

Harassment Law in Japan and Trends in Recent Cases

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Abstract

Aim : The aim is to overview the current harassment law of Japan. This work highlights recent harassment court decisions in Japan, including both workplace harassment and campus harassment cases.

Method : After overviewing statutory frameworks and legal theories on workplace harassment (sexual and non-sexual) and campus harassment, this study analyzes many cases reported from 2011 to 2012. Since the decisions of Japanese courts are not very often translated into English, it might be worthwhile for comparative law.

Results : This study divides harassment into four (4) types in point of location and sexuality : workplaces (sexual or nonsexual) or campuses (sexual or nonsexual). The campus harassment is found not only among labor relationships but also among academic and educational relationships, such as between a professor and his/her students. The latter is called “academic harassment” or “campus sexual harassment.”

(1) Regarding workplaces, there is an anti-workplace-sexual-harassment statute, which requires employers to adopt countermeasures against workplace sexual harassment. With respect to workplace bullying, although there is currently no specific anti-workplace-bullying statute, the “Labor Contract Act” might be applicable.

(2) Civil litigations for damages are based not on the said statutes but on the related provisions of the Civil Code (torts) and case law thereof. All types of harassment are defined as infringement of personal dignity rights. Those are also actionable against employers (or universities) under the doctrine of torts, breach of contracts, or vicarious liability.

(3) Regarding sexual harassment, Japanese courts tend to judge not only severe harassment but also non-severe harassment as being actionable. Provided, however, the amount of damages is not so large.

(4) For these last two years, workplace-bullying, which is commonly called “power-harassment” in Japan, has been highlighted by the Ministry of Health, Labour and Welfare. New anti-workplace-bullying legislation might be proposed in the near future.

(5) Increasingly in the recent trend of cases, harassers both in workplaces and campuses have brought litigations as plaintiffs for declaration of voidance of disciplinary action, unpaid wages and/or damages after they received disciplinary action from their employers. There are both cases where the courts affirmed the said disciplinary action and the courts revoked the discipline under the grounds of abuse of the employers’ disciplinary right.

Conclusion : The harassment law of Japan has been developing : it now requires our society to pay attention to the balance between relief of victims and excessive accusation against harassers. Employers and universities/schools face a new difficult phase with respect to countering the harassment problem.

I Introduction

We know that “workplace harassment” leads to 1) human rights infringement, 2) loss of a sound work environment and 3) risks to an organization’s reputation and morale. Such awareness is gradually increasing in Japan. On the internet, harassment issues are often discussed in Japan. In my report, I would like to address the following :

1. Current Harassment Law (Legal Basis)

I will first discuss current anti-harassment laws in Japan. At first, I should list labor statutes such as “Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment” (EEO Act), governmental guidelines thereunder, etc. However, civil litigations are usually based on the Civil Code (tort laws, especially under vicarious liability theory) for damages.

2. The Tendency in Recent Harassment Cases

I will next explain the tendency in recent harassment cases in Japan. Today, we find many cases in which harassers or harassment suspects fight back against their employers for nullifying the employers’ disciplinary action and also for damages. We have to keep in mind the importance of the harassment suspects’ (harassers’) human rights as well as the harassment victims’ human rights.

II Workplace Harassment Laws in Japan

1. Types of Harassment

Harassment is divided into 4 types based on location and sexuality : workplaces (sexual or nonsexual) or campuses (sexual or nonsexual).

Place	Nature	Sexual	Non-sexual
A : Workplace (Labor)		Workplace Sexual Harassment (WSH)	Power Harassment (PH) = Workplace Bullying
B : School (Non-labor)		Campus Sexual Harassment (CSH)	Academic Harassment (AH)

We have to note that, regarding harassment at campuses, there are two kinds. The first one is harassment such as between a professor and his/her students. It is academic and/or educational relationships NOT under labor laws. The second one is harassment such as between a professor and an associate prof. It includes both categories of (A : Workplace) labor relationships under labor laws, and (B : School) academic (researchers’) relationships NOT under labor laws.

2. Legal Basis of Workplace Sexual Harassment

In Japan, workplace sexual harassment has been argued as an infringement of an individual's right to human dignity. Around 1990, the sexual harassment concept came from the US. In the US, it is understood as a type of employment discrimination. In Japan, there was little thought about employment discrimination. It has been understood as an indignity (under tort law).

I should refer to the legal basis of workplace sexual harassment regulation in Japan. The basis is the Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (the "EEO Act")¹ and administrative guidelines thereunder. In the past, employers' duties to make efforts for an environment against sexual harassment was required by the 1997 Amendment of the EEO Act which was in effect from 1999. Then, an administrative guideline for the said amended EEO Act was also announced by the Ministry of Health, Labour and Welfare (MHLW). It adopted the US workplace sexual harassment concepts, namely, a) quid pro quo harassment and b) hostile work environment harassment.

Afterward, employers' obligations got heavier due to the 2006 Amendment of the EEO Act. Employers have been obliged to take measures against workplace sexual harassment since 2007. The Ministry (MHLW) also amended sexual harassment guidelines according to the new EEO Act.²

In 2014, a new guideline amendment has been announced (effective starting on July 1, 2014). It expresses that workplace sexual harassment is to also include same-sex harassment. It places more importance on measures to overcome gender stereotypes. It also refers to the measures which employers must take regarding victim's mental health.

3. Legal Basis of Power Harassment

"Power Harassment" is Japanglish. It means moral harassment or bullying in the workplace, typically, by those in authority. Recently, Power Harassment has been in the public spotlight. The Ministry established a working group in 2011 which announced a definition of the Power Harassment. The definition is as follows:³

Workplace Power Harassment means any conduct directed towards a person working at the same workplace, in a position of superiority-at-work based on occupational rank, human relationships,

1 See Exhibit A. Regarding the guidelines, see also the website of MHLW : <http://www.mhlw.go.jp/stf/houdou/0000033232.html> and http://www.mhlw.go.jp/general/seido/koyou/danjokintou/dl/120120_09.pdf (last visited Oct. 25, 2014).

2 See Article 11 (1) and (2) of the EEO Act in Exhibit A.

3 See Exhibit B. As of the time of my report at the 9th International Conference on Workplace Bullying and Harassment, June, 2014, the official English translation was not found in the MHLW's publications. This English version is a tentative translation made by myself.

etc., which, beyond the proper scope of the job, inflicts emotional distress or physical pain on him/her or makes his/her working environment worse.

Regarding Power Harassment, there is an issue: whether any statute is necessary or not. Power Harassment lawsuits have been increasing. From the start, courts have applied the Civil Code (mainly, tort law). To date, no statute specifically deals with Power Harassment. The Labor Contract Act Art.5 might be interpreted to imply employers' responsibility regarding Power Harassment. However, no court judgment of Power Harassment, refers to the Act. It is because tort law, namely vicarious liability theory, looks to be enough.

I would note that Power Harassment, as well as workplace sexual harassment, is covered as industrial accidents by the "Industrial Accident Compensation Insurance Act" in Japan.

4. The Basis of Civil Litigation for Workplace Sexual Harassment and Power Harassment

Regarding civil litigations for workplace sexual harassment and Power Harassment, the useful provisions are actually the following four:

- 1) Harasser's Simple Tort Liability [Civil Code §709]
- 2) Employer's Vicarious Liability (Tort) [Civil Code §715]
- 3) Employer's Tort Negligence Liability [Civil Code §709]
- 4) Employer's Breach of Contract [Civil Code §415]

III Harassment Cases in Japan

1. A Typical Workplace Harassment Case

I would like to introduce the following workplace sexual harassment case as being a typical one in Japan. It's the September 10th, 2008 Tokyo High Court Judgment, R. H. (969)⁶. This is the case of "a female worker at a confectionery company vs. her supervisor and employer." The claim was based on the supervisor's constant teasing. For example, "Looks like you played around too much last night", etc. The High Court reversed the District Court judgment and granted the plaintiff damages of 1.7 million Yen [12,400 EUROS]⁷.

⁴ See Exhibit A.

⁵ See Exhibit A.

⁶ Reporters abbreviations are follows: H. J.: HANREI JIHO (『判例時報』: Law Cases Reports), H. T.: HANREI TAIMUZU (『判例タイムズ』: Law Times Reports), R. H.: ROUDOU HANREI (『労働判例』: Labour Case Reports).

⁷ Assuming the exchange rate is 137 yen to the euro.

In Japan, a small incident can easily be found to be illegal harassment, but the amount of damages is rather low. In comparison, in the U.S., the incident must be extremely cruel because the “Severe-or-pervasive Rule” is adopted in the U.S., but the amount of damages is rather high.

2. Harassment Triangle

Please refer to Exhibit C. Regarding the harassment problem, there is a triangle, which may be called a “Harassment Triangle.” In the harassment triangle, the victim may sue the harasser. The victim may sue her/his employer under both vicarious liability and negligence [tort law]. In addition, the employer’s breach of the labor contract may be argued. In theory, the disciplined harasser may sue his/her employer over the severity of the disciplinary punishment. Previously, this was quite rare.⁸ If the accusation was false, the harasser might sue both the false victim and his/her employer.

IV Trends in Recent Harassment Cases

Recently, in Japan, the disciplined harasser often sues his/her employer over severe disciplinary punishment. It is likely that gradually increasing awareness of harassment has led to excessive disciplinary punishment against harassers. As the result, cases of harassers fighting back against their employers have emerged.

1. Fight-back Cases’ Increasing

In 2004, I traced 93 sexual harassment past cases (including those cases’ appeals) reported in the major case reporters (H. J., H. T. and R. H.).⁹ Regarding such fight-back cases, the number of the cases where the harasser brought a lawsuit against his employer was only 7 (7.5%).¹⁰ Now, our study group has traced 27 harassment cases from 2011 to 2012. You can find the results in Exhibit D. The number of the said fight-back cases is 9 (33%).¹¹

As such examples, I would refer to several court cases.

⁸ As the counterclaim over the victim’s original claim, harassers’ claims for defamation have sometimes been found. For example, Sendai High Court Akita Branch, Judgment, Dec. 10, 1998, H. J. (1681) 112, R. H. (756) 33.

⁹ EIICHIRO YOSHIKAWA, SHOKUBA NI OKERU SEXUAL HARASSMENT MONDAI 205–231 (Lexis-nexis Japan 2004).

¹⁰ The seven cases are as follows : (1) Fukuoka District Court, Judgment, Feb. 5, 1997, R. H. (713) 57, (2) Tokyo District Court, Judgment, Dec. 7, 1998, R. H. (751) 18, (3) Osaka District Court, Judgment, Apr. 28, 2000, R. H. (789) 15, (4) Tokyo District Court, Judgment, May 31, 2000, R. H. (796) 84, (5) Tokyo District Court, Judgment, Aug. 29, 2000, H. J. (1744)137, R. H. (794) 77, (6) Kobe District Court, Order, Jan. 18, 2001, H. T. (1092) 189, (7) Osaka High Court, Order, Apr. 26, 2001, H. T. (1092) 170 [*This case is an appeal of the (6) case].

¹¹ See Exhibit D : List of Harassment Cases. The nine cases are marked with [➡] in the “Matches” column of Exhibit D.

2. Fight-back Case 1 (Case #10 of Exhibit D)

Please refer to Case #10 of Exhibit D. This is the Osaka High Court Judgment of Feb. 28 th, 2012, R. H. (1048)¹²63. This case involved a harasser-plaintiff [male professor] vs. his employer-defendant. The harassee was a female associate professor. The district court ruled there was no sexual harassment in favor of the harasser and nullified the disciplinary pay cut. The high court, however, reversed the district court judgment relying upon the victim's testimony and dismissed the harasser's claim.

3. Fight-back Case 2 (Case #2 of Exhibit D)

Another case is the Kanazawa District Court Judgment of January 25th, 2011, R. H. (1026)116 which was an academic harassment case where a female associate professor was a harasser-plaintiff and several students were victims of her severe coaching. Her employer university (the defendant) gave her a 6-month disciplinary suspension. The Court confirmed there was some harassment, but held that the disciplinary action was too severe and that the university abused its discretion.

V Conclusion

In conclusion, I would state that :

- 1) Japanese harassment law has been evolving.
- 2) It now requires a BALANCE between relieving victims and avoiding excessive punishment of harassers. Employers, namely, corporations and schools, are facing a new difficult phase dealing with problems in such a BALANCED fashion.

¹² As the first instance judgment, Osaka District Court, Judgment of Sep. 16 th, 2011, R. H. (1037) 20 is found.

Exhibit A : Workplace harassment laws in Japan

1. Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (Act No.113 of July 1, 1972) 雇用の分野における男女の均等な機会及び待遇の確保等に関する法律¹³

Section II Measures to be Taken by Employers 第二節 事業主の講ずべき措置

(Employment Management Measures Concerning Problems Caused by Sexual Harassment in the Workplace 職場における性的な言動に起因する問題に関する雇用管理上の措置)

Article 11 Employers shall establish necessary measures in terms of employment management to give advice to workers and cope with problems of workers, and take other necessary measures so that workers they employ do not suffer any disadvantage in their working conditions by reason of said workers' responses to sexual harassment in the workplace, or in their working environments do not suffer any harm due to said sexual harassment.

第 11 条 事業主は、職場において行われる性的な言動に対するその雇用する労働者の対応により当該労働者がその労働条件につき不利益を受け、又は当該性的な言動により当該労働者の就業環境が害されることのないよう、当該労働者からの相談に応じ、適切に対応するために必要な体制の整備その他の雇用管理上必要な措置を講じなければならない。

(2) The Minister of Health, Labor and Welfare shall formulate guidelines required for appropriate and valid implementation of measures to be taken by employers pursuant to the provisions of the preceding paragraph (referred to as the "Guidelines" in the following paragraph). 厚生労働大臣は、前項の規定に基づき事業主が講ずべき措置に関して、その適切かつ有効な実施を図るために必要な指針（次項において「指針」という。）を定めるものとする。

(3) The provisions of Article 4, paragraphs 4 and 5 shall apply mutatis mutandis to the formulation and amendment of the Guidelines. In these cases, the term "shall consult the Labor Policy Council and shall request the opinions of the prefectural governors" in Article 4, paragraph 4 shall be deemed to have been replaced with "shall consult the Labor Policy Council." 第 4 条第 4 項及び第 5 項の規定は、指針の策定及び変更について準用する。この場合において、同条第 4 項中「聴くほか、都道府県知事の意見を求める」とあるのは、「聴く」と読み替えるものとする。

2. Labor Contract Act(Act No.128 of December 5, 2007) 労働契約法¹⁴
(Consideration to Safety of a Worker 労働者の安全への配慮)

13 <http://www.japaneselawtranslation.go.jp/law/detail/?ft=1&re=02&dn=1&co=01&ia=03&ky=%E7%94%B7%E5%A5%B3%E9%9B%87%E7%94%A8&page=1> (Last visited Oct. 25, 2014)

14 <http://www.japaneselawtranslation.go.jp/law/detail/?ft=2&re=02&dn=1&yo=%E5%8A%B4%E5%83%8D%E5%A5%91%E7%B4%84%E6%B3%95&ia=03&x=29&y=7&ky=&page=1> (Last visited Oct. 25, 2014)

Article 5 An employer shall, in association with a labor contract, give the necessary consideration to allow a worker to work while securing the safety of his/her life, body and the like. 第5条 使用者は、労働契約に伴い、労働者がその生命、身体等の安全を確保しつつ労働することができるよう、必要な配慮をするものとする。

3. Civil Code(Act No.89 of April 27, 1896) 民法¹⁵

(Damages due to Default 債務不履行による損害賠償)

Article 415 If an obligor fails to perform consistent with the purpose of its obligation, the obligee shall be entitled to demand damages arising from such failure. The same shall apply in cases it has become impossible to perform due to reasons attributable to the obligor. 第415条 債務者がその債務の本旨に従った履行をしないときは、債権者は、これによって生じた損害の賠償を請求することができる。債務者の責めに帰すべき事由によって履行をすることができなくなったときも、同様とする。

(Damages in Torts 不法行為による損害賠償)

Article 709 A person who has intentionally or negligently infringed any right of others, or legally protected interest of others, shall be liable to compensate any damages resulting in consequence. 第709条 故意又は過失によって他人の権利又は法律上保護される利益を侵害した者は、これによって生じた損害を賠償する責任を負う。

(Compensation for Damages Other than Property 財産以外の損害の賠償)

Article 710 Persons liable for damages under the provisions of the preceding Article must also compensate for damages other than those to property, regardless of whether the body, liberty or reputation of others have been infringed, or property rights of others have been infringed. 第710条 他人の身体、自由若しくは名誉を侵害した場合又は他人の財産権を侵害した場合のいずれであるかを問わず、前条の規定により損害賠償の責任を負う者は、財産以外の損害に対しても、その賠償をしなければならない。

(Liability of Employers 使用者等の責任)

Article 715 (1) A person who employs others for a certain business shall be liable for damages inflicted on a third party by his/her employees with respect to the execution of that business; provided, however, that this shall not apply if the employer exercised reasonable care in appointing the employee or in supervising the business, or if the damages could not have been avoided even if he/she had exercised reasonable care. 第715条 ある事業のために他人を使用する者は、被用者がその事業の

¹⁵ <http://www.japaneselawtranslation.go.jp/law/detail/?re=02&yo=%E6%B0%91%E6%B3%95&ft=2&ky=&page=3> (Last visited Oct. 25, 2014)

執行について第三者に加えた損害を賠償する責任を負う。ただし、使用者が被用者の選任及びその事業の監督について相当の注意をしたとき、又は相当の注意をしても損害が生ずべきであったときは、この限りでない。

(2) A person who supervises the business on behalf of the employer shall also assume the liability under the preceding paragraph. 使用者に代わって事業を監督する者も、前項の責任を負う。

(3) The provisions of the preceding two paragraphs shall not preclude the employer or supervisor from exercising their right to obtain reimbursement against the employee. 前二項の規定は、使用者又は監督者から被用者に対する求償権の行使を妨げない。

Exhibit B : Power harassment definition

The “power harassment” defined by the Ministry of Health, Labour and Welfare (MHLW)

「職場のパワーハラスメント」とは、同じ職場で働く者に対して、職務上の地位や人間関係などの職場内の優位性を背景に、業務の適正な範囲を超えて、精神的・身体的苦痛を与える又は職場環境を悪化させる行為をいう。

“Workplace power harassment” means any conduct directed towards a person working at the same workplace, in a position of superiority-at-work based on occupational rank, human relationships, etc., which, beyond the proper scope of the job, inflicts emotional distress or physical pain on him/her or makes his/her working environment worse. (Tentative translation by Eiichiro Yoshikawa)

*****[The followings are abstracted from the MHLW’s publication ; 厚生労働省広報資料より抜粋]

Preventing/resolving workplace “power harassment”

An increasing number of workplaces have been troubled by the act of bullying, which can include physical violence, verbal abuse, intimidation, and exclusion, and unreasonable guidance or directions. According to a survey of the actual situation that was published by the Ministry of Health, Labour and Welfare, 25.3% of workers have suffered from some form of “power harassment” (the issues of bullying /harassment in workplaces) over the last three years and 45.2% of enterprises consulted with regard to power harassment (power harassment had actually taken place in 32.0% of enterprises). Power harassment at workplaces is an unacceptable act that can negatively affect a worker’s dignity and personality. From the point of view of ensuring appropriate working conditions, therefore, promoting measures to ensure that active efforts are made to prevent/resolve these problems has been an important issue. The Ministry of Health, Labour and Welfare is providing dissemination/publicity on developing a social sentiment that prevents/resolves power harassment at workplaces, including the establishment of the portal site.

[http : //www.mhlw.go.jp/english/policy/employ-labour/labour-standards/dl/labour_standards_bureau.pdf](http://www.mhlw.go.jp/english/policy/employ-labour/labour-standards/dl/labour_standards_bureau.pdf)
(June 8, 2014)¹⁶

Exhibit C : Harassment Triangle

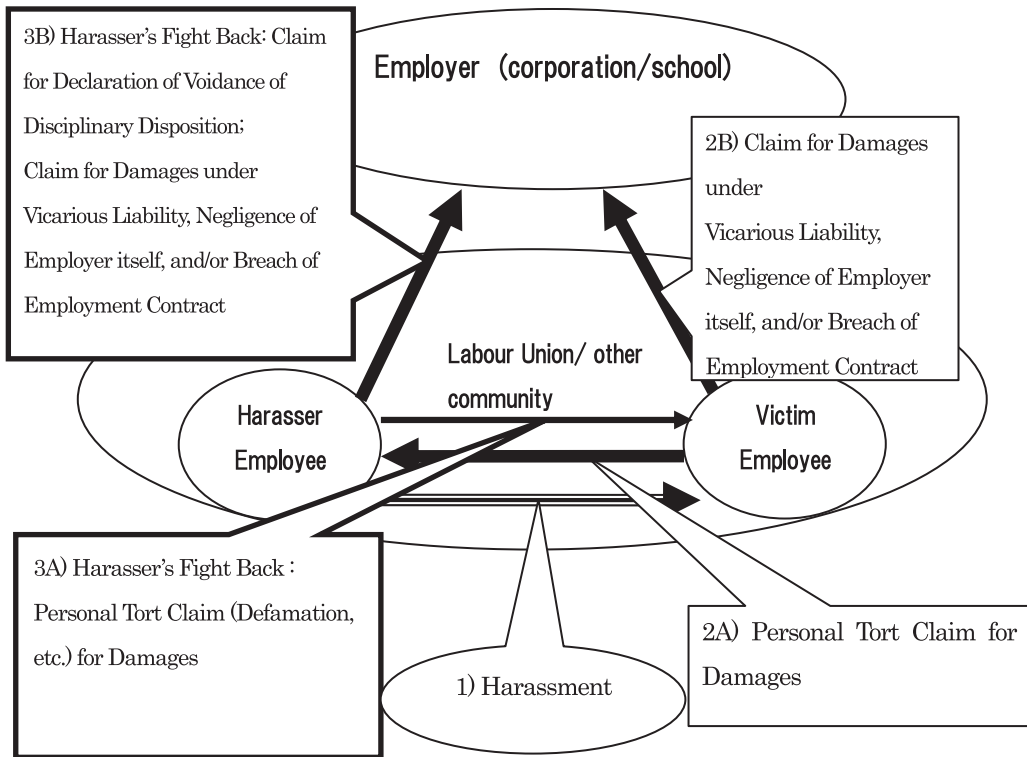


Exhibit D : List of Harassment Cases (March 24, 2014 updated)

* Reporters abbreviations

H. J. : Hanrei Jiho (判例時報 ; Law Cases Reports), H. T. : Hanrei Taimuzu (判例タイムズ ; Law Times Reports), R. H. : Roudou Hanrei (労働判例 ; Labour Case Reports)

* Other abbreviations

[D] : defendant, [P] : plaintiff, [SH] : sexual harassment, [WSH] : workplace sexual harassment, [CSH] : campus(school) sexual harassment, [PH] : power-harassment, [AH] : academic harassment

* Conclusions marked with a [Yes] indicate that the court confirmed that the harassment existed.

Conclusions marked with a [No] indicate that the court didn't confirm the harassment.

[category] Judgment & date	Reporters	Fact summary	Conclusion and amount of damages	Matches (litigant parties)
1. [WSH] District Tokyo Court, Judgment, Dec. 27, 2010 東京地判 H 22. 12. 27	H. J. (2116) 130, H. T. (1360) 137 判例時報2116号 130頁, 判例タイムズ 1360号137 頁	General Manager X was punitively discharged by his employer, Y Corp. for alleged SH conduct directed against female employees dispatched from Y's subcontractor. X's alleged SH included going to their hotel room to kiss them, and to touch their sexual regions such as thighs and nipples. X brought an original claim as a [P] for declaration of void dismissal, and the [D], Y Corp. brought a counterclaim against X for vexatious action (tort).	X's original claim was dismissed. Y's counterclaim was granted partly. [Yes] Damages as Y's litigation cost : about JP¥2.74 M (19,600 Euro)	→ Harasser v. Employer
2. [AH] Kanazawa District Court, Judgment, January 25, 2011 金沢地判 H 23. 1. 25	R. H. (1026) 116 労働判例1026号 116頁	Regarding her supervision of students' graduation research or volunteer activities, an associate professor [P] was punitively placed on 6 months suspension by her employer, [D] University for infringement of its anti-harassment guideline. The following AH was alleged: [P] burdened research students and volunteer leaders to the point they alleged mental disorder, and, although medical certificates of mild depression were displayed, she rebuked or mocked them. She was blamed for resisting the on-campus procedure. Prof. [P] brought a lawsuit to void the disciplinary action, and to collect unpaid salary and damages (for mental suffering, etc.) under tort.	The court confirmed the harassment [Yes], but held that the disciplinary action was too severe to be valid and that the university abused its discretion. [P] was granted unpaid salary and cost for moving personal belongings (JP¥100 K ≈ 720 Euros).	→ Harasser v. Employer
3. [PH] District Tokyo Court, Labour Tribunal Decision, March 16, 2011 東京地裁労働審判 H 23. 3. 16	R. H. (1028) 97 労働判例1028号 97頁	Petitioner X was an employee of Y Corp., a taxi company, responsible for operation control. X alleged the following SH by her superior, A: (1) A kissed X and slipped his hand up her skirt in a car while returning from a restaurant, and (2) A forced X to have a sexual relationship with him a total of 6 times. Around the same time, Y transferred X from the post of operation control to a driver, and X felt that the job transfer was the sign of Y's encouragement of her retirement. X had previously suffered from mental disorder. She suddenly acted violently during a discussion with her personnel manager and was taken to the hospital in an ambulance. As a result, Y took disciplinary action, issuing an order for a 14-day suspension from work. X made a petition for a labour tribunal decision, claiming damages for mental suffering from SH and forced retirement.	The Labour Tribunal Committee determined that X and A had a special relation exceeding the relation of a superior and a subordinate, but did not confirm that a sexual relationship was forced. It was also determined that the job transfer was a substantial disadvantage to X. The conciliation was successful, where X's retirement was confirmed and Y promised to pay settlement money (JP¥0.95 M ≈ 6,800 Euros).	Victim v. Employer

1 Euro ≈ JP¥140

4. [PH] Tokyo District Court, Judgment, Jul. 26, 2011 東京地判 H 23. 7. 26	R. H. (1037) 59 労働判例 1037号 59頁	Assisting Section Manager X [P] was punitively discharged by his employer, Y Corp. for multiple conducts including PH against an employee reporting to X, unexcused absence from work, drilling the floor of the company's room without permission, and unexcused stay in a meeting room. X brought a lawsuit against Y Corp. to void the dismissal and for unpaid overtime pay. The employee who was the target of X's PH was diagnosed with depression.	The court confirmed the validity of the punitive discharge [Yes]; however, X's claim for the recovery of unpaid overtime pay was partly granted.	→ Harasser v. Employer
5. [PH] Tokyo High Court, Judgment, Aug. 31, 2011 東京高判 H 23. 8. 31	H. J. (2127) 124, R. H. (1035) 42 判例時報 2127号 124頁, 労働判例 1035号 42頁	Section Chief X [P] was, allegedly, unreasonably transferred to a new job post three times by the employer, Y Corp., and exposed to PH at each new post, after reporting the wrongful conduct (headhunting from Y's business customer) by X's superior, Y 2, to Y's internal compliance office. X brought a lawsuit against Y Corp. and the superior, Y 2, to void the job-transfer order and damages for mental suffering.	X's claim was granted. The court confirmed that all job-transfer orders were invalid (abuse of authority over personnel issues), these orders were illegal under the tort law, and the PH directed at X at each new post was also illegal. [Yes]	Victim v. Superior and Employer
6. [CSH] Osaka District Court, Judgment, Sep. 15, 2011 大阪地判 H 23. 9. 15	R. H. (1039) 73 労働判例 1039号 73頁	X [P] was an associate professor of Y University. A magazine article reported that X brought a female student into X's office after a welcome party for new students and raped her. After X's faculty adopted a resolution taking disciplinary actions against X, Y University suspended X from work for 6 months. X alleged that 6 months of suspension was overly severe and thus an illegal action, and made claim for a declaration voiding the disciplinary action, for payment of wages for the suspended period, and for payment of damages (mental suffering) in tort.	The court ruled that the order of suspension for 6 months was overly severe and unreasonable (3 months, at the most, would be reasonable), while the conduct of X violated Y's work rules. The court granted X's claim for unpaid wages, stating that such order was abuse of disciplinary right and therefore illegal and invalid. Meanwhile, the court denied Y's liability in tort (payment of damages).	→ Harasser v. Employer
7. [PH] Sapporo District Court, Judgment, Dec. 14, 2011 札幌地判 H 23. 12. 14	R. H. (1048) 85 (Digest) 労働判例 1046号 85頁 [ダイジェスト]	[P], a contract worker of a public interest corporation [D], was reprimanded by [D] (the "Reprimand") for an alleged false entry in a personal resume and violation of the non-dual employment rule. [P] insisted that the Reprimand was groundless and a tort, and brought a claim for the declaration voiding the Reprimand, damages in tort, and a delinquent charge (Case 1). In addition, [P] alleged that the non-renewal of his employment contract (the "Non-renewal") was invalid and claimed for the confirmation of [P]'s status in the employment contract, the payment of money in an amount of salaries paid to [P] during the term of his employment, and the payment of a delinquent charge at the statutory interest rate for commercial transactions (6% per annum) (Case 2).	The determination of the court in Case 1 was that the Measure's nature of harassment by [D] against [P] could not be ignored, and JPY0.1M (≠720 Euros) was a reasonable amount of the damages for the mental suffering of [P] caused by [D]'s tort. [Yes] The court determined in Case 2 that the Non-renewal was invalid.	Victim v. Employer (Harasser)
8. [PH] Tokyo District Court, Judgment, Jan. 23, 2012 東京地判 H 24. 1. 23	R. H. (1047) 74 労働判例 1047号 74頁	X [P] received an order for leave of absence for 3 months by his employer, Y Corp. (a securities corp.). Subsequently, X received an order for the extension of the original order for additional 3 months, and then was dismissed. X brought an action against Y Corp. and claimed for the following: (1) Declaration of the invalidity of the order for leave of absence and the extension order; (2) Confirmation of status under the labour contract; (3) Wages accrued after the order for leave of absence and a delinquent charge; (4) JPY2 M (≠14,300 Euros) as damages for mental suffering caused by the words and deeds and the enforcement of resignation by his superior; and (5) JPY20 M (≠143,000 Euros) as damages under breach of contract or tort for the non-payment of a bonus. X regarded a series of actions of Y Corp. taken in the guidance of business improvement as PH conduct. Meanwhile, Y Corp. insisted that X's opinion was unilateral and groundless, and gave the order for leave of absence and the extension order. Thus, whether the actions of Y Corp. were PH or not was one point of issue in the case.	(1) Determined invalid; (2) Status was confirmed; (3) Payment of the wages accrued after the order for leave of absence and a delinquent charge was ordered; and (4) A part of the superior's words and deeds and the enforcement of resignation were determined illegal, and JPY1 M (≠7,200 Euros) of damages and a delinquent charge were granted. Y Corp. discharged X from the duty of sales activities when improvement in X's business performance was still expected, and even encouraged retirement to X. Concerning these acts, the court ruled, stating, "it cannot be determined that (……) X's opinion that such acts were PH was groundless". [Yes]	Victim v. Employer (Harasser)

9. [PH/WSH] District Tokyo Court, Judgment, Jan. 27, 2012 東京地判 H 24. 1. 27	R. H. (1047) 5 労働判例 1047号 5頁	X [P] was employed as a professor of a university operated by Y Corp. [D]. X had a work background that, after transferring from the Ministry of Health, Labour and Welfare to an incorporated foundation, a lawsuit relevant to X's problematic acts, which were regarded as PH/SH, was reported by the media. Y Corp. became concerned about this fact and told X to leave the university, but X did not acquiesce. Y then dismissed X for lack of qualification required for the performance of duties (non-disclosure of PH/SH conduct during the former employment). X alleged that the dismissal was invalid and claimed for the confirmation of the status under the labor contract, the payment of wages, and damages in tort.	An applicant for employment is not obliged to disclose that the applicant was ever accused of PH/SH conduct. The court ruled that the dismissal was invalid because X's non-disclosure did not breach the obligation under the good faith principle, and granted the status under the labour contract and the claim for the payment of wages. The claim for damages under tort was dismissed.	→Employee having a record as a Harasser v. New Employer
10. [CSH/WSH] Osaka High Court, Judgment, Feb. 28, 2012 大阪高判 H 24. 2. 28	R. H. (1048) 63 * The original decision : Osaka District Court, Judgment, Sep. 16, 2011, R. H. (1037) 20 労働判例 1048号 63頁 (*原審:大阪地判 H.23. 9. 16, 労働判例 1037号 20頁)	X [P/Appellee] was a male professor of Y University [D/Appellant]. During a period from June 2007 to January 2008, X, allegedly, persistently invited for a drink a female associate professor A, who was recently employed by Y University (engaged in the same research as X, although the major was different). On January 16, 2008, on the occasion of having dinner together, X touched A's thighs and upper arms and pulled her into his arms. Such SH exhausted A both physically and mentally, and resulted in the need of undergoing weekly counseling. Y University alleged that X deteriorated A's educational research environment and took the disciplinary measure of cutting X's pay. X alleged that such measure was invalid, and claimed for the confirmation of the status under labour contract free from disciplinary measure and the payment of the reduced amount of his salary (JP¥14,425 = 100 Euros).	The original decision (which denied the existence of SH and determined the disciplinary measure invalid) was revoked. Both claims of Appellee were dismissed. [Yes]	→Harasser v. Employer
11. [PH] District Tokyo Court, Judgment, Mar. 9, 2012 東京地判 H 24. 3. 9	R. H. (1050) 68 *See the appeal court decision. 労働判例 1050号 68頁 (*控訴審判決あり)	[P] was treated by his employer [D-Company] in such manner that [P] left the company upon the expiration of the period of his leave of absence. [P] alleged he was subjected to forced drinking and threatening directed at him by his former superior [D-Employee], and insisted that such PH caused his mental disorder, medical expenses, loss from absence from work, and mental suffering. [P] claimed for damages against [D-Company] under Articles 709 (torts), 715 (vicarious liability of employers), and 719 (liability of joint tortfeasors) of the Civil Code or the breach of the duty to provide good work environment under the labor contract, and damages against [D-Employee] for the breach of Articles 709 and 719 of the Civil Code. Moreover, [P] claimed against [D-Company] for the confirmation of contractual status and wages accrued after the retirement, insisting that the order for leave of absence was invalid or against the good faith principle because his mental disorder was work-related illness.	The phone message left by X's superior which included abusive language was determined a tort. [Yes] JP¥90.7 M (= 5,000 Euros) of damages was granted exclusively for mental suffering. Meanwhile, the company's treatment of [P] as a retired employee was determined reasonable, partly because [P] did not take the simple procedure of submitting a written request of reinstatement. The court did not grant the confirmation of contractual status.	Victim v. Superior and Employer
12. [WSH] District Tokyo Court, Judgment, Mar. 27, 2012 東京地判 H 24. 3. 27	R. H. (1053) 64 労働判例 1053号 64頁	Section Manager X (demoted to rank-and-file employee after SH) was punitively discharged by his employer, Y Corp. (accounting outsourcing service provider), for reasons of the alleged false report of overtime work to the Labour Standards Inspection Office, certain words and deeds directed to a client, and SH directed to a female subordinate. X's alleged SH included (1) walking arm in arm or hand in hand, and (2) giving a picture book, "The Little Prince", as a present. Such behavior allegedly provoked repulsion of female employees.	Victimizer [P]'s status under labour contract was confirmed (void dismissal), and the claim for wages was partly granted. The existence of SH was confirmed [Yes], however, the court determined that the disciplinary dismissal involved abuse of disciplinary right.	→Harasser v. Employer

<p>13. [PH] Osaka District Court, Judgment, Apr. 13, 2012 大阪地判 H 24. 4. 13</p>	<p>R. H. (1053) 24 労働判例 1053号 24頁</p>	<p>X [P] was a staff member of Y (a medical corp.) [D]. X withdrew from Labour Union B1 (the head director, director, and two-thirds of the staff were members of B 1) and joined another joint union competing with B 1. The directors of Y accused X and persuaded X to withdraw from the joint union, which caused X's adjustment disorder and the eventual depression. X was absent from work for 3 months and then took leave of absence, and upon expiration of the period of leave of absence, X's desire to be reinstated was not accepted, and X was treated as retired. X claimed against Y for the confirmation of the status under the labor contract and the payment of damages in tort or for breach of the duty to secure safety for workers, on the ground of X's depression caused by PH. Whether X's illness was work-related or not was one point of issue.</p>	<p>X's claim was granted. X's status as a staff member of Y Corp. was confirmed. The court ordered the payment of approx. JP ¥6.4 M (≐ 45,700 Euros) of damages (JP¥1.5 M ≐ 10,700 Euros was for mental suffering). [Yes]</p>	<p>Victim v. Employer</p>
<p>14. [PH] Okayama District Court, Judgment, Apr. 19, 2012 岡山地判 H 24. 4. 19</p>	<p>R. H. (1051) 28 労働判例 1051号 28頁</p>	<p>X [P] was allegedly harassed (PH) by 3 superiors at X's former employer, Y Corp., and brought an action against the 3 superiors at that time and also Y Corp. (for employer's vicarious liability), claiming for damages in tort. In addition, [P] claimed for damages for breach of the duty to secure safety for workers (duty of health supervision) against Y Corp., for the alleged fact that X was transferred to 4 different work posts in a short term (2.5 years).</p>	<p>PH by one of the superiors was granted. The employer's vicarious liability of Y Corp. was also granted. Compensation of damages for mental sufferings (JP¥1 M ≐ 7,200 Euros) plus attorney's fee (JP¥0.1 ≐ 720 Euros) was granted. Claim of breach of the duty to secure safety was dismissed.</p>	<p>Victim v. Superior and Employer</p>
<p>15. [PH] Supreme Court, Judgment, Apr. 27, 2012 最判 H 24. 4. 27</p>	<p>H. J. (2159) 142, H. T. (1376) 127, R. H. (1055) 5 判例時報 2159号 142頁, 判例タ イ 大 文 1376号 127頁, 労働判例 1055 号 5頁</p>	<p>A worker [X, the respondent] was disciplinarily given instruction to resign by his employer [Y Corp., the petitioner], after being absent from work for about 40 days due to paranoia or the like. Worker X sent an email to his superior at Y Corp., saying that he was harassed by an external "group of victimizers" through his colleague at Y Corp. Such act of X was first time in X's 7 years of employment. X took a paid leave, and subsequently, did not attend work. The personnel manager informed X that investigation could not confirm the alleged harassment; however, X was not content. Meanwhile, Y Corp. did not answer X' question of how to take the leave of absence. When the period of absence had almost reached 40 days, the general manager emailed X an order to attend work. X raised an objection, but began to attend work. Y Corp. took a disciplinary measure of resignation by instruction against X, as a result of regarding X's absence as an unexcused absence without justifiable reasons.</p>	<p>The confirmation of the status under the employment contract and the payment of wages were granted (appeal was dismissed). The Court ruled that the immediate resignation by instruction was invalid, considering that Y's absence from work was caused by some mental malfunction. [-]</p>	<p>Victim v. Employer</p>
<p>16. [PH] Saitama District Court, Labor Tribunal Decision, May of 2012 さいたま地裁労働審判 H 24. 5. ○</p>	<p>R. H. (1048) 170 労働判例 1048号 170頁</p>	<p>X, a female employee of a major supermarket chain, Y Corp., obeyed the directions of a male chief A, her superior, to work (without payment) from 7:00 a.m. (when the store is unlocked) until the start of her normal working hours on her shift and also after the end of her normal working hours. A's inconsiderate statements, which ignored X's overtime work without overtime pay, led to the petition of a labour tribunal decision by X. X claimed for the overtime pay of approx. JP¥1.46 M (≐ 10,400 Euros) and damages of approx. JP¥1 M (≐ 7,200 Euros) on the ground of employer's vicarious liability relevant to the PH statements by A. (As a result of intervention of X's fiancé, the Superior A prepared a document prior to the petition, which basically admitted X's overtime work without overtime pay and A's PH statements.)</p>	<p>In the labour conciliation, the payment of settlement money JP¥2 M (≐ 14,300 Euros) (approx. 80% of the claimed monetary amount) was agreed. The damages for PH is estimated JP¥0.8 M (≐ 5,700 Euros). [Yes]</p>	<p>Victim v. Employer</p>

					→ Harasser v. Employer
17. [PH] Osaka District Court, Judgment, May 25, 2012 大阪地判 H 24. 5. 25	R. H. (1057) 78 労働判例 1057号 78頁	X [P] was an employee of Y 1 Corp. [D] and was internally transferred to Y 3 Corp. [D]. X brought an action against Y 1 and Y 3, claiming for a declaration voiding the disciplinary action and the payment of the reduced amount of wages. X also claimed for damages in tort against the employees of Y 1 and Y 3 (Y 2 and Y 4, respectively) for their alleged violent acts directed at X and damages against Y 1 and Y 3 under employer vicarious liability. The points of issue in this case included: (1) Whether the acts of Y 2 and Y 4 were torts; (2) employer vicarious liability of Y 1 and Y 3 over torts by Y 2 and Y 4; (3) The validity of the reprimand by Y 1 and the pay cut by Y 3; and (4) X's allegation that PH was seen in a series of disciplinary actions and performance evaluation.	X's claim was partly granted (the reprimand was determined valid, and the claim for wages on the premise of void reprimand was dismissed). X's claim for damages for separate trouble was partly granted (JP¥50 K ≈ 360 Euros for mental suffering and JP¥5 K ≈ 36 Euros as attorney's fee). [No]	→ Harasser v. Employer	
18. [AH · CSH] Tokyo District Court, Judgment, May 31, 2012 東京地判 H 24. 5. 31	R. H. (1051) 5 労働判例 1051号 5頁	[P] was an associate professor of V University [D]. Due to 7 acts of [P] directed to his students, the university took the following measures: (1) Discharged [P] from the assignment of giving lectures of compulsory subjects; (2) Allocated no former-student researcher or graduate student; and (3) Prevented [P] from attending departmental meetings and screening meetings (the "3 Measures"). In addition, (4) [P]'s faculty adopted a resolution of the 3 Measures, and the university gave oral notice of this resolution to [P] without giving [P] a chance to explain. [P] alleged the illegality and invalidity of these measures, on the ground that these were abuse of the university's disciplinary right or discretionary power and thus the violation of [P]'s rights to be assigned to give lectures, to have his own office and be allocated with the former or current students, and to attend departmental and other meetings. [P] claimed against V University [D] for the confirmation of the status eligible to give lectures of compulsory subjects and the exclusion of disturbing elements, and [P] also claimed V University and the department managing professor for the joint payment of the reduced amount of the graduate allowance accrued for 2 years; JP¥3 M (≈ 27,300 Euros) of damages for mental sufferings; and a delinquent charge.	The court judged that 2 acts of X, "treated a student M as a 'thief' in an email" and "posting the language, 'M -expelled' on a website", "remarkably lacked consideration as an educator", and determined that the 3 Measures were effective. [Yes] The reprimand measure taken for X's insubordination to the work order for the relocation of his office was determined abuse of disciplinary right and thus invalid, stating that the disciplinary provisions were inappropriately applied.	→ Harasser v. Employer	
19. [AH] Kochi District Court, Judgment, Jun. 5, 2012 高知地判 H 24. 6. 5	H. T. (1384) 246 判例タイムズ 1384 号 246頁	E was a first-grade student of a private junior high school operated by Y Corp. [D], and E participated in the school's golf club activities. E committed suicide, and E's parents, A and B [Ps(PA/PB)] brought an action, claiming for damages on the grounds that (1) Y Corp. failed to fulfill its duty to investigate bullying (breach of school contract), and (2) Y Corp. posted a blog article praising the excellent performance of a student whose involvement in E's suicide was suspected, and also C (E's class teacher [D]) and D (an advising teacher of the golf club [D]), made inappropriate statements to [PA/PB] (tort).	The court granted Y's breach of "duty to make investigation and report" implied under the school contract, and ordered the compensation of JP¥0.8 M (≈ 5,700 Euros) to each [PA] and [PB] (total JPY 1.6 M ≈ 11,400 Euros). C's statements, which were made based on what C heard from another teacher about a statement of a psychic, were determined careless and lacked common sense, and the court ordered the payment of damages of JP¥0.15 M (≈ 1,100 Euros) to each [PA] and [PB] (total JP¥0.3 M ≈ 2,200 Euros).	Victim's parents v. School	
20. [WSH] Tokyo District Court, Judgment, Jun. 12, 2012 東京地判 H 24. 6. 12	H. J. (2165) 99 判例時報 2165号 99頁	[P], holding public office, claimed against two mass-media companies [D] for the damages of JP¥10 M (≈ 71,400 Euros) for each of [D] (total JP¥20 M ≈ 143,000 Euros), alleging that [D]'s articles reporting SH by [P] were defamation. [P] made a statement which could be taken as SH to press corps including a female reporter on a public occasion, and [D] asserted in their articles that this statement was SH. The main points of issue included the following: (1) Which facts need to be proven true for the articles to be determined not to be defamation; and (2) Whether the SH reporting would be determined legitimate and the articles would be determined not to be defamation, even if the female reporter in person did not feel that [P]'s statement was SH directed at her.	The court, although it stated that the articles would deteriorate the social reputation of [P], determined that the articles were not defamation, and dismissed [P]'s claim. The grounds for such decision were (1) the fact and purpose of reporting the statement were for public interest, and (2) the fact was proven to be true in the important part (an objective fact that there was a statement which could be taken as SH).	Harasser v. Mass media	

<p>21. [PH] Tottori District Court, Judgment, Jul. 6, 2012 鳥取地判 H 24. 7. 6</p>	<p>R. H. (1058) 39</p>	<p>This case was an administrative case relating to compensation benefits for absence from work provided under the Workmen's Accident Compensation Insurance Act, and involved PH by the top-ranked managers. A female sales manager [P] (victim) of a life insurance company was allegedly bullied and harassed by two high-ranked managers in the branch office (both were victimizers and non-parties to this case) due to unreasonable resentment. [P] felt excessive mental stress and was diagnosed with stress-related depression (mental disorder), and [P] had to be absent from work for a while. [P] claimed for compensation benefits for such absence from work to the Chief of the Labor Standards Inspection Office; however, [P] was informed that the benefit would not be paid. [P] brought an action against the national government for the revocation of the determination of non-payment.</p>	<p>The court ruled that [P]'s mental disorder was caused by work, and ordered the revocation of the determination of non-payment for all 3 periods. [Yes] *Related Decision : Tottori District Court Yonago-branch, Judgment, Jul. 6, 2012, R. H. (09)628 *関連判決：鳥取地判 H 21. 10. 21. 労働判例 996号 28頁。</p>	<p>Victim v. Government (labour authority)</p>
<p>22. [PH] Saitama District Court, Labor Tribunal Decision, Jul. 23, 2012 さいたま地裁労働審判 H 24. 7. 23</p>	<p>R. H. (1059) 97 労働判例 1059号 97頁</p>	<p>X1 and X2 [Petitioners] were administrative staff of a medical clinic, and Y [Respondent] was the director of the clinic. Administrative staff of this clinic were exposed to PH by Y on a daily basis; for example, Y was abusive to the staff who could not correctly answer his quiz about Japanese idioms, and reprimanded the staff when Y's pet (killifish) or garden trees were in bad shape. X1 and X2 were forced to resign, and their request to use accrued paid leaves before retirement and the alternative payment of wages instead of using paid leaves were both refused. X1/X2 petitioned for a labor tribunal decision, claiming for unpaid overtime pay, damages (mental suffering) for Y's PH, damages for the unwished retirement, and damages (mental suffering) for Y's unfaithful attitude in negotiations with X1/X2.</p>	<p>The Tribunal Committee granted the claims of X1/X2 and ordered the following payment. JP¥0.56M (= 4,000 Euros) of overtime pay to X1, JP¥0.11M (= 790 Euros) of overtime pay to X2. (The fact of PH and the breach of the duty to secure safety for workers were granted.) JP¥0.8M (= 5,700 Euros) of damages for PH and JP¥1.42M (= 10,200 Euros) of damages for retirement to X1. JP¥1.26M (= 9,000 Euros) of damages for retirement to X2. JP¥0.2M (= 1,400 Euros) of damages for unfaithful attitude in negotiations to X1 and X2, respectively.</p>	<p>Victim v. Harasser</p>
<p>23. [WSH] Tokyo High Court, Judgment, Aug. 29, 2012 東京高判 H 24. 8. 29</p>	<p>R. H. (1060) 22 労働判例 1060号 22頁</p>	<p>X [P in first instance/Appellant], a female employee of Y1 Corp. [D in first instance/Appellee], which was engaged in the pawnbroking business, claimed that she was forced to engage in sexual acts and relation by Y2 [D in first instance/Appellee], the President of Y1 and Y3 [D in first instance/Appellee], the store manager of Y1, individually. Allegedly, X was also exposed to the thoughtless words and angry shout of Chairman A of Y1. On the ground of alleged physical and psychological distress, X brought an action for damages against Y2, Y3, and the employer Y1. In the original decision, the sexual relation was determined consensual, and the claim was dismissed. *The original decision : Tokyo District Court, Judgment, Jan. 31, 2012, R. H. (1060)30 [原審：東京地判 H 24. 1. 31. 労働判例 1060号 30頁]</p>	<p>The High Court partly denied the fact-finding in the original decision concerning the conduct of President Y2. SH was confirmed. [Yes] Damages were JP¥3.3M (= 23,600 Euros) (incl. JP¥0.3M = 2,200 Euros of attorney's fee).</p>	<p>Victim v. Harasser and Employer</p>
<p>24. [CSH] Sapporo District Court, Judgment, Sep. 26, 2012 札幌地判 H 24. 9. 26</p>	<p>H. J. (2170) 88 判例時報 2170号 88頁</p>	<p>X1 was a child placed in a juvenile training institution operated by Y1 Social Welfare Corp. X1 was sexually abused by another child placed in the same institution. X1 and parents (X2/X3) claimed for damages to Y1 under default (failure to separate X1 and the victimizer), and also to the local government, Y2, under the State Redress Act.</p>	<p>The court ruled that there was no fault in the failure to separate X1 and the victimizer. Liability of neither Y1 nor Y2 was granted, and the claim was dismissed. [-]</p>	<p>Victim and Parents v. School and Local government</p>

25. [PH] Kobe District Court Himeji- branch, Judgment, Oct. 29, 2012 神戸地裁姫路支判 H 24. 10. 29	R. H. (1066) 28 労働判例 1066号 28頁	X was a staff member of Y 1 Prefectural Federation of Commerce and Industry. X alleged that X was persistently insulted and encouraged to retire by the use of words of defamation by Y 1 and its executive director Y 2, over a long term of time. In addition, X was allegedly given orders of unnecessary transfer to an affiliated company and incurred economic disadvantages such as illegal reduction of salaries. X brought an action, claiming for the payment of economic damages, mental damages, and attorney's fee under Article 709 (damages in torts) of the Civil Code against Y 2 and under Article 709 or 715 (vicarious liability of employers) of the Civil Code against Y 1.	Illegality of the retirement encouragement, the orders of transfer to an affiliated company, and Y 2's words and deeds were confirmed. X's economic disadvantage was partly granted. Compensation of economic damages (JP¥71.4 K ≒ 500 Euros), mental damages (JP¥1 M ≒ 7,200 Euros), and attorney's fee (JP¥0.1 M ≒ 720 Euros) was ordered to Y 1 and Y 2. [Yes]	Victim v. Harasser and Employer
26. [PH] Tokyo District Court, Judgment, Nov. 30, 2012 東京地判 H 24. 11. 30	R. H. (1064) 86 (Digest) 労働判例 1064号 86頁 【ダイジェスト】	X [P], a convenience store clerk, brought an action against Y Corp., her employer engaging in the convenience store business. X alleged Y Corp.'s unfair treatment of her for reasons that she had asked for advice to the Prefectural Labor Bureaus on her individual labor dispute concerning continued employment, and also the store manager's abusive harassment words directed at her, such as "Hey you, bitch, what are you doing", "Don't show up, quit the damn job", and "Never show up, never, got it?", after X's work attitude caused some trouble. X claimed for the confirmation of the status under the employment contract and the payment of unpaid wages and damages for mental sufferings.	Payment of unpaid wages accrued by erroneous computation and damages for PH by the store manager was ordered. [Yes] Payment of JP¥7.2 K (≒ 50 Euros) for unpaid wages and JP¥50 K (≒ 360 Euros) for damages for mental sufferings was ordered.	Victim v. Employer
27. [AH] Sapporo District Court, Judgment, Feb. 15, 2013 札幌地判 H 25. 2. 15	H. J. (2179) 87 判例時報 2179号 87頁	A student of a public high school in Hokkaido [D] posted on the Internet an inappropriate message about a schoolmate. The school's teachers questioned the student, and then the school suspended the student from school. Immediately after taking this measure, the student committed suicide. The bereaved family [P : the father and mother : the student's younger brother who succeeded his mother after her death] brought an action, claiming for the compensation by the state pursuant to Paragraph 1, Article 1 of the State Redress Act, insisting that the long-time questioning by the teachers by use of inappropriate words and the abuse of the school's discretionary power to take the measure of suspension from school led to the suicide of the student.	The claim was dismissed. [No] The court's ruling was that, even if the teachers actually said, "What you did is so serious. You should die", it was not reasonable to immediately determine that this statement violated the duty to secure safety and therefore was illegal, in the situation where the whole context and how the words were said were not known.	Victim's Families (parents and brother) v. Local government (school founder)

*Note that those reporters report in Japanese. The summaries herein are made by Kansai Harassment Caselaw Research Group ("Kansai-H-CARE") and translated by the author (Eiichiro Yoshikawa) with the assistance of a translator, Ms. Ryoko Mestecky of AURORA Translation & Legal Services. <http://www.aurora-office.biz/>

後記：

本報告は、2014年(平成26年)6月17日から20日までイタリア・ミラノのミラノ大学において開催された“9th International Conference on Workplace Bullying and Harassment”(第9回職場のいじめ・ハラスメント国際会議¹⁷)において、その最終日(20日金曜)に、筆者が研究報告を行なった内容をまとめたものである(若干の補正をしたが、内容はほぼ報告時のものである)。なお、Abstract部分は、参加申込みの際に、学会事務局に提出した指定書式に基づくものを転写している¹⁸。

本稿の内容に関しては改めて、上記学会への参加のほか、中央労働委員会近畿区域地方調整委員主催セミナー「オープンプラザミーティング」(2014年9月3日大阪で開催¹⁹)への参加、筆者が幹事を務める研究会(「関西ハラスメント判例研究会」)の成果などを踏まえたうえで、さらに検討を加え、日本語の研究論文として改めて公表する予定であるため、本稿は「研究」ではなく「報告」として寄稿することにした。というのも、英語表記で日本のハラスメント法を紹介する文献も多くは無いであろうから、本報告を示すことは、多少なりとも世界の比較法研究にとって、なんらかの意義が有ろうかと思料したためである。

なお、本報告の重要資料である“Exhibit D: List of Harassment Cases”は、上記「関西ハラスメント判例研究会」の成果の一部である。同研究会の場で「職場のいじめ・ハラスメント国際会議」への参加を勧めて頂き、かつ現地にも同行頂いた、大阪ふたば法律事務所大橋さゆり弁護士及びのぞみ共同法律事務所定岡由紀子弁護士に深謝申し上げる。また、“Exhibit D: List of Harassment Cases”の和文原稿を英訳するに当たり、下訳の提供を法務・翻訳事務所オーロラのメステッキー涼子行政書士にお願いした。そのご協力に深謝申し上げます。

17 本学会のプログラムその他の情報は同学会のウェブサイト入手可能である。Available at <http://users2.unimi.it/bullying2014/> and <http://users2.unimi.it/bullying2014/wp-content/uploads/Conference-programme.pdf> (last visited Oct. 25, 2014)

18 若干の文法上その他の補正を施した。

19 主催者・コーディネーターとして、討議内容構成・配付資料作成の準備を行なった。<http://www.mhlw.go.jp/churoi/roushi/> 及び <http://www.mhlw.go.jp/churoi/roushi/dl/h260903-1.pdf> (last visited Oct. 25, 2014)