

論文

Non-Union Labor Organizations and Alternative Voice Mechanisms in Japanese Small and Medium Enterprises: A Theoretical Analysis

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Abstract: The labor union rate is decreasing globally, and Japan is not an exception to that phenomenon, and the unionization rate is even lower in small and medium-sized companies than it is in large companies. However, there are employee-driven nonunion labor organizations, and legal-based systems still exist in small and medium companies that can function as employee voice mechanisms. This paper seeks to find, analyze, and compare these nonunion labor organizations and systems in terms of Prof. John W. Budd's theoretical framework of balancing the objectives of the employment relationship: efficiency, equity, and voice. The paper uses the data from two major studies by the Japan Institute for Labour Policy and Training and argues that despite the absence of labor unions, there are still alternative voice organizations and systems in Japanese small and medium-sized companies. Moreover, the paper will provide a triangular framework of the geometry of employee voice organizations and systems that was previously used by Budd and Colvin (2008).

Keywords: Employee voice, nonunion labor organizations, small and medium companies

アブストラクト：労働組合率は世界的に低下しており、日本も例外ではなく、中小企業の方が大企業よりも労働組合率はさらに低くなっている。しかし、中小企業には依然として従業員主導の非組合労働組織と法に基づく制度が存在している。これらは従業員の発言メカニズムとして機能できる。この論文は、John W. Budd 教授の雇用関係の目的である効率、公平性、発言のバランスをとる理論的枠組みの観点から、これらの非組合労働組織とシステムを見つけ、分析し、比較することを目的としている。この論文は、労働政策研究・研修機構による2つの主要な研究のデータを使用しており、労働組合が存在しないにもかかわらず、日本の中小企業には依然として代替の発言組織とシステムがあると主張している。さらに、この論文は、Budd and Colvin (2008) によって以前に使用された従業員の発言組織およびシステムのジオメトリの三角形のフレームワークを提供する。

キーワード：従業員の発言、非組合労働組織、中小企業

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1. Introduction

According to The Ministry of Health, Labour, and Welfare 2019 Basic Survey of Trade Unions on December 19, the unionization rate fell to a record low of %16.7. However, it increased to 17.1% the following year.⁽²⁾ This situation has many reasons, such as larger unions do not have any actions to cover non-regular workers. However, the main phenomenon is that the organization rate of labor unions has been declining steadily over time, and the majority of Japanese workers are not represented by a labor union. Morito (2007) even argues that most Japanese workers have never seen a labor union in their workplaces. Also, According to Bryson and Gomez (2005), in the employed population, the employees who have never been a part of a labor union throughout their working life are likely to never be a part of any labor union in the future as well.

Under the fact of the decline in labor unions, this paper seeks answers to two questions, first of all, whether there are any non-union organizations or systems that provide voice to the workers in Japanese Small and Medium Enterprises (SMEs), secondly, how do they function in terms of the theoretical perspective of Professor John Budd. This paper will analyze the collected data in terms of the pluralist theoretical viewpoint of Prof. Budd, who approaches the employee voice rather broadly and argues that labor relations must bring a balance between the objectives of the employment relationship; efficiency, equity, and voice.

This paper aims to contribute to the studies of employee voice with a theoretical background that allows approaching employee voice rather as a broader concept. Since the employee voice is conceptualized broadly, this approach allows detecting new forms, institutions, or systems of employee voice. The theory also provides a framework for analysis and comparison of the mechanisms or systems in terms of bringing balance between the objective of the employment relationship. Therefore, this paper also aims to analyze and compare the non-union employee voice mechanisms and systems to express their compatibility in bringing balance to employment objectives: efficiency, equity, and voice.

This paper also aims to contribute to the studies of non-union voice and SMEs since these are two areas that have not received enough attention in the literature. However, due to the decline in union membership in recent decades, the interest in non-union types of employee voice and representation has increased. (Gollan, 2007; Kaufman and Taras, 2010). Labor unions have been considered the primary mechanism that provides a voice for workers to defend themselves against the unbalanced power of management by many disciplines. It might be preferable that labor unions protected by the constitution use the power of collective bargaining to improve working conditions. However, this argument does not remove the fact labor union rate is decreasing, and it is even lower for SMEs. In Japan's case, the union membership is predominantly limited to the regular

(2) The data has been achieved from the official internet site of MHLW. <https://www.mhlw.go.jp/toukei/itiran/roudou/roushi/kiso/20/dl/01.pdf>

male workers. Hence, there are many workers outside the scope of unions, and most of these workers belong to SMEs.

This situation also creates a suitable environment in the SMEs for emerging of new forms of employee voice and new mechanisms or systems to provide voice to workers. Therefore, this paper, first, will seek non-union types of employee organizations or systems in Japanese SMEs that provide voice to the employees. Then, the paper will analyze and compare these NUOs and systems in terms of the theoretical framework of Professor John Budd. The paper will use his theoretical framework of balancing the employment objectives, efficiency, equity, and voice to compare and evaluate NUOs and mechanisms in Japanese SMEs. The paper will utilize the data from two different studies conducted by The Japan Institute for Labour Policy and Training (JILPT), respectively, in 1996 and 2007. Based on the data, this paper will provide the “geometry” of employee voice in Japanese SMEs” based on Budd’s (2004) “geometry of employment relationship.”

Since this paper uses a theoretical methodology, understanding the theoretical background is crucial for analyzing the data and findings of the paper. Thus in the next chapter, the theoretical background of this paper, the pluralist approach of Prof. Budd, will be expressed.

After the theory chapter, the paper will state a literature review of non-union employee voice organizations and legal-based systems that have been discussed mainly in Japanese literature. This part will provide a historical background of non-union labor organizations (NUO) and the Majority Representation System (MRS), which also provide a voice for workers. In the fourth chapter, the data will be analyzed in terms of theoretical background and discussed.

Finally, the concluding chapter will first indicate the findings based on the data analysis in terms of Budd’s pluralist theoretical framework of objectives of the ER; efficiency, equity, and voice. After that, the paper will provide a triangular framework previously used by Budd and Colvin (2008).

2. The Theoretical Background

The modern studies of voice mainly stemmed from Hirschman’s (1970) theoretical views who stationed voice as the opposite of exit; instead of escaping from a situation that a consumer does not satisfy with, any attempt to change it was considered as voice. Freeman and Medoff (1984) were the first to apply Hirschman’s theoretical views in industrial relations and the labor market that voice can lead to beneficial outcomes for both employees and the workplace. They mainly associated voice with labor union representation which they believe is the best mechanism to provide an independent and legitimate voice to the workers and possess the power to protect a worker who has used voice. However, Kaufman (2015) states that the idea of voice was there at least for 200 hundred years, starting from industrial relations.

Nevertheless, the studies on voice spread among various fields and occupy a central location as the main

topic and in main discussions of scholars in the disciplines such as industrial relations, industrial-organizational psychology, organizational behavior, and human resource management (Wilkinson and Fay 2011, Kaufman 2015, Wilkinson et al., 2014). The conceptualization and understanding of employee voice differ from each other. The differences also consist of formal and informal voice mechanisms and behavior and the underlying motivation of voice (Mowbray et al., 2018). These differences stem from the various and sometimes competing approaches and frameworks to employment relations, employee voice, and participation (Heery 2015).

These different theorizations and conceptualizations are mainly caused by which paradigm or framework a person approaches employment relations or employee voice. One of the primarily used frameworks to study industrial relations is the frames of reference that Fox (1966) first popularized.⁽³⁾ This framework is then used to understand and facilitate further studies on the employment relationship and employee voice (Budd et al. 2004; Budd and Bhava 2010). Budd and Bhava (2010) summarize the elements of the employment relationship (ER) - employees, employers, states, markets, and contracts- and these elements of the employment relationship have been conceptualized by scholars in different ways, which produce four different models: the egoist, the unitarist, the pluralist and the critical models.

In the egoist employment relationship model, the free market is essential for conceptualizing the ER. Thanks to the competitive free market, the ER is considered a mutually advantageous transaction between self-interested and equal employee and employer. Because this model considers both employees and employers as rational agents pursuing their self-interest, it is called "egoist." The egoist model does not consider unions as important organizations or mechanisms since the contracts are implemented implicitly between self-interested economic actors interacting in competitive labor markets in which conflicts can be resolved by the invisible hand of the market.

The unitarist model considers workers as psychological beings motivated by intrinsic rewards and aligns the employee and employer interests together, and considers an employment relationship as a long-term partnership between employees and employers who have common interests. Since employees and employers are assumed to share common goals, power relations or gaps are not important in this model. Moreover, conflict is a suboptimal state that stems from poor human resource management practices and is not an inherent or permanent feature of the ER. In a unitarist employment relationship model, labor unions are unnecessary because their presence means that there is a problem with the human resource practices to align employees' and employers' interests.

In contrast to the unitarist model, the pluralist model sees employees and employers having different and often competing interests. Since the labor market is not perfectly competitive, the ER is viewed as unequal bargaining between employees and employers. In this model, the workers are considered more than a

(3) Fox (1966) first mentions two models, "Unitary" and "Pluralistic," then he (1974) adds the "radical" frame and makes three models.

commodity; but economic and psychological beings with moral worth and democratic rights. This theoretical perspective is rooted in an inherent conflict of interest between employers and employees interacting in imperfect labor markets. Thus, creating a balance between employees' and employers' competing interests is essential in labor relations as it is between efficiency, equity, and voice. This model explicitly considers interests of the ER that are not limited to (but include) efficiency. Thus, the pluralist model is compatible with Budd's (2004) analysis of the objectives of the employment relationship and the need for balancing them rather than prioritizing efficiency over voice and equity. The Pluralist model considers unions as essential institutions to balance the competing interests of employees and employers.

The critical model considers workers similar to the pluralist model with the addition of class interests. This model sees the ER as an unequal power relation between employees and employers, which is systemically embedded in the social and political system. Unlike the unitarist model, this model emphasizes the unequal power relations and conflict between employees and employers. This model considers unions necessary in advocating for the working class and decreasing exploitation; however, they are not adequate to remove the structural inequalities embedded in the social, political, and economic systems.

These four models provide different understandings and theoretical backgrounds for the employee voice, labor organizations, etc. With a pluralistic viewpoint, Budd's theorization and conceptualization of voice are primarily based on his book *Employment With a Human Face* (2004). Budd (2004) and Befort and Budd (2009) argue that there are three objectives of the ER; efficiency, equity, and voice. Budd states that efficiency is one of the primary objectives of the employment relationship because of using scarce resources effectively and creating economic prosperity. Equity is fairness in the distribution of economic rewards, the provision of employee security, and the administration of employment policies. Moreover, the voice is the ability that workers can use to have meaningful input into workplace decisions. Efficiency is a standard of economic and business performance, equity is the standard of fair treatment for workers, and voice is a standard of employee participation. For Budd, equity and voice are different terms and objectives for three reasons. First, he argues that equity is often used narrowly in other disciplines; secondly, even in industrial relations, sometimes equity does not include voice; and third, equity is an instrumental standard of treatment, whereas voice is an intrinsic standard of participation. He (2004, p. 23) defines voice as "*the ability to have meaningful input into decisions.*" Therefore, his broad and straightforward conceptualization of voice includes both the individual and collective voice, union and non-union voice, voice mechanisms that cover employment terms, work autonomy, and business issues (Budd et al. 2010, Budd 2014).

By adding the voice to the objectives of the ER along with efficiency and equity, Budd emphasizes the importance of self-determination in the ER. Budd emphasizes that voice does not have to have positive outcomes or enhance effectivity to be necessary; this is why he criticizes the works that only focus on the effect of voice on efficiency. Budd says there are two dimensions of voice; the first is industrial democracy, which

entails having a meaningful voice in the determination. The second one is employee decision-making, rooted in theology and moral philosophy. These two dimensions make the voice a broader concept since the democracy dimension calls the importance of collective voice and the self-determination dimension implies that individual voice mechanisms are also important. Moreover, Budd argues that extending voice in a workplace is a moral imperative. Because equity and voice are rooted in human dignity and democratic values, they must be accepted and respected even though they do not increase efficiency.

For Budd (2004), in order to install a healthy employment relationship, these three objectives should be in balance because these objectives can often clash and be in a conflict, mostly efficiency on the one hand and equity and voice on the other hand. In contrast, more equitable treatment may reduce flexibility and, therefore, efficiency; employee voice might make decision-making more cumbersome, so it can also reduce efficiency. Budd states that the clash between these objectives is a clash between property rights and labor rights; since both are considered human rights by Budd, this conflict is eventually a clash between human rights. By stating that, Budd argues that since they both are human rights, they should be balanced rather than prioritized or ordered because there is no accepted consensus or a hierarchy between human rights. Therefore, Budd (2004) and Budd et al. (2004) state that healthy labor relations must strike a balance between these often conflicting objectives.

Budd and Colvin (2008) also use Budd's (2004) analysis and the framework of efficiency, equity, and voice as metrics for workplace dispute resolution procedures. They developed an analytical framework that can analyze and compare different dispute resolution systems, for example, comparing unionized dispute resolution systems with non-union systems and comparing different non-union systems with each other. They also use a diagrammatic triangular approach for comparing different systems as an easily accessible platform. Their analysis finds that compared to union procedures, non-union grievance procedures perform higher on efficiency but lower on equity and voice. Unionized grievance procedures relatively score higher on voice and especially on equity but lower on efficiency because of the cost, speed, and flexibility issues.

Budd et al. (2004) also argue that the pluralist employment relationship model is a legitimate theory of the ER, and this model is not either atheoretical or entirely normative. The pluralist model does not simply make normative statements about how employment relationships should be, but it is an analytical claim about what employment relationship is and how it works. For the pluralist approach, balance is the most optimal state in the employment system because an unbalanced system creates sub-optimal outcomes, therefore becoming unstable and short-lived. Besides, the pluralist industrial relations paradigm respects capitalism and business owners' need to make a profit.

Budd (2010, 2011) argues that not only the frames of reference but the conceptualization of work is also quite crucial in shaping research on employment relations. To support his framework of the objectives of the employment relationship, Budd has a broad conceptualization of work as well. He states that it is a very narrow

definition that defines work as simply paid employment; on the other hand, it will be extensive to consider all human activities as work. So the conceptualization and definition of work become crucial to the understanding of work-related relations as well. Budd (2011, p.2) defines work “as a purposeful human activity involving physical or mental exertion that is not undertaken solely for pleasure, and that has economic or symbolic value.”. Budd (2010) initially has stated seven different conceptualizations of work, but then he (2011) increases these conceptualizations to ten, namely; work as a curse, as freedom, as a commodity, as occupational citizenship, as disutility, as personal fulfillment, as a social relation, as caring for others, as identity, and as service.

Budd And Zagelmeyer (2010) compare the EU and the USA and conclude that In Europe, employee participation is seen more as a public issue than in the United States. There is a diversity of legal regulations and public policies concerning all dimensions of participation in organizations except for employee involvement at the EU level and in the member states. This situation generally reflects a pluralist approach to the employment relationship. Thus, the pluralist model fully embraces the need for active government regulation of the employment relationship. Because markets are assumed to be imperfectly competitive, employers have greater bargaining power than individual employees. With a concern for employment relationship outcomes that are richer than just efficiency and include various human rights, the pluralist model sees an essential role for employment and labor law to create minimum labor standards and social safety nets while also promoting unionization in order to balance the varied needs of employers and employees.

Budd also emphasizes the role of ethics in the Human Resource and Industrial Relationship (HRIR) fields. Budd and Scoville (2005) argue that the lack of attention to ethics in HRIR comes from the liberal market of free choice. Furthermore, they urge the modern employment relationship to be open to ethical debates and analysis. Like Budd, Buren, and Greenwood (2008) state, the employers’ voluntary actions are insufficient to protect employees and satisfy their need for a voice and heal the unfairness of the employee-employer relationship. Thus, there are significant moral rights of employees and moral duties of employers. They further argue that the voice mechanisms, such as unions, even though they may not be the complete answer, are suitable means to solve the moral rights and responsibilities.

As a summary of Budd’s theoretical background, he approaches the ER with a pluralist approach and firmly suggests a balance between the objectives of the employment relationship since they are often in conflict with each other and labor relations must strike a balance between them. Furthermore, even though he also agrees that labor unions are still one of the best mechanisms for employee voice, however, any other NUOs or different mechanisms are crucial to providing a voice to the labor in the absence of a union. Additionally, he and Colvin (2008) also provide a triangular framework that helps to evaluate and compare NUOs and different voice mechanisms. This paper will use that framework to evaluate and compare NUOs and other systems in Japanese SMEs.

3. NUOs and Other Voice Mechanisms in Japanese SMEs

This chapter will briefly review the literature on employee-driven NUOs and the legal-based system, The Majority Representation System. Since the NUOs are employee-driven labor organizations and the MRS is a legal-based system provided by the Labor Standard Act (LSA), they will be split into different subtitles.

3.1. Non-Union Labor Organizations in Japanese SMEs

Non-union organization in SMEs in Japan is a field in that very few studies have been conducted. Okamoto (1997) argues that the SMEs' labor relations were considered under the assumption of Japanese capitalism and required to know benefits, capital, product, and economic aspects to study smaller companies. He points out that this is why economists have mainly studied SMEs after the wartime period.

Inami (2008) says that between 1950 and 1975, the studies about employee representation of SMEs were mostly about practices in foreign countries and their criticism. Saruta (1996) says the fewer studies on SMEs are because the SMEs' problems have lost their position or perception as problems. He further states that since the 1950s, the work on SMEs mainly focused on the debates about the wage gap between big and small to medium companies. Aoki (1997) states that after World War Two, the labor relation in the SMEs was among the non-organization area; therefore, the rule of communication of labor relations of non-union firms was unsettled and undecided.

The first scholar who wrote about the NUOs is believed to be Koike Kazuo (1977, 1981). Koike (1981) studied seven SMEs in middle Tokyo and found NUOs in three of them. Both the managers and workers are members of these organizations, and they discuss wages and other working conditions such as productivity policies with the management. Koike named them *jijitsuujou rodo kumiai*, which can be translated as de facto labor unions. Koike named them de facto labor unions because first, they included section managers of the firms, which are equivalent to foremen of big companies. Secondly, these organizations also take costs money from their members and elect their members. Finally, and more importantly, they were discussing labor issues with the management.

However, Nakamura (1988) disagrees with Koike about NUOs being a de facto labor union. First of all, Koike assumes the unions and NUOs in SMEs do not have members outside the firm, but Nakamura argues that the unions often get help from regional or upper union federations as an organ; therefore, they are not the same. Secondly, Nakamura criticizes Koike for only focusing on their formation but not comparing their bargaining power and its results, so Nakamura compares the dismissal rate in union firms and NUO firms and argues NUO has limits and does not function as a union.

On the other hand, Tsuru (2002) criticizes Nakamura and argues that Nakamura's data covers only 5.4% of unions, so it is not a fair comparison. In addition, Tomita (1993) claims there are not enough studies and data to compare the negotiation power and labor situation of the firms with NUOs and the firms with labor

unions; more studies are needed. In all of these discussions, the NUOs effectivity and function depend on their types since they are on different scales and types. Tsuru (2002) also mentions two different types of system that mostly conducts collective communication inside the firm between labor and management; one of them is *kanrishokukai* (management committee) and arbitrary management committee, and he argues that they also discuss workers' problems.

The name of NUOs change depending on the firm, for example, *jogyoinkai*, *shainkai*, *shinbokukai*, *shain kurabu*, etc. However, scholars and studies mainly classify them in terms of their functions, and two types of NUOs are prominent. The first NUO is called the *hatsugengata rodo soshiki* (Voice type labor organization). This type conducts activities to discuss working conditions such as wage revision, working hours, holidays, vacations, and welfare with the management side, also complaint activities for employees, and activities to discuss production plans and management policies with the management side. Not only workers but also managers can become members of this type of organization in some companies. The second type of NUO is called the *shinbokugata* (Friendly type labor organization) or *shainkai* (Employee's association); they do not discuss labor conditions, problems with the management; it is mainly formed between workers only or workers and managers as informal meetings specifically aiming for workers' friendship (Sato 1994, Tsuru 2002, Taguchi and Umezaki, 2011).

The *hatsugengata* can have management personnel as their members and get financial assistance from the company. Their function is to strengthen the friendship between workers and transmit workers' needs and wishes to the management and the management policy from management to the workers. They can also propose policies to the company. According to Sato (1994) and Tsuru (2002), one-third of NUOs in SMEs are the *hatsugengata* types. Also, there are cases where the *hatsugengata* is an employee representative of the labor-management consulting system.

According to the data that Sato (1994) shares, comparing the labor-management cooperation between unions, the *hatsugengata*, and the *shinbokugata*. The results are that if there is a union, a labor-management cooperation system highly exists, and a union represents the workers. However, in the case of the NUOs, only 30% of the firms have a labor-management cooperation system. If there is a *hatsugengata* type of NUO, the possibility of existing a labor representation system is higher. Regardless of the *shinbokugata* type or the *hatsugengata*, the worker's organization somehow represents the workers. In conclusion, in the case of NUOs, roughly 30% of them are the *hatsugengata* which discusses the labor condition with the firm. 70% are the *shinbokugata* types that only discuss work culture or material aid conducts.

3.2. Majority Representation System

The origin of the Majority Representation System in Japan comes from articles 36 and 90 of the Labor Standard Act (LSA) enacted in 1947. Article 36 of the LSA provides a right to an employer not to follow the

working hour regulation and rest-day regulation by ordering overtime work under the condition of concluding a labor-management agreement with a majority representative (majority union or an elected person) and, after that submitting the agreement to the local labor inspection office. And article 90 of the LSA requires an employer to ask the opinion of the majority representative of the employees when the work rules are established or amended in order to provide employees to voice their opinions.

According to Takeuchi-Okuno (2012), the Japanese government official Kosaku Teramoto played an important role in enacting the LSA in 1947. However, he (2012) states that concerning the regulation of article 90 of the LSA, Mr. Teramoto mainly intends for a majority union to be the representative through the MRS, not a person to represent the majority of workers at an enterprise as the majority representative.

When the working hours regulation was revised in 1987, the labor-management agreement system with the majority representative was largely adopted. Since then, the labor-management agreement method with the majority representative has been used as the primary derogation method and has also been used in various situations of labor-related policies.

However, although a majority representative system has been utilized in this way, the election of a majority representative when there is no majority union has been neglected without any legal provisions. Therefore, when the LSA was revised in 1998, Article 6-2 of the Labor Standards Act Enforcement Regulations was established. Two important regulations have been revised; first of all, the majority of the representatives will be elected among those who are not in the position of supervision or management, and secondly, the majority representative must be elected by a procedure such as voting, raising hands, etc., and must satisfy the rules of a fair election. Moreover, “the employer must avoid any disadvantageous treatment just because the worker is a majority representative, tries to become a majority representative, or has acted legitimately as a majority representative (Araki, 2017).

In the revision of the law in April 2019, new regulations were accepted. First of all, the employer must give necessary concerns so that the majority of the representatives can smoothly carry out the affairs related to the agreements stipulated in the law. Secondly, “a majority representative should not be a person selected based on the employer’s intention” is newly added to the requirements of the worker representative.⁽⁴⁾

The MRS has been addressed and discussed by many scholars as an alternative labor relation system, especially in SMEs. Even though the majority representation system is a distinct form from unions or NUOs, they can coexist and work in harmony with both of them. According to the law, if a labor union exists in a firm, the labor union can become the representative organ of majority representation. This union generally is a majority union that has concluded a union-shop agreement and will represent all workers, including non-union workers. However, if a labor union does not exist, an elected person will be in charge of majority representation

(4) Ministry of Health, Labour and Welfare, <https://www.mhlw.go.jp/content/000611834.pdf>

(Hirasawa, 2007; Oh Hak Soo, 2014).

On the other hand, Kezuka (1992) proposed a complementary employee representative system. According to Kezuka, with the employee representation system, employees, through the activities of the representatives elected by themselves, should be able to involve in the decision-making process about their working conditions. This system differs from the union, which is based on free unity, from the point of being provided by the law and autonomous regulations because this system will be based on legal regulations.

The MRS is not a well-developed and widely applied system in Japanese industrial relations. Nishitani (1989) compares Japan with Germany on this subject and states that the workers unify and make a representation system according to the law in Germany. In Japan, however, this system only works during opinion exchange, and it is not a traditional or permanent system as it is in Germany. The MRS lacks the legitimacy that labor unions have, and some points are not entirely determined, such as based on what law they will elect the representatives is not clear, and many other things are not known.

Takeuchi-Okuno (2012) also argues that these non-union alternative systems, the MRS are far from full-fledged systems of employee representation like the works councils in European countries, especially in terms of their function and organization. In theory, the MRS is supposed to work as described in article 90 of the LSA that an employer must ask the opinion of the majority representative to make sure that workers state their voice when deciding or altering the working rules in a workplace. However, as Takeuchi-Okuno states, except in the case of the majority union being the majority representative, in which case the collective bargaining can also be part of this process, the power of MRS has serious limits.

Hirasawa's (2007) study states the development of the MRS in Japan and looks for answers to the questions of to what extent it permeates and functions in SMEs. In the LSA article 90, term 1, it is stated that if the majority workers' union exists, the union, if not the person that represents the majority of workers, will join the meeting where the managers will discuss or change the working rules or create new rules. The revision of 1998 in the LSA shows how to elect the majority representation. Hirasawa (2007) argues that according to his data, labor representatives' function depends on who is the representative, the majority union or the worker elected as majority representative. In the case of unions, the function depends on the firm's scale, but in the case of a person, the effect is low, and meetings are slow and difficult. In a firm with less than 50 or 100 workers, the function is very low, no matter who the representative (union or person) is.

One of the most critical factors that the MRS can function as a thoroughly efficient system is the worker's awareness of the law and the system itself. Nishitani (1989) warns about that issue and is very discontent about the situation of the MRS because the representatives do not have protection against unfair treatment by the management. There must be a system in which the representative can know the opinion of all workers and represent all; otherwise, they will be under the control of the management even though they get elected democratically. He further proposes two solutions; firstly, regarding the function scale of employee

representation systems, the law must be revised and give legitimacy and protection to the MRS. Second, the problems between business law and labor contracts must be amended as in the German system, and their role must be separated. In Japan, it is a business-based contract; in Germany, it is an industry-based contract.

The following chapter is the data and discussion chapter based on the theoretical framework of this paper.

4. Data analysis and Discussions

Two different datasets have been used for this paper; both were conducted by the Japan Institute for Labour Policy and Training, respectively, in 1996 and 2006.

The first data is from the study of 無組合企業の労使関係 “Mu kumiai kigyo ni okeru roshi kankei” (Labor Relations in Non-union Companies) conducted by the Japan Institute for Labour Policy and Training (JILPT) in 1996 and compares non-union firms (NUF) to the firms with the union and aims to explain voice mechanisms, the process of labor condition determination, the workers’ participation of it and the management countermeasure and reaction of the NUF. Two different methods have been implemented in the study; one is sample-based the other is an interview-based method. The survey area of the sample research is within a scope of 30 kilometers from Tokyo Station, and the group consists of 25,362 privately-owned companies with 50 or more employees headquartered in the area. The survey target is 1,250 companies randomly selected from this point. The sample frame comprises private companies with more than 50 employees within 30 km of Tokyo created by COSMOS2 of Teikoku Databank. The survey method was based on the individual visit of the surveyors, and the survey period was from July 26th to August 31st, 1995. Valid responses were obtained from 516 companies from 1,250 companies, and the response rate was 41.3% (p. 4).

The study classifies the employee organization of a non-union enterprise into two types, hatsugengata (voice type) type is 18.0% and shinbokugata type (friendly type) 82.0%. The classification of NUOs in this study is based on the answer to the question that if the NUOs are engaged in activities such as “discussing working conditions such as wage revisions, working hours/days/vacations, and benefits” or “discussing production plans and management policies.” The NUOs that conduct these activities are stated as hatsugengata, and the others that do not conduct the activities above are called shinbokugata (p.49).

The rate of implementation of labor-management consultations is related to the nature and presence of employee organizations, in the case of hatsugengata NUO (35.9%), a fellow employee organization (friendly type) (26.3%), and no employee organization (21.8%) which is gradually decreasing (p. 51).

Another important collective voice mechanism is Roshi Kyogi Kikan (Labor-Management Joint Consultation System, hereafter: LMCS), the top 5 activities that the LMCS conducts are (1) working hours, holidays, and vacations (70.4%), which are by far the highest. (2) Annual management / production plan (36.7%), (3) Welfare benefits (36.6%), (4) Safety protection (35.8%), (5) Improvement of productivity (35.7%).

Even though an LMCS exists in 19% of firms with 50 to 99 workers and 12.8% of firms with 100 to 299 workers, however only 7.7% of them are in non-union companies, and the study indicates that in non-union firms, consultation rates for working hours, holidays, and vacations are extremely high but wage revisions and occasional payments a low percentage. (p. 48).

According to the first study (1996), in terms of the MRS, the most common way of selecting the majority representative is “employee representatives appointed by the company” (26.3%) and “employee representatives selected by discussion” (25.1%). By company size, the number of “employee organization representatives” and “employee representatives elected by an election” increases in firms with more than 1,000 employees (p. 53).

Based on the data, it can be argued that the hatsugengata type of NUO is relatively stronger in equity and voice than the shinbokugata type. Considering that managers can also become members of these NUOs, both types of NUOs are effective in terms of efficiency to similar degrees.

In terms of the LMCS, the overall data indicates that this mechanism is effective in all the objectives; efficiency, equity, and voice in both union and non-union firms. In non-union firms, it still provides some degree of voice in terms of working hours, holidays, etc. However, it is relatively weaker in terms of equity since it does not discuss wage revisions and payments at a high level.

The second dataset is from the study that JILPT conducted in 2006 and published in 2007: 中小企業における労使コミュニケーションと労働条件決定 “Chushokigo ni okeru roshi komyunikēshon to rodo joken kettei” (Labor-management communication and determination of working conditions in SMEs). This research aims to provide basic facts to the recent discussion about the ideal working condition decision system by clarifying the actual conditions of labor-management communication and working condition decisions in SMEs. The method used in this study is a questionnaire survey conducted by mail to companies with less than 1,000 full-time employees. The survey period was from July 12, 2006, to September 11, 2006. The number of companies sending the data was 12,000, the number of valid responses was 2,440, and the collection rate was 20.3% (p.1).

In terms of the NUOs, this study also classifies them according to their activities. Therefore, the employee organization that limits the activities to culture, recreation, and mutual aid activities such as condolence money and loans and employee grievance activities is called the shinbokugata type. The NUOs that also carry out labor union-like activities such as discussing labor conditions with the management are called the hatsugengata type (p. 77).

The study also asks that when reviewing the base wage, on what occasions do the companies hear employees’ opinions? The answers are as follows: 4.1% answered: “meetings with the labor-management consultation body”; 3.9% answered: “meetings with the employee organization, such as employee social club or social gathering” (p. 2).

Concerning the method of electing an employee representative representing a majority of employees, at the time of concluding Article 36 agreement, the companies’ replies are as follows: 28.2%: “the company designated

the employee representative”; 23.5%: “the employee representative is trusted by the employees”; 11.2%: “the representative of the employee social club or social gathering automatically fulfills the role of the employee representative for the purpose of the Article 36 agreement”; and 9.6%: “some employee representatives, who are the representatives of each workplace, elect the employee representative for the purpose of the Article 36 agreement.” (p. 3) The smaller the size of the company, the more companies “designate the employee representative.”

One of the employee counterparts in labor-management communication is employee organizations, such as employee social clubs or social gatherings. Around half of the companies (actually 49.1%) replied that they have such employee organizations. The activities of such employee organizations are as follows: 83.0%: “social activities, such as recreational activities”; 61.2%: “mutual aid activities, such as congratulation or condolence payments and loans to employees”; 22.8%: “consultation with the management on working conditions, such as pay reviews, working hours, benefits and welfare”; 16.0%: “handling of employee grievances”; and 10.2%: “consultation with the management on production plans, management policies, etc. The larger the size of the company, the more employee organizations engage in “consultation with the management on working conditions, such as pay reviews, working hours, benefits and welfare.” (p. 4)

In the study of 2007, chapter 2 of part 1, four different types of employee voice mechanisms have been stated. The first type is a labor union with 14.9%, the second is the shinbokugata type of NUO with 32.3%, the third type is the hatsugengata type of NUO with 8.8%, and 44.1% of SMEs have no organized labor organization. The results of the analysis based on these four types are summarized below:

First, in terms of the information transmission function, from a quantitative perspective (amount of information), all indicators continue in the order as the hatsugengata type, labor union type, the shinbokugata type, and unorganized type. A greater amount of information is communicated to general employees in the hatsugengata type employee organization than in the union type. In addition, from a qualitative perspective, the hatsugengata employee organization type emphasizes a wide variety of management information, while the labor union type emphasizes mainly management policy, sales, and profits.

Second, regarding the status of the opinion gathering function, the same characteristics are seen in both the basic wage revision and the lump-sum revision; the labor union type is the highest from a quantitative perspective, followed by the hatsugengata, then the shinbokugata type, and finally unorganized type. In addition, the specific method used for gathering employee opinion differs depending on the type of employee voice mechanism; the labor union type naturally emphasizes “union meetings” and “meetings with labor-management council organizations.” The hatsugengata type emphasizes “meetings with employee organizations,” “meetings with supervisors,” “meetings with managers,” “business meetings and personnel interviews with employees,” and through multiple routes, the opinions of employees are collected. The shinbokugata type is divided into “meeting with managers” and no function at all, “not particularly heard” (聞いていない).

Thirdly, considering the performance of the employee voice mechanism from three viewpoints of (1)

communication, (2) employment, and (3) business performance, in communication, both overall evaluation and individual evaluation, the hatsugengata type has higher points than other types. According to the performance index in terms of employment, the labor union type is the highest, followed by the hatsugengata type, followed by the shinbokugata type, and the unorganized type is the lowest. Looking at the contents, various systems and mechanisms have been introduced in the case of the labor union type and the hatsugengata type employee organization. The high performance of labor union types can also be confirmed by the employment index, as well as the performance of each index of the voluntarily retired employee ratio, the average length of service of full-time employees, and wage increase. Companies with labor unions are more effective in employment.

Comparing the hatsugengata and the shinbokugata type NUOs, in terms of dismissal and voluntary retirement, both do not have a significant effect, but the hatsugengata type employee organization has a significant positive impact on early retirement. The presence of a hatsugengata employee organization will increase early retirement (p. 7-8)

The second study (2007) emphasizes some weaknesses of MRS; for example, there is a difference in the range and character of the representative group. A labor union is a voluntary organization that allows workers to join freely, and the scope is determined by the union itself. In terms of the Majority Representation System, it does not have a collective body and mechanism except for electing the representative.

Second, the majority of the representatives only embody (representative of) the opinion of workers at the time of concluding an agreement and hearing opinions. In other words, the majority representation system is not a permanent institution but represents the majority opinion only at each point in time for each problem.

The third is the issue of legitimacy in the relationship with the employees that will be represented. There is legitimacy in the case of a labor union, where the members have control over democratic procedures in selecting representatives and the representatives' actions, whereas the majority representation system lacks legitimacy because it lacks such conditions.

Fourth, the labor union has the rights stipulated in article 28 of the constitution and is protected by the unfair labor practice system of the union law. However, the majority representation system does not have it, and independence from the managers is not guaranteed.

Regarding the preparation of employees' written opinions for work rule reviews and the election of employee representatives for the conclusion of Article 36 agreements, more companies with labor unions follow the proper procedure than companies without labor unions. Needless to say, this does not necessarily suggest that the labor union ensures the company's compliance with the law. More than half of the companies, despite having labor unions, clearly do not meet the requirement for the employees' written opinion for work rules review under Paragraph 1 of Article 90 of the Labor Standards Act, and there are also not a small number of companies that "do not prepare an employees' written opinion."

5. Conclusion

This section will first indicate the findings based on the data analysis in terms of Budd's pluralist theoretical framework of objectives of the ER; efficiency, equity, and voice. After that, the paper will provide a triangular framework previously used by Budd and Colvin (2008).

5.1. Findings

Based on the data analysis, in terms of the NUOs; the hatsugengata has more strength from the perspective of voice than the shinbokugata. This paper argues that in non-union firms, the hatsugengata type of NUO is a crucial alternative voice mechanism that can better balance the objectives of the ER. Interestingly, the data indicate that the hatsugengata type is more successful than unions in terms of many functions such as information transmission function, using various methods for gathering workers' opinions, and communication function. It also has been effective in terms of performance, the function of opinion gathering of workers, and bonus payments. Except for the wage increase, the hatsugengata type of NUOs has performed significantly. Thus, in terms of the theory, the hatsugengata type of NUO is stronger in equity and efficiency than the shinbokugata type of NUO.

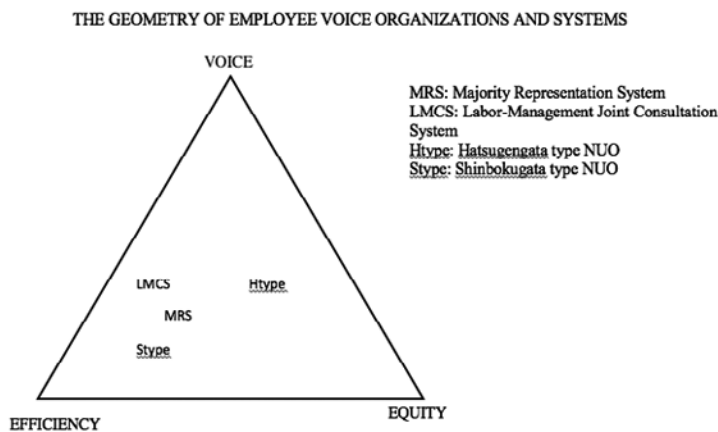
Even though the shinbokugata type is the most common type, which can be found in union existed companies as well, the data indicates that the main objective of this type of NUO is not to represent workers against management and discuss labor conditions but to improve the harmony in the firm and make communication between workers more efficient. The management side favors this type of NUO because it functions in parallel with management's goal to increase the firm's productivity. Thus, this paper argues that this type of NUO is weak from the perspective of voice and equity in terms of Budd's theory but relatively stronger in efficiency.

In terms of the MRS, even though this legal-based system has a great potential to bring balance to the objectives of the ER. However, the MRS is not implemented in the majority of the firms as it is specified in the LSA. Most of the firms do not meet the requirement of the employees' written opinion for work rules review, which is specified under paragraph 1 of article 90 of the LSA. Most of the firms also do not meet the criteria for electing the representative of the MRS. Thus, despite its great potential, the MRS is not effective in the objectives of equity and voice since, in most companies, the managers have a big influence on the electing procedures of the MRS. This situation puts the system in a unitarist position with most firms. Therefore, the MRS is relatively stronger in efficiency than equity and voice.

This paper also found that the LMCS is also a system, even though it is not legally supported like the MRS, that provides a voice to the workers to some extent. The overall data indicate that this mechanism is effective in all the objectives; efficiency, equity, and voice. However, only 7.7% of them are in non-union

companies, and the study indicates that in non-union firms, consultation rates for working hours, holidays, and vacations are extremely high, but in terms of the wage revisions and occasional payments, the percentage is very low. But, it still provides some degree of voice in terms of working hours, holidays, etc. However, it is relatively weaker in terms of equity since it does not discuss wage revisions and payments at a high level. In conclusion, from the perspective of equity, this system is weak, whereas relatively stronger from the perspective of voice and efficiency in non-union firms.

5.2. The Geometry of Employee Voice Organizations and Systems



Budd and Colvin (2008) used Budd's theoretical framework of the ER and analyzed and compared dispute resolution systems along the dimensions of efficiency, equity, and voice and provided a geometry of dispute resolution. This paper utilized the theoretical framework of the ER for the geometry of employee voice organizations and systems in non-union Japanese SMEs.

The main goal is to visually provide a framework to better express how employee-driven NUOs or legal-based systems are positioned in terms of striking a balance between efficiency, equity, and voice. And based on the findings above, the geometry of employee voice organizations and systems based on the theoretical framework of Budd is displayed above.

5.3. Managerial Implications

Even though the union rate is low in Japanese SMEs, this paper argues that there are still alternative labor organizations and systems that can provide a voice to the employees. As Budd indicates, employee voice does not necessarily increase efficiency, and it is one of the important objectives of employment relationships. So it needs to be provided to the employees in the imperfect market in order to balance voice with efficiency and equity. Thus any kinds of organizations and systems, especially in the SMEs, that can provide a voice to the

employees are worth to be studied and detected. This will eventually uncover the new forms of employee voice and detect the unheard voice of the workers. And using Budd's theoretical framework may help the researcher to analyze new forms of employee voice mechanisms and evaluate in terms of balancing the objective of the ER. This approach will assist further studies in bringing a balance between the objectives of the ER and creating better employment relationships for both employees and employers.

Based on the data analyses, legal-based systems are becoming prominent in terms of employee voice. Especially the MRS has a great potential to strike a balance between efficiency, equity, and voice. Taking the strengthening of the MRS by the LSA revisions in recent decades into consideration, the MRS can become a prominent system for employment relationships in times to come.

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