See further in this issue: SHIM, Jaejin, 2023. “The Equal Treatment Clause in Labor Standards Act and Workers of Indefinite Term.” *Journal of Labour Law* 85, Korea Society of Labour Law.

by-company basis. As such, each company's labor union tends to prioritize the interests of its own members rather than the workers as a whole. Therefore, it is difficult to see a case where a labor union of a primary contractor in the same value chain demands a wage increase for workers at its subcontracting company. In the future, if workers' solidarity-based activities such as promotion of collective bargaining agreements at the industrial level or conversion of non-regular workers into regular ones increase, it is expected that labor unions will actively demand adequate compensation and treatment for all workers in the same value chain.

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# Hope for the Future: Examining the Role of Labor Policies in Indonesia after Pandemic 2021–2022

Ike FARIDA

- I. Introduction: Overview of the period 2021–2022 after the pandemic
- II. Labor policy in Indonesia and its implementation plan during the COVID-19 pandemic
- III. Outlook and the topics for the growth
- IV. Government efforts to protect vulnerable workers
- V. Conclusion

## I. Introduction: Overview of the period 2021–2022 after the pandemic

Indonesia has been impacted by the pandemic and ranked lower from upper-middle income to lower-middle-income status under the classification by the World Bank since July 2021.

Indonesia faced two short-lived waves of Omicron subvariants in 2022, from January to February and from June to August when daily cases peaked at 55,000 and 5,400, respectively. After the waves, Omicron's cases increased to the daily number of 6,500 cases in mid-November of 2022. However, the economy continued to reopen throughout the year. According to the paper by the World Bank, such reopening was possible in large part of the reason because of the successful vaccination campaign reaching 64% of the population fully vaccinated.<sup>1</sup>

Indonesia's growth is performing well, even within East Asia Pacific and relative to other Emerging Market and Development Economies. Real GDP growth recovered from 3.7% in 2021 to 5.4% year-on-year in the first three quarters in 2022. This was supported by recovering private consumption (5.1% year-on-year) and strong exports (19.6% year-on-year) in the third quarter of 2022.<sup>2</sup>

Indonesian Minister of Finance, Sri Mulyani Indrawati, revealed that economic growth in Indonesia is estimated to reach 5.1% to 5.3% by 2023<sup>3</sup> along with the 2022 G20 Presidential agenda emphasized on Indonesia's economic resilience to the crisis.<sup>4</sup> On December 30, 2022, the government halted the implementation of Indonesia's ongoing policy of the Enforcement of *Pemberlakuan Pembatasan Kegiatan Masyarakat* (PPKM) [Community Activities Restrictions],<sup>5</sup> marking the post-COVID-19 recovery era for the country.

The pandemic has resulted in an increased share of workers that were jobless or working reduced hours, increasing the share of informal workers who were also earning less, as well as youth not in employment, education or training. This could affect the deterioration in income and labor skills. Wage increases benefitted only selected workers and provided a temporary cushion to deal with inflation.<sup>6</sup>

1. World Bank. *Indonesia Economic Prospects: Trade for Growth and Economic Transformation*, p 9.

2. See above at n 1, p 1.

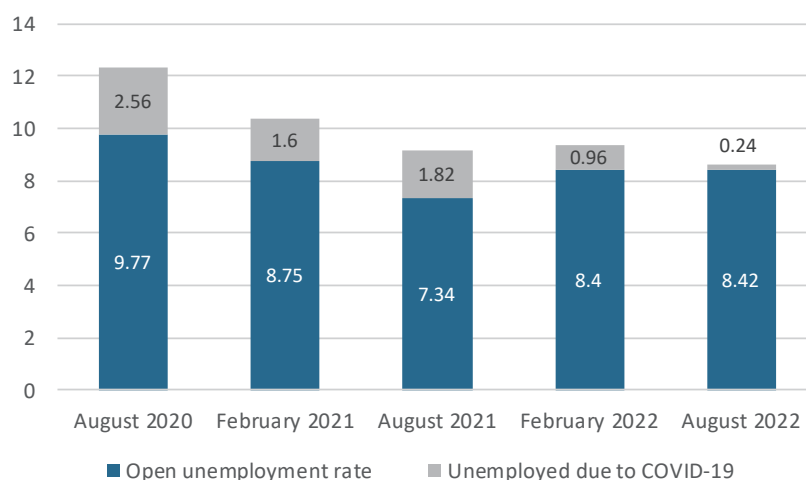
3. Ministry of Finance.

4. Bank Indonesia.

5. Ministry of Home Affairs.

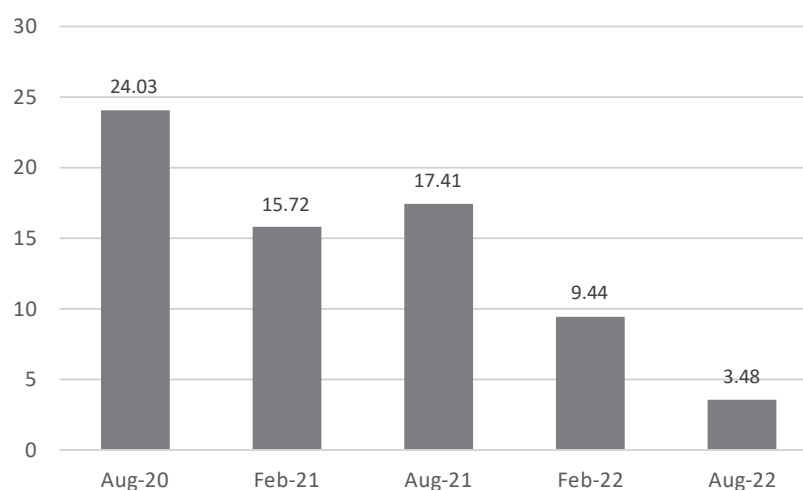
6. See above at n 1, p 9.

As shown in Figure 1,<sup>7</sup> by August 2022, 240,000 workers were reported to have lost jobs due to COVID-19 compared to 1.82 million workers in August 2021. Moreover, 3.48 million workers still having reduced working hours compared to 17.41 million workers in August 2021 (Figure 2). New graduates and youth were hit particularly hard but showed improvement as the economy recovered. The shares of both informal workers and youth not in employment, education or training declined (Figure 3), but remained above pre-pandemic levels. High commodity prices have strengthened external balances, but tightening global financial conditions are weighing in.<sup>8</sup>



Source: Central Bureau of Statistics 2020, 2021, 2022.

**Figure 1. Employment situation, August 2020–August 2022 (unit: million persons)**

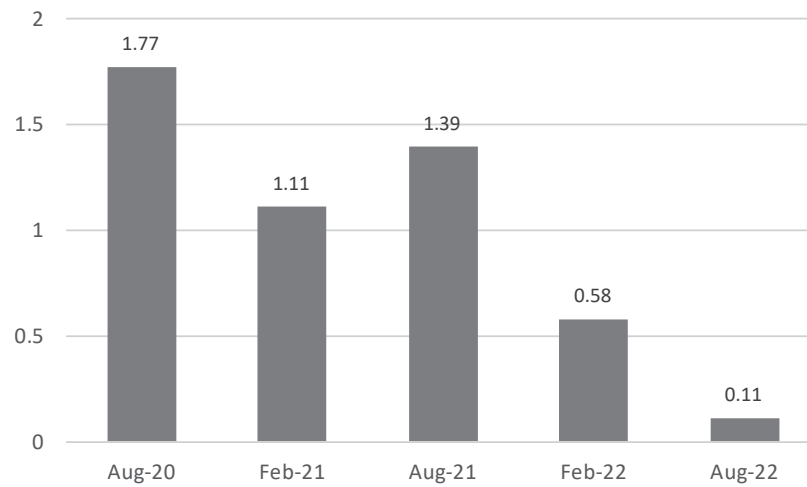


Source: Central Bureau of Statistics 2020, 2021, 2022

**Figure 2. Number of workers who had reduced working hours due to COVID-19 (unit: million persons)**

7. Central Bureau of Statistics.

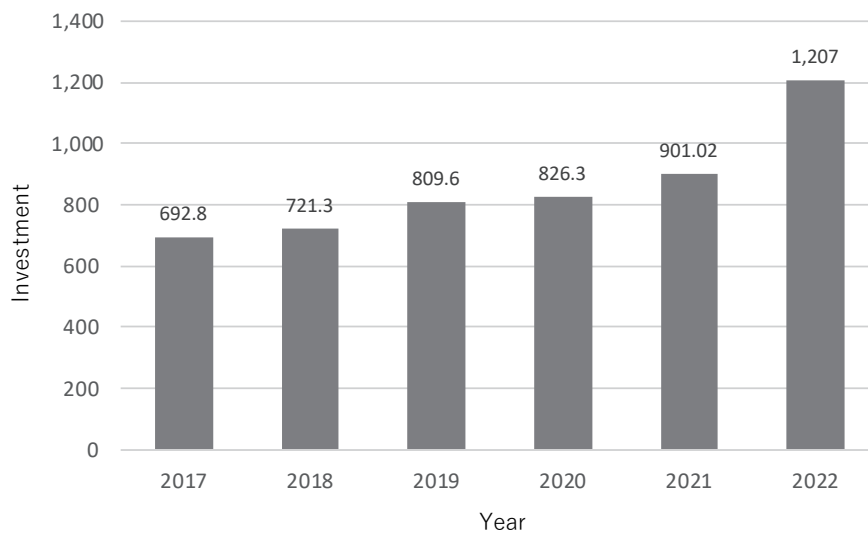
8. World Bank. *Indonesia Economic Prospects: Trade for Growth and Economic Transformation*, pp 9–10.



Source: Central Bureau of Statistics 2020, 2021, 2022.

**Figure 3. Number of persons temporarily not working due to COVID-19 (unit: million persons)**

Despite being hit by the pandemic, Indonesia still experienced a surge in investment compared to before the pandemic. Most of this investment went to the manufacturing, service, and mining sectors. Figure 4 shows the amount of investment realization from 2017 to 2022, acquired from the Investment Coordinating Board.<sup>9</sup>



Source: Investment Coordinating Board (2022).

**Figure 4. Indonesia's investment realization, 2017–2022 (unit: trillion IDR)**

9. Investment Coordinating Board. "Investment Realization Quarter IV and January–December 2022."

## II. Labor policy in Indonesia and its implementation plan during the COVID-19 pandemic

During the early stage of the pandemic, the Ministry of Manpower of Indonesia issued a regulation concerning the Strategic Plan during the period 2020–2024,<sup>10</sup> which mentioned structural and fundamental problems of labor issues in Indonesia. However, any plan adjustment has not yet been announced after the pandemic. *Undang-Undang Cipta Kerja* (Job Creation Law, known as the Omnibus Law) is not included here because it was passed in 2022, meanwhile, the policy was made in July 2020.

### A. Labor market as general conditions for the policy making

Even though the working population is relatively increasing, it turns out that the majority are still junior high school graduates and below. Of the total working population, 58.78% are workers with low education levels (elementary and junior high school). Meanwhile, 29.04% are workers with secondary education (senior high school). Only 12.18% of workers graduated from higher education (diploma and university degree). This condition is a fact that needs to be taken seriously, considering that the majority of workers in Indonesia are still classified as having low education, which is synonymous with limited skills (or low skills).

This problem is suspected to be one of the causes of the non-optimal absorption of labor in the industrial sector. Labor absorption in the industrial sector was still recorded at 14.72% (the second largest after the agricultural sector), even though the industry is the leading sector in Indonesia. On the other hand, despite the fact that the agricultural sector was no longer the leading sector, employment in the agricultural sector reached 28.79%. The difficulty of transforming labor absorption from the agricultural sector to the industrial sector is allegedly due to the limited skills possessed by the majority of workers in Indonesia.

### B. Labor issues in Indonesia

According to a report by the Ministry of Manpower, Indonesia still has several persistent labor issues. Some of them are:

#### a. Workforce quality

Of the 131.01 million Indonesian workforce in August 2018, 40.69% completed the highest education at the elementary school level. This figure is far from Malaysia, where only 24% of its workforce have the highest education at elementary school. Less than 10% of Indonesian labor force are university graduates. The still low levels of aggregate qualifications of the workforce are certainly a major challenge for Indonesia in pursuing industrial productivity and facing the era of automation and industrial revolution 4.0.

#### b. Placement challenges and expansion of job opportunities

There has been a mismatch between the education system and available jobs, causing the workers to be overqualified or underqualified. Expansion of employment opportunities by encouraging the formal sector also faces obstacles. The challenge going forward is not only to encourage the formal sector, but to review the classification of the formal and informal sectors themselves due to changes in the pattern of the digital industry which do not match the existing classification.

#### c. Industrial relations challenges

The digital and automation era has changed how businesses and industries operate, manage and organize their resources. There is a need for employment policies that can answer the problems of the current development of the world of work without denying the development of business models in

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10. Ministry of Manpower Regulation No. 12 of 2020.

the digital era. A regulatory framework that is more comprehensive and adaptive to the development of the digital economy and the increasingly bright era of automation needs to be formulated and stipulated immediately. Harmonious industrial relations between the business world, employees, and the government can be a promotive aspect of investing in a country.

**d. Labor inspection challenges**

The development of work models through the development of the digital industry presents a major challenge in labor inspection. Models of working relationships in the developing digital economy, such as partnership models, freelancing, and other online-based jobs, are very difficult to record and be supervised by related parties, especially the Directorate General of Labor Supervision and Occupational Safety and Health under the Ministry of Manpower. One example is the partnership model developed by an online transportation (ride-hailing) company.

**e. Low entrepreneurship spirit**

The low levels of entrepreneurial spirit can be seen from the portion of the workforce who are self-employed, which is lower than the workforce who work as employees.

**f. Increased skills and labor productivity**

One indicator that measures the talent of a country's human resources is related to its competitiveness, namely the Global Talent Competitiveness Index (GTCI). The GTCI released in 2019 shows that Indonesia is ranked 67th worldwide and fourth in the Southeast Asian region, below Singapore (Second), Malaysia (27th), and Thailand (66th). This condition illustrates that, as a whole, Indonesia is still facing the problem of low human resource capabilities, mainly because the majority of the workforce is still low-educated. The following effect is the consequence of the low productivity of national human resources.

**g. Regional government enhancement**

One important aspect of optimizing labor reform is the synergy and coordination of central stakeholders in the regions. The role of the regions is very strategic in employment, considering that the regions are located close to workers and the business world.

### III. Outlook and the topics for the growth

According to the World Bank Report,<sup>11</sup> economic growth in 2022 is estimated to end on a high note reaching 5.2%. The projection by the World Bank is based on three assumptions, namely (i) it will have a continued recovery in domestic demand supporting private consumption, (ii) it will have a recovery in private investment as macroeconomic stability and the implementation of structure reforms such as Job Creation Law, attracting more foreign direct investment, and (iii) high commodity prices offering positive terms of trade for Indonesia and boosting its key exports.

#### A. The situation of Job Creation Law

On December 30, 2022, Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation has enacted. The issuance of this law is deemed as urgent situation to provide legal certainty for legal vacuum, and to provide a good perception for both domestic and foreign investors, in replacing the Law No. 11 of 2020 concerning Job Creation. However, due to the unclear implementation of the new rules set by Job Creation Law, because of the opposition by the labor union and the confused attitude of the company side, the amendment work on Collective Labor Agreements (CLA) faces difficulties. This pending situation of CLA

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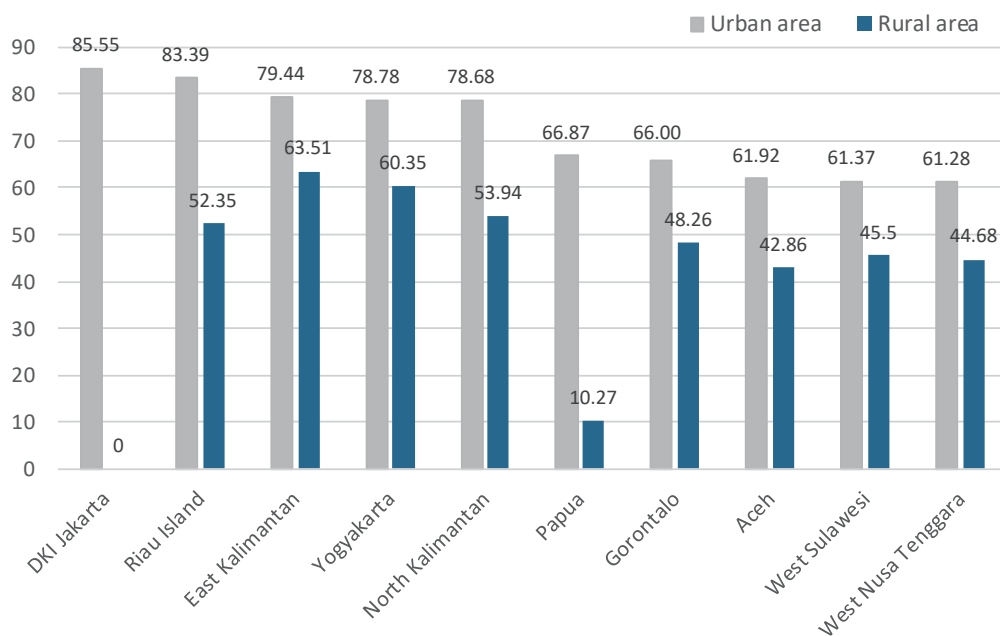
11. World Bank. *Indonesia Economic Prospects: Trade for Growth and Economic Transformation*, p 25.

is affecting the operation of the company and losing confidence in the investment environment by foreign investors. The effects or consequences of this law will be still unclear for the purpose of inviting investments.

## B. Disparity between urban and rural areas

As recognized in the policy papers of the Indonesian government, the efficiency of production, increase of the formal sector, and upgrading the education levels have strictly connected with the disparity between urban and rural areas. Overcoming these linked issues is pointed out as the responsibility of the local government rather than the national government. Many Indonesian workers are not able to adapt to the digitalization process.

Provinces with the highest percentage of people who have accessed the internet are still dominated by the western Indonesia region, namely Java, Sumatra, and Kalimantan. The lowest percentage are dominated by the eastern Indonesia region, namely in Sulawesi, Nusa Tenggara, and Papua Province (Figure 5).



Source: Central Bureau of Statistics 2021.<sup>12</sup>

**Figure 5. Highest and lowest provinces by population aged five years and over who have accessed the internet in the last three months in 2021 (%)**

The average income of casual workers in Indonesia between urban and rural areas still has a wide gap. From year to year, the average income in urban areas is higher by Indonesian Rupiah (IDR) 200,000 to 300,000 than that in rural areas. The below Table 1 shows the average income level of workers in urban and rural areas during the pandemic.<sup>13</sup>

In terms of the main industrial sectors, jobs in agriculture, forestry, and fishery still dominate the rural areas, which mainly consists of informal workers. Wholesale and retail trade dominates the industrial sectors in urban areas, which signifies a higher number of formal workers than that in rural areas (Figure 6).

12. Central Bureau of Statistics. *Indonesia Telecommunication Statistics 2021*.

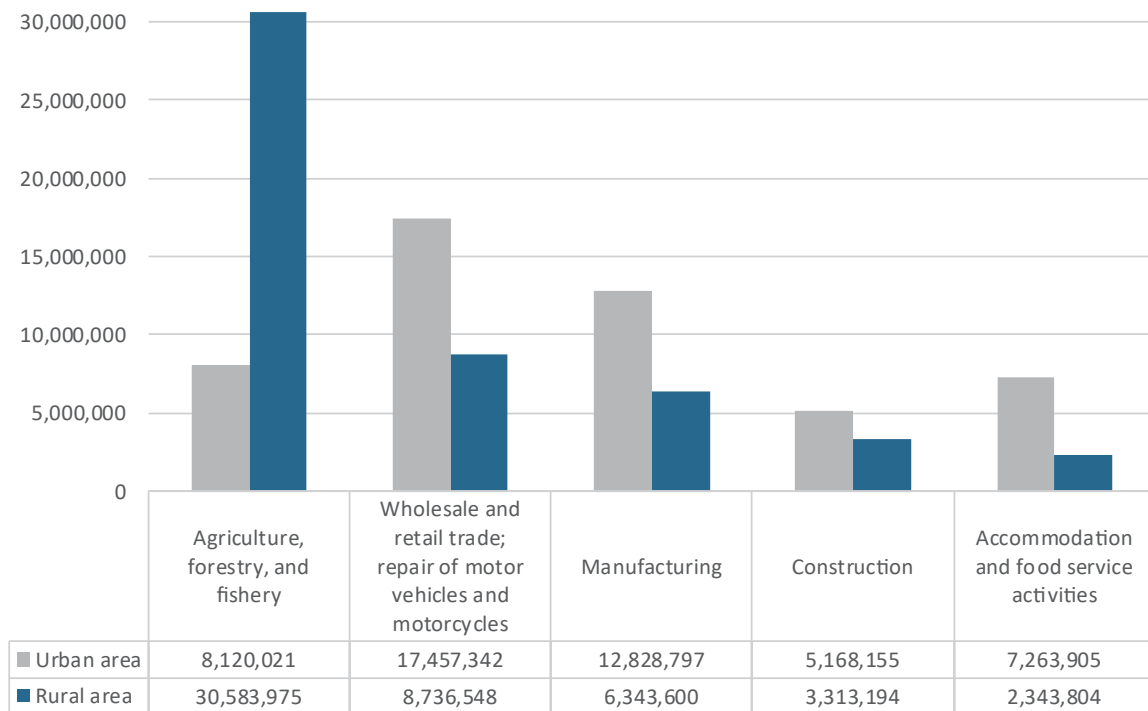
13. See above at n 6, *Average Income of Workers in Indonesia between August 2020 and August 2022*.

**Table 1. Average income of casual workers in urban and rural areas during the pandemic (unit: million IDR)**

	Aug-2020	Feb-2021	Aug-2021	Feb-2022	Aug-2022
Urban area	1,473	1,506	1,463	1,567	1,745
Rural area	1,294	1,277	1,306	1,370	1,488

Source: Central Bureau of Statistics.

Note: Data from August 2020 through August 2022.



Source: Central Bureau of Statistics.

**Figure 6. Comparison of number of the workers in urban and rural areas by main industrial sectors in 2022 (unit: persons)**

### C. Regulating the recovery period by postponing the minimum wage increase and renegotiating wage policies

Average wages across all sectors increased by 12% for the period of the third quarter of 2022, due to the increase of minimum wages. The minimum wage in Indonesia currently ranges from IDR 1.9 million (USD 128.82) to IDR 4.9 million (USD 322.48) per month (Table 2). The average minimum wage in 2023 out of all 34 provinces is IDR 2.92 million (USD 192.32).

In an emergency such as a pandemic, the government is an actor with a crucial role in ensuring equal distribution of income and accessibility. During the pandemic, the Indonesian government issued at least two regulations regarding minimum wage. The first one was Circular Letter of the Minister of Manpower No. M/11/HK.04/X/2020 which essentially ordered Regents/Mayors not to increase the minimum wage in 2021, and the second one was *Permenaker 2/2021* [the Ministry of Manpower Regulation No. 2 of 2021] concerning the Implementation of Wages in Certain Labor-Intensive Industries during the Coronavirus

Disease 2019 Pandemic issued on February 15, 2021. As stated in Article 2 of the Ministry of Manpower Regulation No. 2 of 2021, this regulation aims to provide protection and maintain work and business continuity during the pandemic.

**Table 2. Minimum wages of all provinces in Indonesia**

(Unit: USD; 1.0 USD = 15,200 IDR)

No.	Province	Minimum wage
1	Nanggroe Aceh Darussalam	224.58
2	North Sumatera	178.32
3	West Sumatera	180.42
4	Riau	209.97
5	Jambi	193.61
6	South Sumatera	223.95
7	Bengkulu	159.09
8	Lampung	173.24
9	Bangka Belitung	230.16
10	Riau Islands	215.73
11	Jakarta Capital Special Region	322.48
12	Banten	175.08
13	West Java	130.70
14	Central Java	128.82
15	Special Region of Yogyakarta	130.38
16	East Java	134.22
17	Bali	178.53
18	West Nusa Tenggara	156.01
19	East Nusa Tenggara	139.73
20	West Kalimantan	171.61
21	Central Kalimantan	209.27
22	South Kalimantan	207.23
23	East Kalimantan	210.61
24	North Kalimantan	213.92
25	North Sulawesi	229.27
26	Central Sulawesi	171.02
27	South Sulawesi	222.70
28	Southeast Sulawesi	181.50
29	Gorontalo	196.66
30	West Sulawesi	188.93
31	Maluku	185.05
32	North Maluku	195.83
33	West Papua	215.92
34	Papua	254.25

Source: Compiled by the author from the government data.

In terms of the effects of the COVID-19 pandemic on business continuity, they are still being felt, it takes time for the business world to recover. Postponing the issuance of annual wage increases by the government for a certain period considering whether the company's condition has recovered from the impact of the pandemic by providing flexibility to employers to renegotiate wage schemes during the pandemic.

#### IV. Government efforts to protect vulnerable workers

Due to the dominating number of informal workers and their high-risk nature, the central and regional governments have synergized in protecting vulnerable workers. The efforts made are in the form of making



programs and regulations/policies that protect all workers in Indonesia, both wage workers and non-wage workers.

### A. The programs

In 2004, the government issued Law No. 40 of 2004 concerning *Sistem Jaminan Sosial Nasional* (SJSN) [National Social Security System]. Then in 2011, the government stipulated Law No. 24 of 2011 concerning *Badan Penyelenggara Jaminan Sosial* (BPJS) [Social Security Agency of Health] and appointed a state-owned insurance company, PT Askes (Persero) as an organizer of the social security program in the health sector. PT Askes (Persero) changed its name to BPJS Health. Through *Jaminan Kesehatan Nasional-Kartu Indonesia Sehat* (JKN-KIS) [National Health Insurance-Indonesian Health Card Program] organized by BPJS Health, the state is present in our midst to ensure that all Indonesians are protected by comprehensive, fair, and equitable health insurance.<sup>14</sup>

BPJS as a health institution in Indonesia has two programs, namely BPJS *Kesehatan* [Social Security Agency of Health] and BPJS *Ketenagakerjaan* [Social Security Agency for Employment]. Currently the BPJS programs consist of:

- 1) BPJS *Kesehatan* [Health Social Security Administrative Body] is a legal entity formed to administer the health insurance program. The health insurance administering body which officially started operating on January 1, 2014, administers *Jaminan Kesehatan Nasional* (JKN) [National Health Insurance] or health care insurance for all Indonesian citizens. For *Penerima Bantuan Iuran* (PBI) [Contribution Assistance Recipients] participants or health insurance participants who cannot afford it, the monthly contribution is paid by the government. Payment of contributions is divided into:
  - a) Contributions for *wage recipient workers who work for government institutions* consist of civil servants, members of *Tentara Nasional Indonesia* (TNI) [the Indonesian National Armed Forces], members of the Indonesian National Police, state officials, and non-civil servant government employees are in the amount of 5% of the salary or wages per month with the following conditions: 4% is paid by the state and 1% paid by the participants.
  - b) Contributions for *wage recipient employees who work for Badan Usaha Milik Negara* (BUMN) [State-Owned Enterprises], *Badan Usaha Milik Daerah* (BUMD) [Regional-Owned Enterprises] and the *private sector* are 5% of their salary or wages per month with the following conditions: 4% is paid by the employers and 1% is paid by the participants.
  - c) Contributions for *additional family members of wage recipient workers* consisting of the fourth child and so on, father, mother and parents-in-law, the number of contributions is 1% of the salary or wages per person per month, paid by the salaried workers.
  - d) Contributions for *non-wage recipient workers and non-workers* are paid by the participants themselves.
  
- 2) BPJS *Ketenagakerjaan* [Employment Social Security Administrative Body] is a public legal entity that provides protection for workers to overcome certain socio-economic risks due to work relationships. The guarantees given to the workers are divided based on the workers' status:
  - a) *Wage recipient workers*: Everyone who works by receiving salary, wages or other forms of

14. Social Security Agency of Health. "History of Social Security."

remuneration from the employer. Examples are office workers or factory workers. The guarantees provided are:

- Pension plan
- Life insurance
- Job loss guarantee
- Accident insurance
- Pension guarantee

b) *Non-wage recipient workers*: Individuals who carry out business activities independently to earn income. Such as doctors, traders, online motorcycle taxis and others. The guarantees provided are:

- Pension plan
- Life insurance
- Accident insurance

3) Indonesian ministries are also collaborating to implement programs to protect the informal workers. Some of the programs implemented by the ministries are:

- a) *Kementerian Koperasi dan Usaha Kecil Menengah* [Ministry of Cooperatives and Small and Medium-sized Enterprises] has implemented programs to support micro, small, and medium-sized enterprises (MSMEs), which often employ informal workers. For example, the government has provided working capital loans, training programs, and market access support to MSMEs.
- b) *Kementerian Sosial* [Ministry of Social Affairs] has implemented social protection programs, such as cash transfers and food assistance, for vulnerable groups including informal workers affected by the pandemic.
- c) *Kementerian Keuangan* [Ministry of Finance] has provided fiscal stimulus packages to support the economy, which include measures to support businesses and workers affected by the pandemic.
- d) *Kementerian Kesehatan* [Ministry of Health] has implemented health and safety protocols to protect informal workers from COVID-19, such as providing personal protective equipment and conducting testing and tracing.
- e) *Kementrian Pertanian* [Ministry of Agriculture] targets to increase the welfare of farmers through three strategic programs, namely provision of *Kredit Usaha Rakyat* (KUR) [People's Business Credit] program, *Grati Eks* [Three Times Export Movement] program and establishment of *Kostra Tani* [Strategic Command for Agricultural Development].
- f) *Kementerian Koordinator Bidang Kemaritiman dan Investasi* [Coordinating Ministry for Maritime Affairs and Investment] prepared incentives in the form of *Bantuan Langsung Tunai* (BLT) [direct cash assistance] for one million fishermen affected by COVID-19. They also launched a program to improve the welfare of fishing communities in the form of air cargo route openings to China, Japan and South Korea to encourage exports of fishery products abroad and maintain a healthy national economy.

The Indonesian government also encourages and strengthens worker protection through *Gerakan Nasional Peduli Pekerja Rentan - GN Lingkaran* [National Movement for the Protection of Vulnerable Workers].<sup>15</sup>

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15. Ministry of State Apparatus Utilization and Bureaucratic Reform.

## B. The regulations/policies

Along with programs to protect vulnerable workers, Indonesia has also ratified regulations and policies regarding this matter. Some of them are:

1. *Kementerian Ketenagakerjaan* [Ministry of Manpower] has issued various policies to support formal and informal workers, such as providing cash transfers, subsidies, and social protection programs to those affected by the pandemic.
2. Decision of the Constitutional Court No. 12/PUU-I/2003 which essentially stated that employers were not given the authority to carry out unilateral layoffs without going through a due process of law and a court decision.
3. Law No. 18 of 2017 concerning Protection of Indonesian Migrant Workers (PMI) stipulates that the central and local governments have an obligation to protect all PMIs before work, during work, and after work. With this law, PMI is also given protection through the national social security program.
4. The government through *Badan Pelindungan Pekerja Migran Indonesia* (BP2MI) [Indonesian Migrant Workers Protection Agency] has issued a regulation regarding Exemption of Indonesian Migrant Worker Placement Fees. Through this regulation, the government waives placement fees for PMI in ten positions that are quite vulnerable, such as housekeepers, babysitters, caregivers for the elderly, cooks, family drivers, gardeners, babysitters, cleaners, field workers or plantation, and migrant fishing boat crews. Waived fees include departure and return tickets, work visas, legalization of work agreements, job training, competency certificates, and accommodation.
5. *Kementerian Pemberdayaan Perempuan dan Perlindungan Anak* [Ministry of Women's Empowerment and Child Protection] and *Kementerian Ketenagakerjaan* [Ministry of Manpower] are pushing for the acceleration of the ratification of *Rancangan Undang-Undang Perlindungan Pekerja Rumah Tangga* (RUU PPRT) [Draft Law for the Protection of Domestic Workers] as *Undang-Undang* (UU) [law]. Protection for domestic workers is weak because they have not been recognized as workers. The ratification of this bill into law could become the basis for regulating and managing issues in the employment sector, especially protecting domestic workers. This law will guarantee the protection of domestic workers, employers, and agents distributing domestic workers.

Despite the existence of laws and regulations aimed at protecting vulnerable workers, the implementation of these measures is still far from perfect. While the legal framework for worker protection may be in place, there are often gaps in enforcement or loopholes that allow employers to exploit vulnerable workers. Therefore, while progress has been made in the area of worker protection, there is still much work to be done to ensure that all workers are treated fairly and with dignity.

## V. Conclusion

The COVID-19 pandemic has significantly impacted Indonesia's labor force and economy, with many workers facing job losses, reduced working hours, and declining incomes. Indonesia has a large population of informal workers, including fishermen, street vendors, farmers, and many others. These workers often face significant challenges in terms of access to social protections and support, especially during the COVID-19 pandemic.

Despite these challenges, some programs and policies have been made to keep the economy going and protect the workers. Several ministries, such as the Ministry of Cooperatives and Small and Medium-sized

Enterprises, the Ministry of Social Affairs, the Ministry of Finance, and the Ministry of Health have played essential roles in implementing policies and programs to support informal workers. Indonesia has also ratified regulations and policies regarding protecting vulnerable workers. It is important to note that while the law has been established, the implementation by employers or law enforcement might still be flawed. This has become a significant chance for the government to perfect the law enforcement.

As a result, Indonesia's economy has shown remarkable resilience and recovery following the COVID-19 pandemic. After experiencing a significant contraction in the second quarter of 2020, the country's economy rebounded strongly in the year's second half and grew in 2022. Indonesia has continued to open up and attract foreign investment with reforms to simplify business regulations and improve the investment climate. This demonstrates the country's potential for long-term growth and development.

Indonesia is the largest economy in Southeast Asia, with an archipelago nation of more than 300 ethnic groups. Today, Indonesia is the world's fourth most populous nation and 10th largest economy in purchasing power parity. Indonesia has also made enormous gains in poverty reduction, cutting the poverty rate by more than half since 1999. Improvement of the labor market will be the key factor for the country's sustainable development, which requires an ODA for human resource development, including primary education or training to the local government. With the restructuring of the education system, the Job Creation Law will have effects.

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# Labour Policy in Post-Covid-19 Malaysia: Crisis Responses, Structural Reform

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- I. Introduction
- II. Malaysia's labour policies and institutions: Overview and recent landmarks
- III. Covid-19 impacts and responses
- IV. Structural problems
- V. Conclusion

## I. Introduction

Malaysia's labour policies and institutions have tended to lag behind international standards and the expected attainments of an upper-middle-income country on the cusp of high-income status. Notably, the country has sustained low unemployment rates but real wages also remain persistently low. Recent years have seen both a flourish of change that have advanced the catch-up process—but also exposés of shortcomings, particularly forced labour conditions, which emphatically show the distances still to cover toward the national aspiration of a high-skilled, high-productivity, high-wage economy offering decent work and quality of life.

Malaysia's passage through Covid-19 and economic shutdown demonstrates the mix of progress and stasis that characterizes the country's labour policies, with substantial job protection and wage support that mitigated higher unemployment, while forced labour and dismal work and living conditions of migrant workers also came to public prominence. National household survey data show declining household income inequality over the past decade and a half, and official labour statistics report steeper wage growth in elementary occupations alongside moderate growth in production and service jobs—consistent with policy interventions at the bottom end but weak worker bargaining power. Malaysia faces myriad and complex post-pandemic challenges, but has institutional groundwork and policy roadmaps to build on, including the National Action Plan on Forced Labour (NAPFL) and recently amended progressive employment legislation.

This paper provides an overview of Malaysia's labour policies, with particular attention to developments of the past decade. I survey the main legislative and policy landmarks, with some discussion of their distinctive features and limitations. I then consider Covid-19 impacts and policy responses in 2020–2021—with a focus on unemployment and wages—and unpack the forced labour issues, predominantly affecting migrant workers, that simultaneously came to the fore. The paper concludes with discussion of the dynamics of positive change and systemic hurdles, broadening the perspective again to structural features of Malaysia's labour regime and potential areas of reform.

## II. Malaysia's labour policies and institutions: Overview and recent landmarks

Malaysia's record of labour policies and institutions is one that has generally lagged behind international norms and the practices of comparable countries. Undoubtedly, the country has progressed in raising labour standards and worker protections, but at a slow pace and often in a selective manner. A broader and more complex history of repression against organized labour and the political left, which heightened in the 1960s,

pre-empted the labour movement that was making inroads into Malaysian society and polity. Amid rapid and sustained economic growth from the 1960s through to the 1990s, Malaysia contained unionisation, curtailed worker welfare-enhancing legislation on matters such as work hours and maternity leave, and resisted minimum wage and unemployment insurance on the grounds of their interference with ‘market forces.’ Trade unions have been restricted by immense power vested in the office of the Director-General of Trade Unions—including broad discretion over registration and deregistration—and curbs over industrial action, as well as a policy decision in the early 1980s to adopt in-house unions rather than industry or occupational unions.

Influxes of foreign migrant labour from the 1980s prompted a policy to be formulated and a work pass system introduced in the early 1990s—but with inconsistent practices (Kaur 2014, Lee and Pereira 2023). A notable illustration is Malaysia’s enforcement of the worker levy, which at its inception in Malaysia was meant to be paid by employers according to the policy’s principle, but subsequently became deducted from employees’ wages—first as a noncompliance due to weak enforcement and later as a practice explicitly permitted by the government. The government would later, in the face of public pressures, revert back to requiring employers to pay the levy, but the practice of wage deductions arguably contributed to a labour regime that perpetuates worker debt and forced labour conditions.

The post-2010 period has witnessed more positive developments. Table 1 surveys some important landmarks of the past decade, beginning with the enactment of minimum wage legislation, specifically the National Wages Consultative Council Act 2011, and its rollout in 2013–2014. While rather late in arrival, behind Southeast Asian neighbours and lower-income economies such as Indonesia and Cambodia, the introduction of minimum wage was a significant move that bolstered wage growth and mitigated working poverty.

Malaysia also deepened its social protection institutions in the subsequent years, with the extension of SOCSO (Social Security Organization) benefits to the self-employed in 2017, and to migrant workers in 2019. This paper adopts the UN definition of a migrant worker as “a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.”<sup>1</sup> SOCSO, established in 1971, primarily provides insurance for injury, disability or death incurred at work or travelling for work, in the form of lump sum payments, allowances, therapy, and other expenses. For decades, eligible employees—Malaysians earning below a threshold wage level—would maintain SOCSO membership through monthly contributions by employee and employer. The Employment Insurance System (EIS), also funded by employee’s and employer’s monthly contributions, was established to provide benefits to the unemployed, in the form of allowances and job search and placement services. Like SOCSO, EIS was initially limited to Malaysian citizens and permanent residents, but also made mandatory for non-citizen employees in 2019. In the same year, Malaysia also amended the Employees’ Minimum Standards of Housing, Accommodations and Amenities Act (previously named Workers’ Minimum Standards of Housing and Amenities Act). The new, enhanced version retained employers’ health and hygiene obligations, including transportation of sick employees to hospitals, and more consequentially required employers providing worker living quarters to obtain a Certificate for Accommodation (Low 2021a).

On the labour regime that governs worker voice and organization, as well as rights, fairness and access to justice particularly for migrant workers, Malaysia has undertaken a broader review, prodded by the 2016 Labour Consistency Chapter with the US, as part of the Trans-Pacific Partnership. The overarching goal has been to more closely align Malaysia’s institutions and practices with ILO standards, and to redress the persistent problem of forced labour and human trafficking. Poor labour standards and weak enforcement of

1. This migrant worker definition was articulated in the *1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*.

labour laws, by lowering the bar and allowing for exploitative migration and employment, constitute rights violations and drag down work conditions and wages for all.

In 2019, the government with the Malaysian Employers' Federation and the Malaysian Trades Union Congress signed a tripartite MoU (Memorandum of Understanding)—the Decent Work Country Program (DWCP) 2019–2025—with guidance of the International Labour Organization (ILO 2020). Decent work, as defined by ILO, is work that is “productive and delivers a fair income, security in the workplace and social protection for families,” provides for “personal development and social integration” and “equality of opportunity and treatment for all.” The MoU commits to promoting “sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all,” based on three priorities: (1) Rights at work—promoting and protecting rights at work; (2) Future of work—strengthening national capacities to meet the needs of current and future work; (3) Labour migration—strengthening labour migration governance.

**Table 1. Major Malaysian labour legislation and policy (2013–2023)**

Law / Policy	Year	Notes
Minimum wage law	2013–2014	<ul style="list-style-type: none"> <li>• Minimum wage rate reviewed every two years, in 2022 raised quite steeply: MYR1,100 to MYR1,500 per month</li> <li>• Applicable to all except domestic workers</li> </ul>
Social Security Organisation (SOCSO)—work-related injury and travel insurance	2017 2019	<ul style="list-style-type: none"> <li>• Exempted: government employees, domestic workers</li> <li>• Extended to self-employed taxi drivers and similar services</li> <li>• Extended to migrant workers</li> </ul>
Employment Insurance System—for unemployed with EIS account	2018 2019	<ul style="list-style-type: none"> <li>• Benefits: allowance, job search and placement <ul style="list-style-type: none"> <li>• Start of operations</li> <li>• Extended to migrant workers</li> </ul> </li> </ul>
Employees Minimum Standards of Housing Act amendment	2019	<ul style="list-style-type: none"> <li>• Requirement for accommodation license and more formalized obligations and enforcement</li> <li>• Enforcement postponed repeatedly throughout Covid-19—latest enforcement: January 2023</li> </ul>
Labour outsourcing	2019	<ul style="list-style-type: none"> <li>• Termination of labour outsourcing licenses, for the purpose of eliminating third-party recruitment</li> <li>• Evidence of third-party recruitment continually found</li> </ul>
Decent Work Country Program	2019	<ul style="list-style-type: none"> <li>• Memorandum of Understanding between Malaysian government, business and labour</li> </ul>
National Action Plan on Forced Labour (NAPFL)	2021	<ul style="list-style-type: none"> <li>• Comprehensive plan for eliminating forced labour by 2030</li> <li>• Formulated through tripartite engagement with ILO direction</li> </ul>
Employment Act amendments	2022	<ul style="list-style-type: none"> <li>• Law applicable to all wage levels (previously employees earning below MYR2,000/month)</li> <li>• Work hours reduced from 48 to 45 per week</li> <li>• Maternity leave extended to 98 days; paternity leave introduced</li> <li>• Employees may request flexible work arrangements; employers must respond within 60 days</li> <li>• Forced labour prohibited, but narrowly defined</li> <li>• Discrimination prohibited, but with unclear terms of reference and scant resource for the Director-General of Labour to monitor/enforce</li> </ul>
Trade Union Act amendment	2022	<ul style="list-style-type: none"> <li>• Multiple union membership allowed; reduced discretionary powers of Director-General of Trade Unions</li> <li>• Bill passed by House of Representatives, awaiting Senate endorsement (subject to amendments)</li> </ul>

Sources: Lee and Zhang (2023), with author's updates and additions.



Malaysia established further labour policy landmarks, after Covid-19 caused a slowdown on this front. The government launched the National Action Plan on Forced Labour (NAPFL) 2021–2025 in November 2021, while renewing the National Action Plan on Trafficking in Persons (NAPTIP 3.0, 2021–2025) which had started in 2011 (Ministry of Human Resources 2021). Various Employment Act amendments, including redefined working hours from 48 to 45 per week and maternity/paternity leave provisions, were signed into law in March 2022, and parliament passed the Trade Union Act amendment bill which reduces restrictions on union formation and activity (see Table 1 for further information). At the same time, the government conceded to business appeals for deferral of implementation, on the grounds that economic conditions continued to impose financial stress. The effective date of the Employment Act amendments was thus postponed from September 2022 to January 2023.

### III. Covid-19 impacts and responses

Malaysia responded to Covid-19, as with much of the world, by imposing mobility restrictions, the severest of which was the nationwide Movement Control Order (MCO) of March–June 2020 that locked down in-person economic activity except for essential services. Subsequent Conditional MCOs and Emergency MCOs were regional in scope and allowed for production with limited capacity and social distancing. Large swathes of the economy shifted to remote working; however, the labour market repercussions were immense, with retail, restaurants and tourism enduring the severest downturn, while other sectors were also adversely struck by cuts in output and earnings and the contraction in global supply chains. Malaysia suffered a staggering 17.1% drop in GDP in 2020-Q2. Correspondingly, national unemployment rose from 3.2% in 2019-Q4 to 5.1% in 2020-Q2. The patterns based on age group are noteworthy; the 25–34 age bracket experienced the steepest increase, from 2.9% to 5.2%. Youth unemployment, conventionally referring to 15–24 year-olds, is consistently highest—largely due to the frictional factors of new labour market entry and higher job turnover—and also increased from 9.9% to 12.5%. Notably, unemployment also rose among older workers (55–64 years old), arguably due to re-entry of senior workers into the labour force in the wake of income losses (Figure 1).

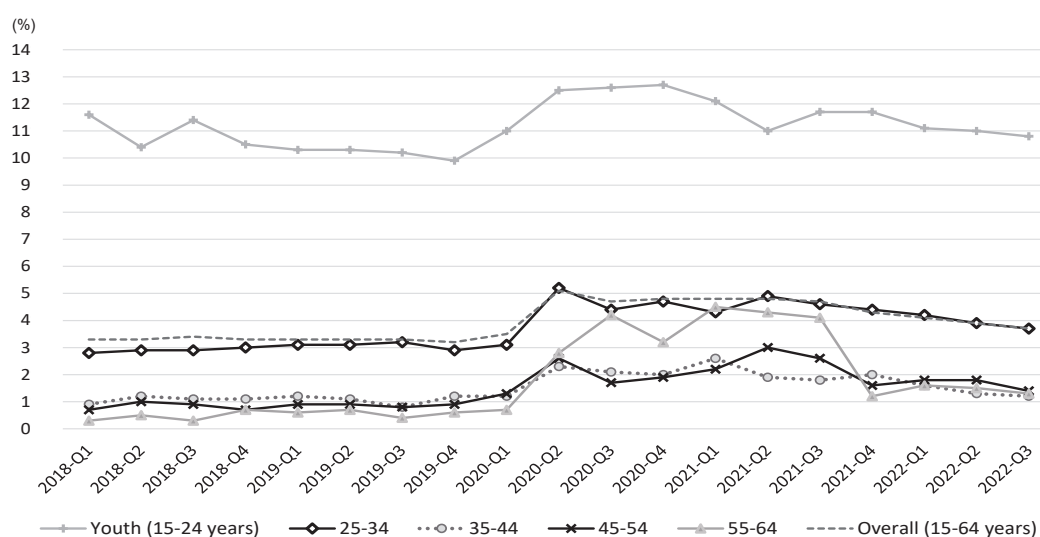
On the whole, the rise in unemployment can be considered modest, and can be attributed to job protection policies, most saliently the wage subsidy. Surveys showed that many firms and self-employed persons struggled to stay afloat, particularly during the MCO national lockdown. This intervention, which commenced soon after the imposition of the MCO, buffered micro, small and medium firms by covering a portion of wages per employee for which the assistance was sought, with higher priority to low-wage workers. Micro and small enterprises applying for the subsidy were granted automatic approval, while medium-sized enterprises (based on the number of subsidies claimed, not total employees) were required to show loss of income due to the pandemic. Nonetheless, unemployment still rose by about two percentage points—and slowly but steadily recovered, although by end 2022, at 3.7% it remained above the pre-pandemic level of 3.3%.

Two other aspects of the unemployment consequences of the Covid-19 recession of 2020 should be registered. First, job displacement of migrant workers is assuredly undercounted, but the magnitude is difficult to ascertain. The migrant worker population in Malaysia is fraught with uncertainty, due to the number of undocumented workers, of which estimates range from 1.2 million to 3.7 million. Pre-Covid-19, the number of work passes stabilized at around 2.0–2.2 million in 2016–2019. The Labour Force Survey (LFS) is Malaysia's principal source of labour force and employment data, does not exclude undocumented workers, but is based on household sampling that omits dormitories and work sites where large numbers of

migrant workers reside. The LFS generated a total foreign worker estimate of 2.24 million, slightly exceeding the work pass count of 1.99 million—a figure precisely obtainable from the government’s registry. In light of the clear undercounting of migrant labour, we may deduce that the Covid-19-induced rise in unemployment as calculated from the LFS is also undercounted. Moreover, many work passes were not renewed and the workers returned to their home countries, evidenced in the precipitous decline in total passes from 2.0 million in 2019 to 1.4 million in mid-2020, and 1.2 million by October 2022. Had many formerly employed migrant workers remained in Malaysia, the unemployment rate would likely be significantly higher.

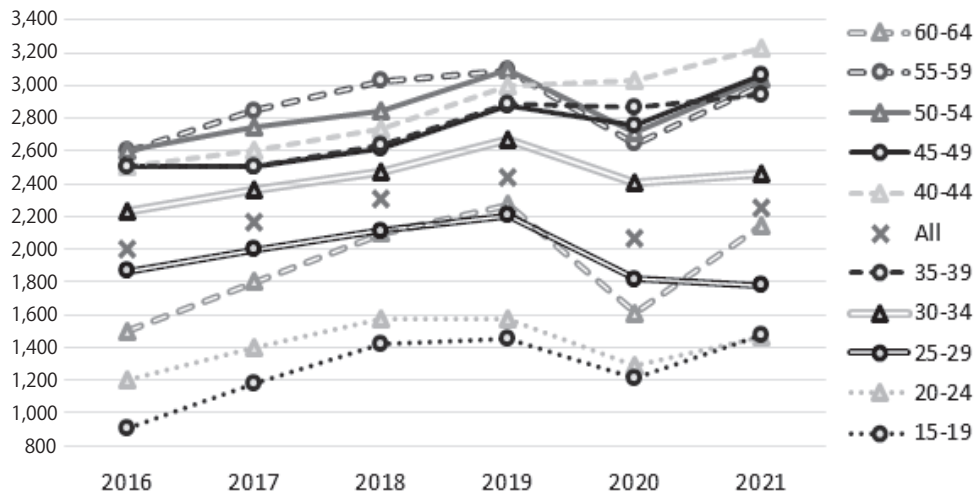
Second, another noteworthy development concerns the utilization of the EIS, which turned out to be very timely given its start of operations in 2018. However, EIS uptake was distinctly low relative to the increase in unemployment, during March–May 2020 at the height of national lockdown. More claims came forth from June 2020 onwards, which suggest either a lagged effect or inadequate awareness or willingness to claim EIS benefits—an outcome that warrants further inquiry (Lee and Zhang 2023).

The economic downturn expectedly translated into declining wages. Figure 2 shows the data, which are only available on an annual basis from the *Salaries and Wages Survey Report*. Due to the survey sampling’s exclusion of non-citizens, the actual decline is presumably more significant than reflected in these official statistics. Nevertheless, this data resource remains the most authoritative and nationally representative, provided the findings are read within context. Similar to the age-delineated pattern of unemployment, wages were also impacted more at the upper and lower ends. Senior workers (above 50 years old) saw median wage drop considerably in 2020, followed by a steady recovery in 2021, although they had mostly still not returned to 2019 levels. Meanwhile, median income for those aged between 35 to 49 saw negligible decline in 2020—some age brackets even enjoyed continuous wage growth across the 2016–2021 interval. There was a sharp drop in median income for workers below the age of 35. The decline is concerning for the 15–19 and 20–24 age groups since they have a low starting base, although these groups rebounded quite decisively in 2021. The most worrying trend, however, pertains to the 25–29 bracket, which registered a net decline across the past five years.



Source: Author’s compilations from DOSM’s *Labour Market Review*.

**Figure 1. Malaysia: Quarterly unemployment rate, by age (2018–2022)**



Source: DOSM (2022).

Note: 2010 base year.

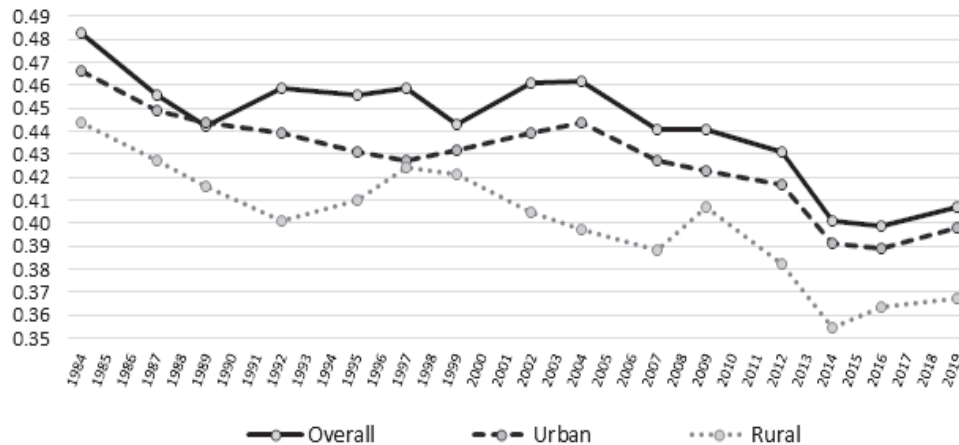
**Figure 2. Malaysian employees real median salary (currency: MYR per month), by age (2016–2021)**

In the wider context of labour standards and worker well-being and rights, Malaysia came under intense negative scrutiny in 2019–2021 on forced labour and human trafficking. The issues have been brewing for years, and are not necessarily triggered by Covid-19—albeit, arguably, exacerbated by overwork and residential overcrowding as rubber glove manufacturers desperately sought to meet the spike in demand. Nevertheless, US government import bans on prominent rubber glove manufacturers and oil palm producers, and a fall from Tier 2 Watch List in 2018–2020 to Tier 3 in 2021–2022 according to the US Trafficking in Persons Report, served as a wake-up call for Malaysia to take more decisive action, and also to engage critically on the issue rather than reactively dismiss it as the government tended to do previously (Lee and Pereira 2023). News reports and academic research in response to forced labour allegations have underscored the persistence of poor housing, unpaid overtime and worker debt, as well as third-party recruitment or labour outsourcing (Bhutta et al. 2021) which has contributed to the lack of accountability of employers toward employees.

#### IV. Structural problems

##### *Wage distribution and persistent low wage levels*

Wages and earned income, as the primary source of household income, is the most consequential labour market outcome. The distribution of workers' wages and household income bear immense socioeconomic importance, and the most authoritative reference for inequality derives from Malaysia's nationally representative Household Income Survey (HIS) conducted twice every five years. Official statistics computed from the HIS, chiefly the Gini coefficient of gross household income, show marked decline in inequality over the past 15 years (2004–2019). As shown in Figure 3, the downward trend is driven by inequality within urban areas, where 75% of Malaysia's population reside and where labour institutions affecting wage employment predominantly take effect—whereas self-employment and informal activities have a comparatively larger presence in rural areas. The decline in urban inequality and overall inequality in Malaysia appears to buck the opposite trend reported in many countries.



Source: DOSM (2020).

Note: Malaysian citizens only.

**Figure 3. Malaysia: Gini coefficient of gross household income, by area type (1984–2019)**

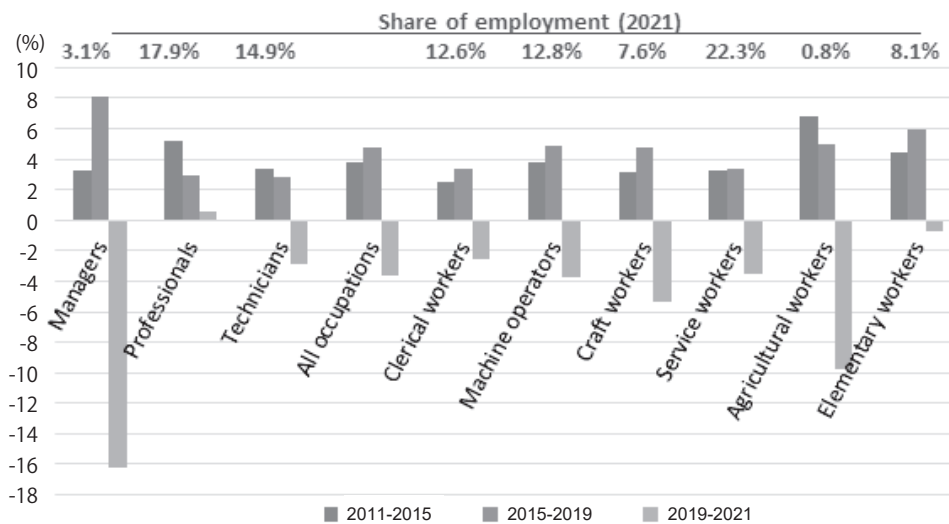
The HIS datasets are not available for research and independent verification, thus little is known about the factors explaining changes in distribution. However, Malaysia's introduction of minimum wage, along with expansion of social transfers and mass higher education which lowers the earnings premium on diploma and degree qualifications, render the official account of declining inequality distinctly plausible—even if the precipitous decline in the 2012–2014 interval is questionable (Lee and Choong 2021).

Inequality of wages or personal earnings has not been empirically investigated. National survey data, chiefly the HIS which contains the relevant data as well as the Salaries and Wages Survey of employees, are not accessible for research. Nonetheless, statistics published in the *Salaries and Wages Survey Reports* provide some insight on wage distribution, via comparisons between occupational groups. Figure 4 shows average annual growth in real wages for three periods: 2011–2015, 2015–2019, and 2019–2021 which corresponds with the pandemic-induced downturn and post-pandemic recovery.

The growth rates indicate that in the decade preceding Covid-19, higher growth was enjoyed at the top end, among managers, and the bottom end, with elementary workers and agricultural workers experiencing relatively high growth—latter boosted by commodity prices. Muthusamy, Khalidi and Abu Rahim's (2023) analysis of pre-pandemic wage growth by deciles similarly finds evidence of sluggish wage growth in the middle of the distribution and relatively higher growth at the top and bottom ends. The patterns in Figure 4 concur with the focus of policy intervention, particularly statutory minimum wage and the wage subsidy, on the lowest paid workers of which elementary workers are the most pertinent occupational group, while conditions also favored managerial earnings growth. However, managers (which include the self-employed) and agricultural workers experienced higher volatility on the downside, with steeper declines from 2019 to 2021. In this vein, there are grounds to expect elementary workers to experience steeper wage gains in 2023, on the back of a large increase in the minimum wage rate. Of course, there are operational drawbacks, such as the reversion to a single, nationwide rate instead of variations by region or urban-vs-rural location which would enhance the policy instrument's benefits to urban workers via higher minimum wage rates (Lee and Zhang 2023).

These wage growth patterns reflect workers' weak bargaining power, notably of service workers, who

constitute a large section of employment in Malaysia's service-based economy and for whom low-wage interventions such as minimum wage have only indirect, "ripple" effects, likely of marginal magnitude. The state of wage bargaining institutions, in general, is relatively underdeveloped in Malaysia compared to advanced high-wage economies (Muthusamy and Wickstrom 2022). Another conspicuous pattern concerns the relatively slower growth for professional and technical workers in the 2015–2019 interval, along with less wage loss in 2019–2021—indeed, on average, professionals maintained wage growth despite the pandemic.

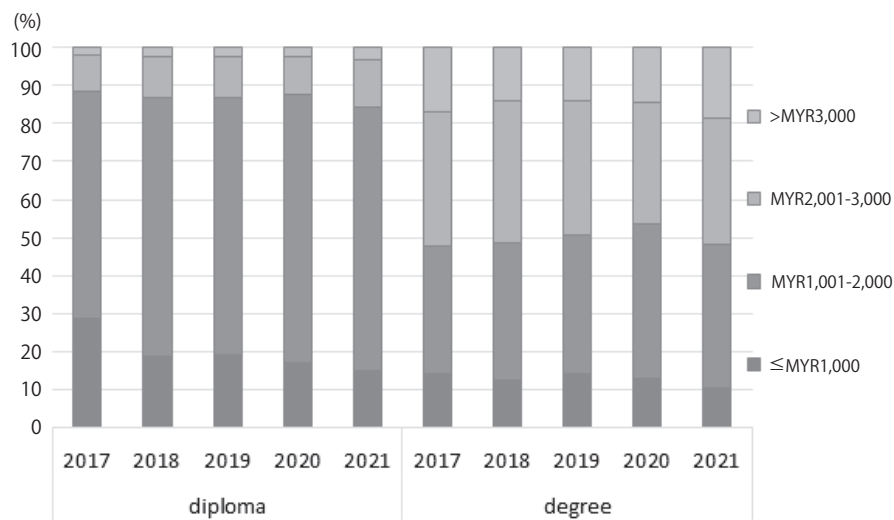


Source: Author's calculations from DOSM (2022).

Notes: Mean wage, 2010 base year; occupations sorted from highest to lowest wage in 2021.

#### Figure 4. Malaysian employees' annual real wage growth, by occupation (2011–2021)

Persistent low wages and stagnant wage growth, particularly for higher education qualified workers, are weighty and perplexing challenges in Malaysia that warrant a brief note. The complexities of supply-side considerations of education quality and graduates' aptitude and skills, alongside demand-side factors such as the low baseline wage levels and weak worker bargaining power, are continually debated. In contrast, Malaysia's quantitative gains in higher education are beyond dispute. Continuous expansion of higher education has increased the share of the labour force holding tertiary level qualifications, from 23% in 2010 to 33% in 2021. While the higher education earnings premium has declined (Salih, Lee and Khalid 2014), sluggish wage growth is a recurrent issue, especially for fresh graduates (Lee 2020). Figure 5 illustrates this problem, from the angle of new labour market entrants' wages as reported in the tracer survey of college or university graduates. Staggeringly, almost 90% of diploma graduates, and around half of degree graduates, reported wages of MYR2,000 or less. Relatively low pay for tertiary graduates may moderate wage disparities vis-à-vis less qualified workers, but low inequality for these reasons poses other policy concerns.



Source: Ministry of Higher Education (2022).

**Figure 5. Starting salary of Malaysian higher education graduates, diploma and degree (currency: MYR, 2017–2021)**

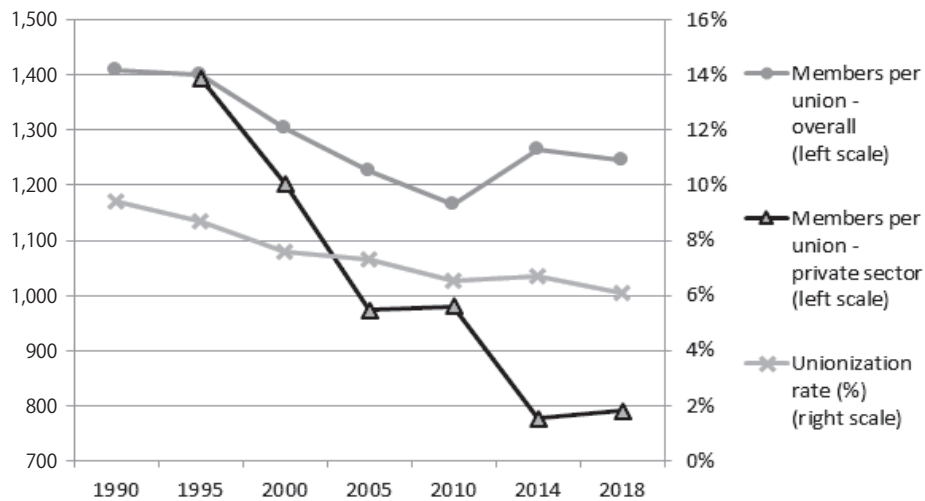
#### *Worker representation, labour standards and decent work*

Another broad set of labour issues in post-Covid-19 Malaysia pertain to worker organization and the institutions that represent their interests, chiefly trade unions, and institutions that protect basic rights and standards, which take the form of laws and policies under the overarching banner of decent work. As noted earlier, Malaysia has amended various laws to achieve closer alignment with ILO standards and to comply with US bilateral consistency terms. The impetus for these developments preceded the pandemic, but the hardships workers faced and exposés of forced labour cases during 2020–2021 have underscored the timeliness and importance of these changes. The general lack of workers' collective voice, and tenuous presence in collective bargaining, have precluded their capacity to secure better material conditions and institutional safeguards of their well-being.

The chronically marginalized state of organized labour is reflected in Figure 6. Unionization rates have continuously declined over four decades, and the public sector accounts for an increasing proportion of new membership—reflected in the steep drop in average union membership in the private sector from 2010 to 2018, even while the overall average has increased. Migrant workers, who are legally permitted to join unions and entitled to collective agreement terms and benefits, face prohibitive pressures and coercion against joining unions. Within the private sector, an estimated 3% of Malaysian workers, and at most 1% of migrant workers, belong to unions.

The predominance of public sector unions, which in Malaysia do not engage in collective bargaining but mainly advocate noncontractual and less materially consequential matters, is starkly shown in Table 2. Between 2015 and 2019, public sector unions increased their numbers and membership, while private sector unions grew in number but shrank in membership. Unions can also be differentiated by the scope—whether constituted at the level of establishment, trade, occupation, or industry—or whether their membership is open nationally or limited to in-house employees. Table 3 reflects some developments that correspond with economic trends, most significantly the increased number of occupational unions and national-level unions. With employment less fixed in a particular industry and younger workers' mobility across work places, the option of occupational union membership potentially offers workers a collective voice more suited to current

economic conditions and preferences. Malaysia’s amendment of trade union legislation, subject to passage by the Senate, formally enables unions to grow and play a more effective role in representing workers’ interests, although the allowance of multiple membership may introduce overlapping and conflicting jurisdictions in collective bargaining. The eventual impact on wages and benefits will only roll out in the subsequent years, and will certainly depend on the net balance of worker activism, employer resistance and government facilitation.



Sources: Lee (2017); author’s calculations from Department of Trade Union Affairs (2020).

**Figure 6. Malaysia: Union membership and contract labour (1990–2018)**

**Table 2. Malaysia: Trade unions by sector (public vs private) (2015 and 2019)**

	Number of unions		Union membership		Members per union	
	2015	2019	2015	2019	2015	2019
Government	146 20.0%	156 20.5%	463,965 50.8%	499,891 52.7%	3,178	3,204
Statutory body	105 14.4%	99 13.0%	82,663 9.1%	82,464 8.7%	787	833
Private sector	478 65.6%	507 66.5%	366,541 40.1%	366,417 38.6%	767	723
Total	729 100%	762 100%	913,169 100%	948,772 100%	1,253	1,245

Source: Author’s compilations from Department of Trade Union Affairs (2020).

Note: Percentage total.

**Table 3. Malaysia: Trade unions by scope (2015 and 2019)**

	2015		2019	
	Number	% Total	Number	% Total
Establishment	460	63.1%	485	63.6%
Trade	3	0.4%	3	0.4%
Occupation	178	24.4%	204	26.8%
Industry	88	12.1%	70	9.2%
Total	729	100%	762	100%
In-house	626	85.9%	631	82.8%
National	103	14.1%	131	17.2%
Total	729	100%	762	100%

Source: Author's compilations from Department of Trade Union Affairs (2020).

Malaysia's broader expansion of formal protection for workers and enhancement of work conditions, together with the NAPFL, appear to be back on track after some deferral due to Covid-19 (Table 1). These legal amendments and policy initiatives benefit workers in general, but some stand to particularly benefit Malaysian workers, and to address issues that have emerged from the shadow of Covid-19. The Employment Act amendment provides for employees to request flexible work arrangements, to which the employer must respond within 60 days and provide reasons if rejecting such request. The importance of flexibility within regular and stable employment, including work from home and usage of virtual platforms, have been underscored by the pandemic. Nonetheless, the grounds for flexibility to be granted and for adjudicating employers' response to their employees' requests, remain somewhat vague and unclear. Effective 2023, the Director-General of Labour may also inquire into matters relating to discrimination in employment, but the absence of a legal framework around the complex problem of discrimination, which can take various forms overt or subtle, again renders the legislative amendment rather cosmetic.

Some measures are clearly targeted at the problems surrounding forced labour and deficiencies in Malaysia's migrant labour regime (Low 2021b). The Employment Act amendment has specified that employers must be cleared of any forced labour charges before they can recruit. However, forced labour is defined narrowly, as it includes some but not all eleven conventional, ILO-determined indicators of forced labour. The legal reforms have also omitted important matters, such as the severe restrictions on migrant workers' option to change employer—which is prohibited even in cases of employer abuse or contractual infringements. Nonetheless, this articulation marks an important recognition of the problem of forced labour. The issue of workplace discrimination is also addressed as part of the Employment Act amendment, but the provision simply defers the matter to the Department of Labour with no clear legal terms of reference and no expansion of resources for such a massive new undertaking. More comprehensive legislation, and the creation of a national body, such as a fair employment commission, will be required to adequately oversee the complex problems of discrimination.

Delivering on commitments to foster decent work and to abolish forced labour by 2030 demands extensive and sustained efforts in implementing existing rules and regulations and in confronting structural factors. In some areas we can observe evidence of compliance. Since the SOCSO workers' accident insurance was opened to migrant workers, the number of foreign SOCSO accounts has moved in tandem with the number of work passes: 1.74 million members in July 2021, falling to 1.01 million in June 2022 after a mass outflow of workers whose passes expired without renewal, or who were laid off and hence had their pass rescinded (EIAS 2022). The revised employee housing law amendment which introduced a Certificate of



Accommodation requirement and was gazetted in September 2019, took full effect in November 2020 after employers were granted a one-year grace period. By October 2020, the government had received Certificate of Accommodation applications for only 9% of the 1.6 million work passes. The Labour Department's inspections at end 2021 concluded that almost half of companies were not complying with the standards.<sup>2</sup> Economic conditions since 2020 have made compliance challenging, but poor workers' housing—an element of forced labour—has been among the main reasons for Malaysia's disrepute.<sup>3</sup>

Beyond the formulation and enforcement of laws, structural impediments to Malaysia's aspiration to raise labour standards and promote decent work also demand attention. The migrant worker management system has officially prohibited labour outsourcing, committed to reducing fees and alleviating worker debt, and adopted an approach of bilateral memorandums of understanding that pursue these objectives, but the interests of profit-making labour supply industry still prevail—albeit with differences across source countries. Notably, Malaysia's bilateral migrant worker agreements with Nepal and Indonesia have augmented worker protection—largely through the intervention of the labour-sending country. However, dealings with Bangladesh, a potentially enormous worker pool particularly tapped by the labour supply industry for Malaysia's post-Covid labour replenishment, are continually marred by lack of transparency and suspected interference of vested interests.

## V. Conclusion

In the past decade, Malaysia has expanded social protection and wage support for lowest earning workers, formally improved conditions for migrant workers, and committed to decent work as an overarching agenda. The country has bolstered wage growth at the lower end through minimum wage, plausibly contributing to the decline in inequality, and from 2019 passed an array of progressive legislation. Nonetheless, fundamental problems persist, notably sluggish wage growth for tertiary qualified workers, including fresh graduates, low unionization and worker representation, and forced labour practices.

Malaysia's experience with Covid-19 demonstrates both the progress made and the gaps to be filled. The wage subsidy program protected jobs, thus moderating the rise in unemployment, but a massive outflow of migrant labour masked the extent of job loss and workers suffered wage contraction. At the same time, a flurry of forced labour cases exposed the systemic problems in Malaysia's migrant worker regime. Emerging from Covid-19, legislative changes are significantly addressing the issues of better work conditions, labour rights and unionization, workplace discrimination, flexible work arrangements, and the complex of issues pertaining to forced labour. Inadequacies remain, in the scope and enforcement of these laws, but Malaysia has moved forward, and laid stepping stones for further progress. The path toward decent work, high wages, good jobs, and fairness, though, remains long and arduous.

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## The 6th JILPT Tokyo Comparative Labor Policy Seminar 2023

### Organizer

The Japan Institute for Labour Policy and Training (JILPT)

### Date

March 8, 2023

### Venue

The 6th Seminar was held online.

### Seminar Theme

*Current Situation and Challenges of Inequality in Society: Overcoming Social Divisions towards the Post-COVID-19 Era*

### Program

#### Opening Ceremony and Keynote Lectures

**Welcome and Opening Remarks:** Yoshio HIGUCHI, President, JILPT

**Keynote Lectures:**

María Emilia CASAS BAAMONDE, President, International Society for Labour and Social Security Law (ISLSSL)

Michele TUCCIO, Economist, Skills and Employment Division, Directorate for Employment, Labour and Social Affairs, OECD

#### Session 1: Research Presentations, Part 1

**Chair:** Chikako KANKI, Associate Professor, The University of Tokyo Graduate Schools for Law and Politics

**Presentation 1 (New Zealand):** “Labour Law and Inequality in Aotearoa New Zealand: A Reflection on Legal Reforms,” Dawn DUNCAN, Lecturer, Faculty of Law, University of Otago (Dunedin, New Zealand)

> Discussant: Shun ISHIGURO, Research Associate, The University of Tokyo Graduate Schools for Law and Politics

**Presentation 2 (China):** “Healing the Social Scars: Employment Opportunities and Income Growth for the Low-Skilled Workforce in China,” Tianyu WANG, Professor, Institute of Law, Chinese Academy of Social Sciences (CASS)

> Discussant: Qi ZHONG, Vice Senior Researcher, JILPT

**Presentation 3 (Chinese Taipei):** “Challenges Arising from COVID-19 and Current Situation in Taiwan,” Che-Yi WU, PhD Candidate, College of Law, National Taiwan University

> Discussant: Bi Chu TSAI, Graduate Student, The University of Tokyo Graduate Schools for Law and Politics

**Presentation 4 (Australia):** “Strengthening Australia’s Workplace Laws to Promote Equality in the Post-COVID-19 Era,” Dominique ALLEN, Associate Professor, Department of Business Law and Taxation, and Director of Labour, Equality and Human Rights Research Group at Monash Business School, Monash University

> Discussant: Yukie HIHARA, Lecturer, Faculty of Humanities and Social Sciences, Yamagata University

**Presentation 5 (Philippines):** “Classes, Changes and Challenges in the Post-Covid-19 Period Philippines,” Ronahlee A. ASUNCION, Dean, School of Labor and Industrial Relations, University of the Philippines Diliman

> Discussant: Minmin LIANG, Graduate Student, The University of Tokyo Graduate Schools for Law and Politics

### Chair’s Comments

### Session 2: Research Presentations, Part 2

**Chair:** Hiromi HARA, Associate Professor, School of Political Science and Economics, Meiji University

**Presentation 6 (Japan):** “Gender Gaps in Skill Use: The Case of Japan,” Kyoko KOMATSU, Researcher, JILPT

> Discussant: Kyoko SUZUKI, Researcher, JILPT

**Presentation 7 (Korea):** “A Glance at Dual Structure of Labor Market in S. Korea,” Lin KIM, Professor, School of Law, Inha University

> Discussant: Akira ARIIZUMI, Graduate Student, The University of Tokyo Graduate Schools for Law and Politics

**Presentation 8 (Indonesia):** “Hope for the Future: Examining the Role of Labor Policies in Indonesia after Pandemic 2021–2022,” Ike FARIDA, Founder and Managing Partner, Farida Law Office

> Discussant: Pochuan CHANG, Graduate Student, The University of Tokyo Graduate Schools for Law and Politics

**Presentation 9 (Malaysia):** “Labour Policy in Post-Covid Malaysia: Crisis Response, Structural Reform,” Hwok-Aun LEE, Senior Fellow, ISEAS-Yusof Ishak Institute

> Discussant: Yoko TAKAHASHI, Vice Senior Researcher, JILPT

### Chair’s Comments

### Concluding Session

**Moderator:** Takashi ARAKI, Professor, The University of Tokyo Graduate Schools for Law and Politics

#### Seminar themes in the past

2022 *The Impact of COVID-19 on Labor Market and Policy Responses—Strengthening Social Protection for Vulnerable Workers*

2020 *The Changing World of Work in Digital Age—New Forms of Work and the Role of Labor Policy*

2019 *Future of Women and Work—Policy Response to Women’s Employment*

2018 *Looking Back at the Policy Responses to Changes in Employment Structure and Forms—The Future as Seen from Here*

2017 *Identifying Major Labor Policy Issues in Contemporary World of Labor—Commonalities and Differences Crossing Regions and Nations*

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## What's on the Next Issue

### *Japan Labor Issues*

Volume 8, Number 46,

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*tentative*

#### ●Special Feature on Research Papers (II)

▷ Husbands' Workplace Relocation and Wives' Co-Residence and Employment Choices

▷ The Diffusion of Parental Leave for Fathers in Japanese Firms: Exploring Antecedents and Performance Outcomes

#### ●Trends

Key topic

Characteristics of the 2023 *Shunto* and Future Prospects: Highest Wage Increase in 30 Years and Its Future Sustainability

#### ●Judgments and Orders

Commentary

Worker Status of Platform Workers under the Labor Union Act: *The Uber Japan and One Other Company Case*

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