

# The Changing Labor Market, Industrial Relations and Labor Policy

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## 1. Pros and Cons of the Japanese Model

The merits of Japanese-style management have become a subject of debate recently as the Japanese economy continues to suffer under persistent difficulties. Particularly since the collapse of the bubble economy, the once world-acclaimed Japanese model tends to be either discarded or ignored, regarded as inefficient and incompatible with reform. More recently, the system is being reevaluated, especially by business leaders who successfully revamped their companies amidst the general persistent serious stagnation that Japanese businesses have entered into.

Fujio Mitarai is president of Canon Inc., which is doing remarkably well internationally in the information technology industry. He advocates the fostering of genuine corporate loyalty, which would thereby increase patriotism and lead to the expansion of Japanese high-added-value products in the global market. At the same time, Mr. Mitarai warns that although corporate loyalty flourishes under the traditional lifetime employment system, it could also result in inertia among employees who consider themselves protected because they work for a large company. To avoid such stagnation, he believes that companies should reward those who achieve results through their own ingenuity.<sup>1</sup> Citing this article, economist Yukio Suzuki notes that the main problem Japanese companies are facing today is how to link performance evaluation to employee motivation. Japanese employees are known world-wide for their diligence, loyalty, intelligence and team-

<sup>1</sup> Mitarai, Fujio. "Aikokusin Naki Keizaikaikaku wa Shippaisuru" (Reform without patriotism will fail). *Bungei Shunju* July 2003.

work. The question is how best to make use of these qualities. Suzuki concludes that ultimately the question boils down to the leadership demonstrated by top management and employee trust in management.<sup>2</sup>

The most typical case of excellent top leadership and employee trust is the revival of Nissan Motor Co. As president and CEO, Carlos Ghosn in the past five years has dramatically revitalized the once seriously troubled company. In his recent writings,<sup>3</sup> he expresses his high regard for the Japanese management model which contains "three valuable characteristics: seniority wages, lifetime employment and (relative) concentration of power in middle-class management." In his opinion, the old Nissan failed not because it was under Japanese-style management but because it was constrained by old customs and failed to adjust. He emphasizes that competitive Japanese companies have reaped high profits by retaining the strengths of Japanese-style management while adopting features of international management throughout their global operations. According to Mr. Ghosn, the companies that proved to be successful were the ones which managed to continue the process of self-reform and to deal with global challenges by introducing performance-based evaluation. Seniority-based wages and lifetime employment will produce good results when they are combined with performance-based evaluation. Ghosn highly appreciates the lifetime employment policy, but it can only be adopted by competitive companies with high profits. Thus, he concludes that "lifetime employment is a target, not a rule."

## 2. Are Lifetime Employment as a Target and Revitalization of the Japanese Economy Compatible?

Media attention has recently focused on two sensational cases where enterprises that were thought to be impossible to revive made

<sup>2</sup> Suzuki, Yukio. "Japanese-style Management Deserves Updated Appraisal." *Japan Times* 21 July 2003.

<sup>3</sup> Ghosn, Carlos. "Waga Nihonteki Keiei no Shinzui wo Kataro" (Talking about the gists of my Japanese-style management). *Bungei Shunju* Aug. 2003.

spectacular recoveries: Nissan Motor Co. and the Hanshin Tigers, a professional baseball team. Nissan, once one of the most successful automobile giants, was suffering from a serious business decline in 1999. The number of cars sold dropped to about half that of Toyota. Plants were running at only slightly over 50 percent capacity. For seven out of eight years the company was in the red. The accumulated deficit at that time reached over ¥2 trillion. In the spring of 1999, Carlos Ghosn from Renault took over as CEO. Under his leadership the company recorded a profit of 4.75 percent in 2000, 7.9 percent in 2001 and 10.5 percent in the first half of FY2002. It is now planning to increase sales by one million cars in the year 2004.

The Hanshin Tigers had been struggling in recent years, always ending the season toward the bottom of the league, if not at the very bottom. After Senichi Hoshino, a successful former manager of the Chunichi Dragons, was appointed skipper in 2002, the team was dramatically revitalized under his leadership and captured the pennant during the 2003 season, 18 years after its last championship in 1985. The team mobilized 3.3 million fans to watch their games in one year, and it is estimated to have generated spending worth several hundred million dollars in the Kansai area, home of the team, including sales of Hanshin-brand goods, drinking and eating by jubilant fans, etc.

Shortly after Hanshin captured the Central League championship in September, the *Nikkei*, the leading economic newspaper, published a long article on Ghosn's Nissan and Hoshino's Hanshin Tigers, praising them as "the new business models that will lead to a rebirth of enterprises." The *Nikkei*, the Japanese version of the *Wall Street Journal*, used these two cases as typical examples of how "innovation by outsiders" could turn failing enterprises into success stories. The paper stressed five common features as the main points.

1. Both leaders, coming from the outside, introduced drastic innova-

tions: Ghosn from Renault and Hoshino from Chunichi.

2. They implanted the spirit of competition: Nissan introduced a pay system based on results and Hanshin made players compete against each other for field position.
3. Promotion and employment from outside: Nissan recruited employees from Toyota and Honda, and transferred workers to different departments while Hoshino hired coaching staff as well as players from other teams.
4. Bold restructuring: Nissan closed five factories in Japan and laid off 20,000 workers, including in overseas facilities, and Hanshin replaced one-third of the players by outsiders.
5. Both leaders are distinguished by their ability to communicate: Ghosn shares common goals and emphasizes dialogue with employees and Hoshino encourages players for their positive contributions with delicate concern and attention.

These five features seem to be incompatible with Japanese-style management and traditional employment practices. Instead the first, third and fourth points are features of the flexibilization of the labor market. The second is a revision of the traditional notion of teamwork that is embedded in Japanese management and tends to place priority on individual initiative over the interests of the organization, an essential part of traditional Japanese corporate values. The first and fifth are signs of the globalization of human resource management. Bringing in top leaders from the outside (as seen in the first point) is a contradiction to the traditional principle of promotion from within. Promotion and employment from other companies, particularly recruitment for high-ranking managerial and professional positions (number three) would be regarded as very unusual in traditional personnel management systems. Bold restructuring (number four) is certainly a strange practice under traditional lifetime employment where

labor force reduction is regarded as the last resort for enterprises faced with economic difficulties.<sup>4</sup>

These two cases of innovative revival of once troubled ventures can be used to judge the future of traditional Japanese-style management. It seems pretty obvious that traditional Japanese-style management will not survive without revising, and in some cases rejecting, some of its basic premises. In this respect, it is interesting to observe recent developments by some major companies such as Hitachi Manufacturing Co., Canon Ltd., and others that point to a trend of abolishing the traditional seniority-based wage system and introducing payment-by-result and ability-based grade systems. Hitachi's case is most unique in that it entirely abolishes the traditional seniority-based wage system whereas most companies that have introduced ability-based wages have also continued with seniority-based wages at least for the younger generation. Hitachi decided to apply its rather through-going evaluation system that had originally been introduced only for higher-ranking employees to cover its 30,000 regular employees. Under the new system at Hitachi, wages could be not increased or even reduced based on the degree of negative evaluation.<sup>5</sup> This is noteworthy particularly because many companies several decades ago introduced pay-by-result wage systems which modify but do not entirely abolish the traditional seniority-based wage system. It has been reported that other leading companies — including Toyota Automobile Co., Mitsubishi Motor Co., Chubu Electric Power Co. and Takeda Chemical Co. — are following suit.<sup>6</sup> Such a trend that departs from the traditional Japanese wage system appears to be heading in the direction of seriously modifying if not entirely doing away with the Japanese employment system all together.

<sup>4</sup> Reduction of the labor force to improve corporate finances, the so-called “active” rather than “defensive” actions to avoid bankruptcy, can still be regarded as violations of the legal principle of abuse of the right to dismiss, and therefore illegal and void under Japanese case law.

<sup>5</sup> *Nikkei Shinbun* 5 Nov. 2003.

<sup>6</sup> *Asahi Shinbun* 6 Nov. 2003.

### 3. Lifetime Employment and the Reality of the Labor Market

Regardless of the outcome of the debate on the merit of lifetime employment, there is probably no need to mention that the practice is declining both in terms of the number of workers covered by this system and the role that it plays within the contemporary Japanese labor market.

According to the *Labour Force Survey*, the number of those employed for a fixed-term increased from around 910,000 in 1992 to more than two million in 2001 (an increase of some 1.4 million). In 2001, there were 12 million part-time workers (those who worked less than 35 hours per week). The percentage of such part-time workers among the total number of employed workers has steadily increased, from 10 percent in 1980 to 22.8 percent in 2001. Although the percentage of part-time employees among male employees has constantly increased, from 5.2 percent to 12 percent during the same period, the increase in the percentage of part-time employees among female workers is much more significant, being 19.3 percent in 1980 to 39.1 percent in 2001.<sup>7</sup> As a matter of fact, part-time work is concentrated mostly among middle-aged married women<sup>8</sup> and partly shared by aged and young male workers.

The number of temporary workers sent from manpower agencies (called dispatched workers) has tripled in the past decade (from 503,000 in 1992 to around 1.45 million in 2001 according to the number registered).<sup>9</sup>

<sup>7</sup> Ministry of Public Management, Home Affairs, Posts and Telecommunications, *Report on the Labour Force Survey*.

<sup>8</sup> Percentage of female part-time employees among the total number of female employees was already as high as 31.1 percent in 1987 and increased to as high as 42.9 percent in 2001 (Ministry of Public Management, Home Affairs, Posts and Telecommunications, *Report on the Special Survey of the Labour Force Survey*). The proportion of women in part-time employment has consistently been around 70 percent since 1990 (OECD, *Labour Force Statistics*).

<sup>9</sup> The Japan Institute of Labour, *Japanese Working Life Profile*, 2003, p.41.

This means that the number of non-regular employees in 2001 reached 13.8 million, comprising 26 percent of the total number of employed people, excluding executives, while the number of regular employees has dropped by 2.1 million (10.4 million males and 10.5 million female) since 1992. Thus, non-regular employment now accounts for about one-third the total number of employed people.<sup>10</sup>

The October 28, 2003 issue of the *Nikkei* reported on a survey regarding future employment strategies of the top 1,000 companies. According to the survey, Japanese companies plan to reduce employment of new graduates by seven percent while increasing employment of outsiders by 9.3 percent. This trend is most conspicuous in the electronics industries where employment from the outside will be increased by 24.1 percent while the number of new graduates hired will be reduced by 12.1 percent. This much-heralded report by a major economic newspaper symbolizes the general changes that are taking place in employment practices in Japanese industries.

Thus, the reality of the labor market suggests that in spite of differing opinions on the merit of lifetime employment, both the scope of its coverage and its role is definitely declining and policymakers should face this reality regardless of whether they agree or not.

#### 4. Negative Legacy of Lifetime Employment

As a serious decline of the Japanese model is noticeable, we have to evaluate its legacy in Japanese industrial relations. Japanese-style lifetime employment has two serious defects. First, it has created a distinctly discriminatory employment structure. Traditionally, the privileges associated with lifetime employment, such as ensured job security and better working conditions, were given only to male workers employed directly from school. Women, minorities, foreigners and those who failed in education or in their first job were excluded from

<sup>10</sup> Ministry of Public Management, Home Affairs, Posts and Telecommunications, *Basic Survey on Employment Structure and Report on Labour Force Survey*.

such privileges. Various non-regular workers have always been effectively used as shock-absorbers during business fluctuations and were sacrificed for the employment security of regular workers. Thus, the discriminatory employment structure in postwar Japan is an integral part of the Japanese-style employment system.

Because of the inadequate anti-discrimination laws<sup>11</sup> and the negative role of trade unions in the effort to change such discriminatory employment structure, this discriminatory nature of the Japanese labor market has not been overcome throughout the postwar history of Japanese industrial relations.

As already described, women workers are concentrated in part-time employment. In addition, women, minorities and foreigners (especially undocumented ones) dominate other types of non-regular employment, such as temporary or dispatched employment. Such non-regular employment provides less job security and lower wages without the fringe benefits enjoyed by regular workers. The wage gap between full-time and part-time workers has grown in recent years. The hourly income level of part-time workers dropped to as low as 66.4 percent that of full-time workers for female workers in 2001, from 70.9 percent in 1989 and 50.7 percent from 55.7 percent during the same period for male workers.<sup>12</sup>

Secondly, Japanese-style employment created a unique type of trade union known as enterprise unions which in turn accepted and buttressed this discriminatory system. In principle, enterprise unions have organized only privileged regular employees covered by lifetime employment, mostly in larger enterprises. In recent decades, these unions have suffered from a declining unionization rate and have

<sup>11</sup> About the inadequate nature of anti-discrimination laws in Japan, particularly that of Equal Employment Opportunity Law, see Tadashi Hanami, "Equal Employment Opportunity in Japan — The Crossroad of Japanese Corporate and Legal Culture." *Labour Law and Industrial Relations at the Turn of the Century*. Ed. Chris Engels and Manfred Weiss. Hague: Kluwer, 1998 and "Equal Employment Revisited." *Japan Labor Bulletin* 39.1 (2000): 5-10.

<sup>12</sup> Ministry of Health, Labour and Welfare, *Final Report of Study Committee on Part-time Work*, Table 20, July 2002.



only started to try to organize non-regular workers, mostly in vain. It is reported that less than three percent of part-time workers are organized.<sup>13</sup>

Facing a serious drop in the unionization rate (from 28.9 percent in 1985 to 20.7 percent in 2001), and the role and influence of trade unions in general, Rengo (Japanese Trade Union Confederation), the nation's top labor federation, established an Evaluation Committee composed of outside experts to evaluate its activities and comment on and make recommendations to the union movement. The Committee's report, published in September 2002, bluntly admitted that the organization faced serious difficulties, such as losing ties between leaders and rank-and-file union members, as well as ethical problems as a series of scandals rocked some unions, such as Jichiro (All Japan Prefectural and Municipal Workers' Union), one of the most powerful unions affiliated with Rengo. The report said that Rengo seems to only be concerned with the interests of privileged male workers who have job security at large corporations and is neglecting the disadvantaged who badly need help.

As a matter of fact, people without job security and those suffering from poor working conditions including part-time and temporary workers, not to mention the unemployed, are all left unprotected and outside this powerful union organization. As has been frequently pointed out, union organization in Japan is concentrated heavily in larger companies and the public sector. The unionization rate at companies with less than 100 employees is only 1.3 percent in contrast to a rate of some 20 percent for all industries. As already mentioned, less than three percent of over 10 million part-time workers are organized. At a major supermarket chain where part-timers account for more than 80 percent, only one percent of the workers are organized.

Rengo's annual convention in the fall of 2003 symbolized the sense of crisis that the Japanese trade union movement is facing. Kiyoshi

<sup>13</sup> *Ibid.*

Sasamori was re-elected chairman, beating Tsuyoshi Takagi, leader of UI Zensen Domei (Japanese Federation of Textile, Chemical, Food, Commercial, Service and General Workers' Union). *Japan Times* columnist Kiroku Hanai wrote, "Takagi should have been elected its leader. Sasamori's re-election shows that Rengo's member unions have become complacent about the leadership of big-company unions."<sup>14</sup> Hanai pointed out that Rengo neglects the interests of women who should take part in union activities to help reinvigorate unions.

## 5. Changing Labor Market and Inadequate Labor Policies

An amendment to the Labour Standards Law adopted in late June 2003 concerned a provision requiring just cause to dismiss workers. This amendment restricts the employers' right to dismiss workers more than previous case law, which actually required just cause for dismissal by the legal principle of the abuse of the right to dismiss. It is generally acknowledged that this amendment is definitely more restrictive than previous policy. Although the actual effect of such a statutory provision is disputed, the amendment could work more or less to restrict employers' freedom to terminate workers. If this turns out to be the case, such an amendment may provide additional protection for those who already enjoy the status of being employed and may damage opportunities for those who are seeking employment. Particularly with fewer new job opportunities amidst a serious economic depression, such legislation may inhibit employers from hiring workers for regular job and may encourage them to refrain from hiring altogether, or to hire only part-time or temporary workers for unsteady jobs. It may turn out that this legislation will damage job opportunities in general or reduce the number of better opportunities

<sup>14</sup> Hanai, Kiroku. "Resuscitating Japanese Labor." *Japan Times* 27 Oct. 2003.

by discouraging employers from committing to stable employment.

For several decades, the government has been encouraging employers to re-elevate their retirement age programs. In 1994, legislation was introduced which set the age of 60 as a compulsory retirement age. Soon after the successful introduction of the restrictive provision on the right to dismiss in the summer of 2003, the Health, Labour and Welfare minister expressed his intention to raise this retirement age to 65.<sup>15</sup> Apparently government policy is headed toward offering more protection for already employed aged workers with privileges. A leading economist, Naohiro Yashiro, notes that the present strict regulation on dismissal (by case law) discourages employers from hiring and restricts job creation and closes employment opportunities for non-regular and aged workers.<sup>16</sup>

Another amendment introduced in 2003 includes the extension of maximum periods for several kinds of short-term employment contracts and the periods for various kinds of dispatch work, and loosens requirements for the flexible working hour system.<sup>17</sup> There was an attempt to introduce most of these amendments in 1998 when other major amendments were introduced, but they were dropped due to strong opposition from unions. Their main argument was that longer periods of short-term employment would negatively affect regular employees. Union leaders are so concerned with the vested interests of privileged workers that they do not care much about job opportu-

nities for those badly in need of any kind of job, whether it be for a longer or shorter period. They do not understand the rather simple premise that strict regulations on employment periods and strict restrictions on flexible working systems may discourage flexible arrangements that innovative businesses come up with and thus damage the venture spirit of ambitious entrepreneurship.

As long as unions only represent the interests of secure workers and male employees at larger corporations and they are complacent about labor-management cooperation, as Hanai pointed out,<sup>18</sup> it is only natural that they will defend labor policy which provides more protection for privileged workers who make up their membership and ignore the interests of underprivileged non-members. Here we have to take into consideration the legislative mechanism of postwar Japanese industrial relations. Under the present administrative system, labor policy decision-making, including proposals and drafts of legislation and major labor policies, takes place at trilateral committees established by the Ministry of Health, Labour and Welfare. These committees consist of representatives from labor and employers, and also public (neutral) individuals with knowledge and experience. Both labor and employer representatives are appointed by the Ministry based on recommendations by the most representative organizations on each side. Labor members are mostly recommendations from Rengo or its affiliated unions. The result has been a complacent "good" relationship among the members of the commission in recent years.

Thus it is only natural that labor policies approved by such a body tend to give priority to the interests of union members who have rather comfortable jobs while ignoring unorganized workers who really need help from the government. And it can hardly be expected to introduce any drastic measures which would change the status quo. For instance, what is needed most is legislation that effectively prohibits all kinds of discrimination in hiring, job assignment, promo-

<sup>15</sup> *Nikkei* 30 Oct. 2003.

<sup>16</sup> Yashiro Naohiro. *Koyoh Kaikaku no Jidai* (Era of Employment Reform). Tokyo: Chuoh Kohron Co., 1999.

<sup>17</sup> The amendments include (1) the maximum period for employment contracts was extended from one to three years (from three to five years for professional jobs and for people older than 60), (2) the discretionary-work system for working at headquarters was extended to include working outside of the headquarters, (3) the maximum period that one can be dispatched was extended from one to three years, (4) the types of jobs workers could be dispatched to was broadened to cover manufacturing industries, previously prohibited, (5) the three year maximum period for dispatching in 24 different professional jobs was abolished, (6) employers are obliged to employ dispatched workers continuously if the latter wish to stay when the dispatching period is over.

<sup>18</sup> Hanai, *op.cit.*

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tion based of race, nationality or family origin, sex, age, disability, etc. It would be more preferable to introduce concrete statutory provisions prohibiting such discriminatory treatment than introducing not very effective abstract prohibitions against dismissal without just cause.

The author of this article has been trying to attract attention for such legislation inside and outside such committees in vain. For decades, simply no one has been interested. Of course, such legislation also might discourage job opportunities for disadvantaged groups if it were introduced directly without careful consideration about the effects. But, at the same time, the Japanese approach of "soft law" which relies on administrative guidance instead of direct enforcement through court order or penalty is not very effective, as shown by the miserable history of governmental efforts to enforce the Equal Employment Opportunity Law since its introduction in 1985.<sup>19</sup> In the past 10 years, we have experienced almost the same failure to improve the working conditions of part-time workers through administrative guidance. As already mentioned, the wage gap between part-timers and regular workers not only has not been narrowed, it has expanded. Thus, an adequate policy is not very easy to find. However, in the recent history of policymaking in Japan, no serious effort has been undertaken to arrive at such a policy with strong determination based on the lofty idea of equality.

The question is, who could promote such efforts? Public individuals, including scholars and government officials, could, provided unions join them in such efforts or at least do not resist such attempts. For the desperately needed labor policies for disadvantaged groups whose interests have been so unreasonably ignored for so many decades to materialize, unions must change or they should be replaced by something else.

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<sup>19</sup> See Hanami, Tadashi. "Equal Employment Opportunity....," *op.cit.* and "Equal Employment Revisited," *op.cit.*