

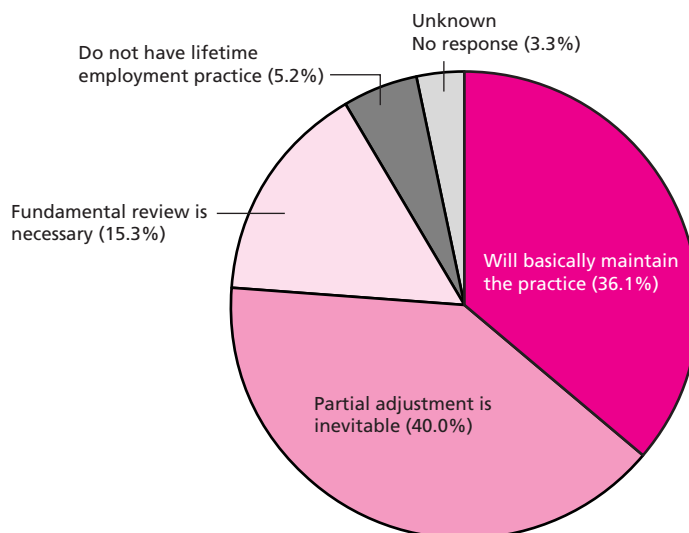
1 The Long-Term Employment System

The Lifetime Employment System

Japanese companies, centered on large corporations, have few people who change jobs and a high percentage of employees who work at the same company for long periods of time. The long-term employment system of these companies is referred to as the lifetime employment system. The lifetime employment system is an employment practice where companies hire a specific number of new graduates at fixed times every year, and under contracts without a fixed period of employment, employees continue to be employed at the same company or affiliated companies from the time that they are hired as new graduates to the time they retire, as long as there are no extraordinary circumstances such as a management crisis.

Under long-term stable employment practices, employees are trained through in-company capacity development and reassignments as well as loaning of personnel to affiliated companies. Until the time that they retire, they are subject to a personnel system in which promotions and wage increases are based on seniority. Since human resources who have been trained for a long period of time within the same company without changing jobs build up skills and know-how in the organization, the strength of this type of human resources training system is most obvious in manufacturing industries in which a continuous accumulation of product development and improvement is necessary.

III-1 Attitudes of Companies Towards Lifetime Employment



Sources: *Survey on Corporate Human Resource Strategies and Workers' Attitude Towards Work, (Company Survey) (2003)*, The Japan Institute of Labour

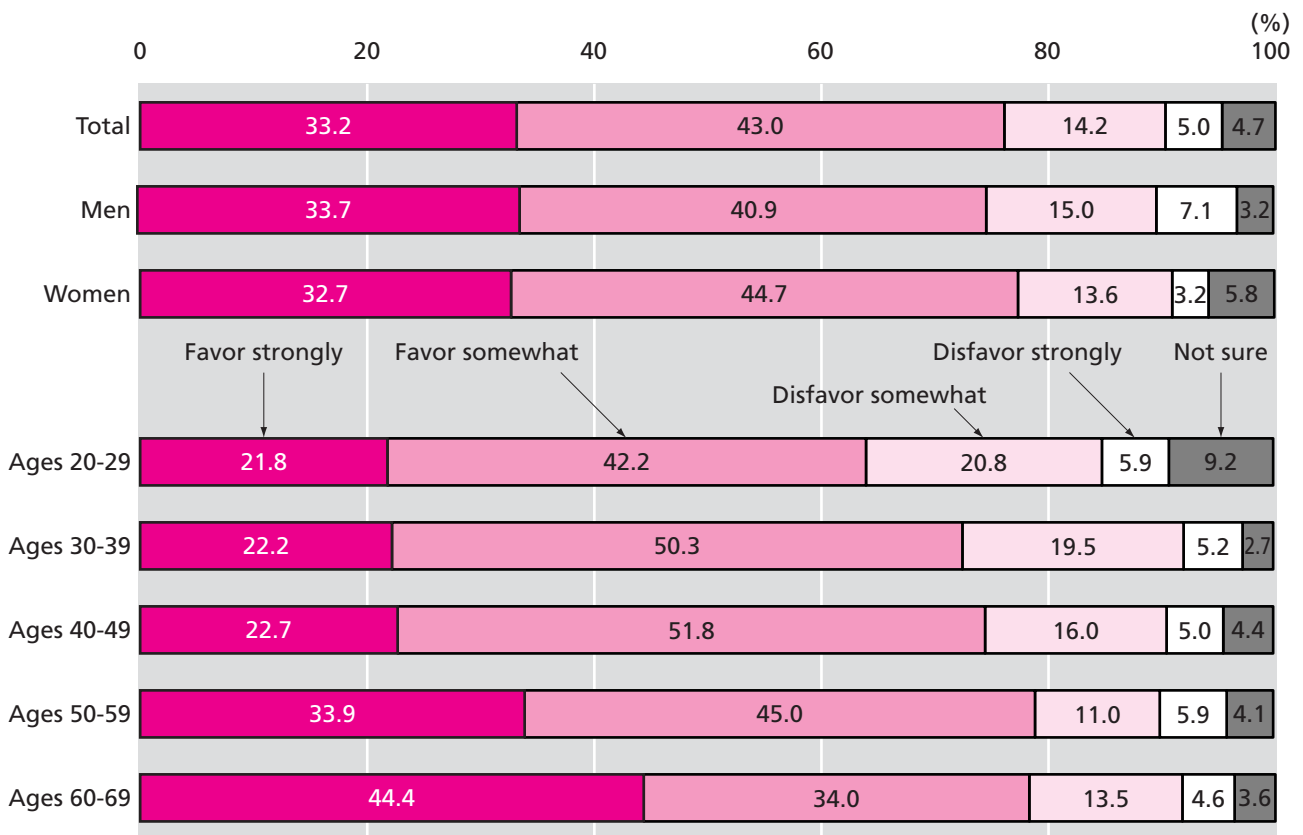
Background of the Long-term Employment System's Establishment

The long-term employment system referred to as the lifetime employment system was established at many companies during the period of high economic growth of the 1960s. With rapid changes in technological innovations and business during the period of high economic growth, companies were not able to hire the necessary human resources from outside because these human resources had not accumulated the necessary experience, and they needed to arm

their employees with a high level of broad skills and techniques through in-house training. To do this, a long-term employment system was necessary, and with the introduction of a personnel system of continued wage increases and promotion, the lifetime employment system was established. With court precedents restricting dismissals, the lifetime employment system, which emphasizes job security, was established and was welcomed by employees and labor unions.

Also a great influence behind the establishment of

III-2 Attitudes Towards Japanese Lifetime Employment



Sources: *Survey on Working Life* (2001), The Japan Institute of Labour

Notes: Answers to the question "What do you think about the Japanese lifetime employment, where a person works for one company until retirement?"

the lifetime employment system is the fact that actual operation of the personnel system is not rigid, but rather very flexible. At this stage in time when business is slow, rather than resorting to drastic employment adjustment measures such as sudden dismissals, a variety of measures such as limitations of overtime hours, reassignment of employees, restraint in or discontinuation of hiring new employees, and loaning or transferring employees to affiliated companies has been implemented, and a flexible response has been undertaken in which major changes to the workplace and content of work have been taken into account.

The percentage of lifetime employment workers who continued to work at the same company from the time they were new graduates to the time they retired is about 20% and not that high. In small and medium-sized companies, the number of continuing workers largely drop across the ranks of young and middle-aged employees for reasons such as resignation for personal reasons, company bankruptcy or business closings. At large companies, a major factor is the loaning and transferring of middle-aged employees centered on management-level and white-collar employees to affi-

ated companies or partner companies.

Argument over Reform of the Lifetime Employment System

Influenced by the long-term recession that has continued since 1990, increases in the cost of labor as employees get older and a rise in the number of employees who cannot adjust to rapidly developing new technologies typified by information technology (IT), debate has recently begun over reform that the employment practices such as the lifetime employment system and seniority-based wage system should be reviewed. Looking at the circumstances of companies, they are consecutively carrying out reforms regarding seniority-based wages, but not that many companies are implementing major reviews of their lifetime employment systems and changing to fluid employment practices. There is instead an increasing trend for companies to restrict the number of regular employees that are subject to lifetime employment and to increase the number of non-regular employees such as part-time employees for whom making employment adjustments is relatively easy.

2 Recruiting and Hiring

Because Japan's labor market can be divided into a new graduate market and a mid-career job seeker market, or into large enterprises and small businesses, there are accordingly great differences in recruiting and hiring.

The collective hiring of a group of new graduates (e.g. university) immediately upon graduation is one of the characteristics of hiring activities in Japan. However, looking at Table III-3, we see that it is in

great part the large enterprises hiring new graduates, and that as the size of company decreases, the rate of hiring new graduates also decreases. On the other hand, for mid-career hires, this difference based on company size is not as large as with the new graduates; in particular, the rate of hiring mid-career workers in nonclerical positions is higher at small-scale businesses.

III-3 Current Ratio of Hiring for New Graduates (multiple responses)

(%)

	Clerical	Technical, Research	Non-clerical
High school graduates			
Total of all companies	4.7	2.8	12.9
5,000 or more employees	27.1	10.9	42.4
1,000–4,999 employees	14.4	6.3	31.9
300–999 employees	11.8	4.7	31.0
100–299 employees	7.0	4.6	22.3
30–99 employees	3.0	2.0	7.8
College (including graduate school) graduates			
Total of all companies	7.9	9.2	7.0
5,000 or more employees	76.2	56.8	27.4
1,000–4,999 employees	57.5	46.0	28.5
300–999 employees	33.5	36.9	22.4
100–299 employees	13.1	17.0	11.6
30–99 employees	2.5	3.2	3.6

Source: *Survey of Employment Management*, Ministry of Health, Labour and Welfare, 2001

III-4 Current Ratio of Hiring for Mid-career Workers (multiple responses)

(%)

	Management	Clerical	Technical, Research	Non-clerical
Total of all companies	10.4	28.1	16.1	52.9
5,000 or more employees	20.0	51.5	43.5	38.8
1,000–4,999 employees	24.2	49.2	30.3	48.8
300–999 employees	21.5	45.6	26.3	53.6
100–299 employees	16.1	37.1	21.6	59.5
30–99 employees	7.3	23.2	13.0	51.0

Source: *Survey of Employment Management*, Ministry of Health, Labour and Welfare, 2001

III-5 Use of the Internet in Hiring Activities

(%)

	Yes	No	No Response
College (including graduate school) graduates			
Total of all companies	13.0	61.0	25.9
5,000 or more employees	94.1	4.4	1.5
1,000–4,999 employees	76.7	18.9	4.4
300–999 employees	48.1	43.0	8.9
100–299 employees	21.9	58.8	19.4
30–99 employees	5.2	64.7	30.1
Mid-career hires			
Total of all companies	9.3	80.3	10.4
5,000 or more employees	52.4	32.1	15.6
1,000–4,999 employees	38.8	43.2	18.0
300–999 employees	26.1	53.9	20.0
100–299 employees	14.0	72.1	13.9
30–99 employees	5.4	86.3	8.2

Source: *Survey of Employment Management*, Ministry of Health, Labour and Welfare, 2001

Methods of Recruiting and Hiring

The hiring of four-year university graduates in the humanities and social sciences is generally carried out in the following way. First, the hiring process starts with a request for materials from the company; some students begin requesting these materials during their junior year. The company will then hold a seminar or information session for the students who looked at the company materials, and proceed on to the written exam and interview stages. Ordinarily, conditional job offers are decided upon after two or three interviews. While this occurs between May and July in many cases, the decision period covers a long span of time and for some companies is becoming shorter (“Hiring of College Graduates and Human Resources Management in a Period of Reform,” Report No. 128, 2000, Japan Institute of Labour; 2001 Survey on Employment Management, Japan Institute of Labour). The hiring of graduates of four-year universities in the natural and physical sciences generally often takes the form of either an introduction and recommendation by the student’s academic advisor (i.e. university professor), or a request to the advisor from the company for introduction of a student.

With the increasing popularity here of the Internet over the last several years, the job search process for

university students (in the humanities) has been changing drastically. They seek organizational information not from company-made brochures, but on the company’s homepage. E-mail has become the standard method for registration, admission, and so on for events such as company information sessions. Many university students also use private-sector portal websites for job-hunting. Nevertheless, while usage of the Internet at large enterprises has topped 90%, we can see that there are also small and medium-sized businesses that are not using the Internet. Over half of large enterprises use the Internet even for the hiring of mid-career workers, while the percentage of small businesses not using it is predictably high.

The number of government and public offices as well as companies carrying out internship programs has been growing steadily, and some students work at companies through internships during the summer vacation of their junior year, etc. The number of students who have done internships is increasing rapidly but is still about 30,000 for all of Japan, due to companies’ limitations on the number of people that they accept (“Survey on Internships at Universities (2002),” Ministry of Education, Culture, Sports, Science and Technology, November 2003).

Figure III-6 shows the general methods of recruiting and hiring. For recruiting college graduates,

III-6 Methods of Recruiting New College Graduates and Mid-career Hires (multiple responses)

	First	Second	Third
College (including graduate school) graduates	Introduction or recommendation by teachers, etc. at school 38.4%	Company, etc. hosts a job fair or seminar 32.9%	Job search info-zine or job search website 29.8%
Mid-career hires	Public Employment Security Office, etc. 59.6%	"Help Wanted" advertisement or flier in the newspaper 31.3%	Personal connections 22.9%

Source: *Survey of Employment Management*, Ministry of Health, Labour and Welfare, 2001

methods such as "introduction or recommendation by professors, etc. at school," "company, etc. hosts a job fair or seminar," and "job search info-zine or job search website" are widely used. On the other hand, for mid-career hires the most common methods are "public employment security office, etc.," "help wanted" ad or flier in the newspaper," and "personal connections."

Points Taken Seriously in Hiring New Graduates and Mid-Career Workers

Table III-7 looks at the points considered important when hiring new college graduates. For each of the three job categories-clerical, technical/research, and non-clerical-the number one consideration is "enthusiasm and ambition." However, large differences can be seen in the number two and number three choices. For clerical positions, importance is attached to "gen-

III-7 Points Considered Important when Hiring Recent College Graduates (up to 3 multiple responses)

(%)

	First	Second	Third
Clerical	Enthusiasm, Ambition 74.0%	General common knowledge, Well educated and cultured 39.5%	Cooperative spirit, Sense of balance 39.2%
Technical, Research	Enthusiasm, Ambition 66.7%	Technical knowledge, skills 51.1%	Understanding, Judgment 33.6%
Non-Clerical	Enthusiasm, Ambition 76.5%	Drive, Executive ability 46.6%	Good health, Stamina 38.3%

Source: *Survey of Employment Management*, Ministry of Health, Labour and Welfare, 2001

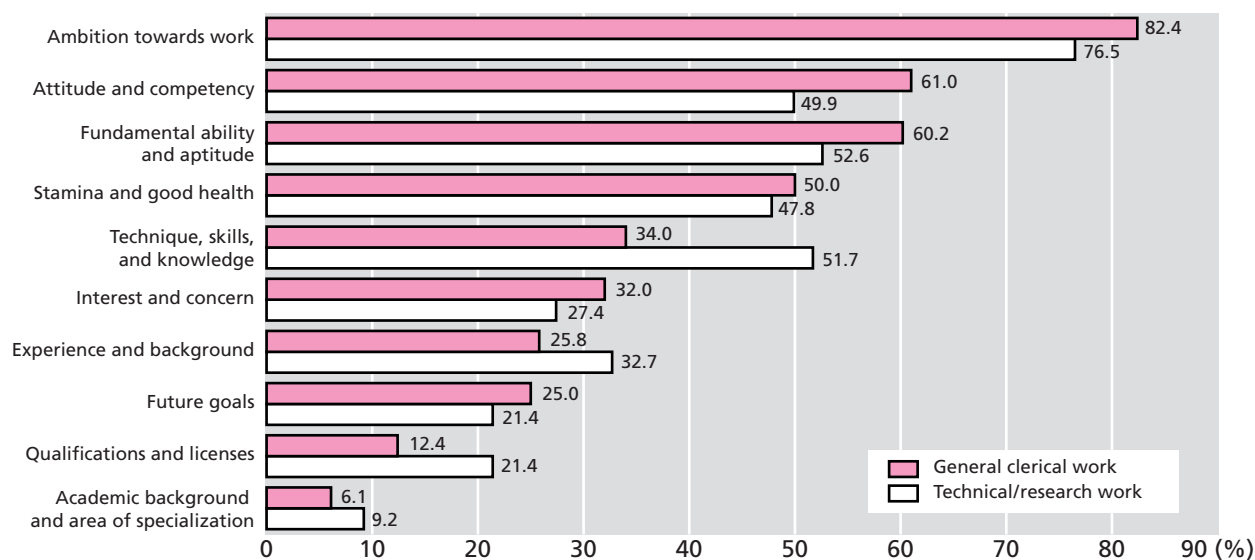
III-8 Points Considered Important when Hiring Mid-career Workers (up to 3 multiple responses)

(%)

	First	Second	Third
Management	Job experience 60.3%	Drive, Executive ability 45.3%	Technical knowledge, skills 43.9%
Clerical	Job experience 50.2%	Enthusiasm, Ambition 40.4%	Cooperative spirit, Sense of balance 31.3%
Technical, Research	Technical knowledge, skills 69.9%	Job experience 57.2%	Enthusiasm, Ambition 40.3%
Non-Clerical	Enthusiasm, Ambition 59.7%	Good health, Stamina 58.7%	Job experience 37.8%

Source: *Survey of Employment Management*, Ministry of Health, Labour and Welfare, 2001

III-9 Points Taken Seriously in Hiring New Graduates and Mid-Career Workers (1,222 companies, JILPT 2003)



Sources: Research on a New Occupational Information Network Designed to Place the Right Person in the Right Job (Research Report No.151, JIL, January 2003)

eral common knowledge, well educated and cultured” and “cooperative spirit and sense of balance”; “technical knowledge and skills” are seen as crucial for technical/research positions; and for non-clerical work “drive and executive ability” are viewed as assets.

Looking at points considered important when hiring mid-career workers (points with a rate over 50% in Table III-10), “job experience” is the top consideration for both management and clerical categories. “Technical knowledge and skills” and “job experi-

ence” rank high for technical/research positions, and for non-clerical workers the most desired attributes are “enthusiasm and ambition” and “good health and stamina.”

A survey carried out by the Japan Institute of Labour centering on the hiring of new college graduates (“Research on a New Occupational Information Network Designed to Place the Right Person in the Right Job,” Research Report No. 151, 2003, Japan Institute of Labour) shows similar results, with focus being placed on “ambition towards work,” “attitude

III-10 Reasons for Practicing the Hire of Mid-career Workers (multiple responses)

(%)

	Organizational, Management-related				Personnel Management			
	Expansion of existing business	Extension into new business or new field	Attempt to vitalize the organization by making the most of a variety of experienced persons	Request by parent company or affiliated company	Fill vacancies left by retirees	Compensate for lack of recent graduates hired	Remedy an imbalance in staff composition	Make use of ready skills and abilities
Management	19.0	10.8	44.9	13.0	23.5	0.0	3.0	53.7
Clerical	11.6	5.2	12.2	3.4	68.6	2.5	4.7	30.6
Technical, Research	23.2	10.4	26.3	4.3	39.1	4.4	3.9	56.3
Non-clerical	18.3	6.3	10.6	3.4	69.2	2.7	6.5	40.5

Source: Survey of Employment Management, Ministry of Health, Labour and Welfare, 2001

and competency,” “fundamental ability and aptitude,” and “stamina and good health.” Looking at the results by humanities-related jobs and science-related jobs, “attitude and competency” and “fundamental ability and aptitude” were considered as important for general clerical jobs, while “technique, skills, and knowledge” was considered important for engineering and technical/research jobs.

Reasons for Practicing the Hire of Mid-Career Workers

Looking back at the Survey on Employment Management, as reasons for practicing the hire of mid-career workers, “to make use of ready skills and abilities” was the most widely given reason for both management and technical/research candidates. Clerical and non-clerical mid-career workers are often hired “to fill vacancies left by retirees.”

The results of several surveys have shown that, as far as hiring directors for companies are concerned, the weight of new graduates in the job market will decrease in the future and more emphasis will be attached to hiring mid-career workers. However, looking at the actual numbers (“Survey of Employment Trends,” August 2003, Ministry of Health, Labour and Welfare), the rate of new hires due to change jobs (percentage among all hired employees of so-called mid-career workers) was 8.8% in 1992 and after slight rises and falls was the same 8.8% in 2002. The rate of new hires from non-workers (percentage among all hired employees of people without work experience such as new graduates) fell slightly from 7.0% in 1992 to 5.7%, an extremely slow change. The Changing Recruitment System.

3 Assignments and Transfers

The Changing Recruitment System

Japanese companies have come to place great importance on the regular hire of recent graduates when hiring new employees. Behind this practice is the human resource management policy that, under the long-term employment system, in-house training of workers having a high level of broad skills and techniques is best suited for business development. Managers are also strongly influenced by the philosophy that new graduates who are trained inhouse are more likely to fit into the corporate culture.

However, the employers capable of such regular hiring of recent graduates are the large and mid-tier corporations. Many recent graduates have a strong tendency to seek employment at these large and influential mid-sized companies, where the possibility of something like bankruptcy is low, management is stable, and wages and other working conditions are relatively high. Therefore, small and medium-sized companies have considerable difficulty in regularly hiring new graduates and so-compared with large and influential mid-sized companies—are increasingly looking

to workers in midcareer. Naturally, with the recent IT boom and other rapid developments in technical innovation, large enterprises too are unable to prepare the necessary human resources through in-house training, and are quickly coming to strengthen this trend of hiring mid-career experienced workers.

Human Resource Development and Promotion by Broad Rotation

New graduates are typically trained by experiencing different types of work in several departments within a company or corporate group. Most high-school graduates are posted to factories or other non-clerical departments where they gain experience in a variety of related functions and they become more versatile workers. University graduates experience a broad variety of departments and functions, which may even include being loaned to a group company; through such broad rotation, companies can evaluate employees' performance and determine the type of work for which they are best suited (see Table III-11). This kind of broad rotation is being carried out

III-11 Method to secure desired human resources/capacities

(multiple responses up to two, %)

Size of enterprise, industry	Companies, total	Respond by reassigning personnel, etc.	Strengthening capacity development of employees	Respond by hiring new graduates	Respond by hiring mid-career workers
Industries Surveyed, total	100.0	29.7	60.2	17.9	52.1
1,000 employees and over	100.0	39.7	69.7	38.9	37.7
100—999 employees	100.0	35.7	64.1	26.0	50.0
30—99 employees	100.0	27.3	58.5	14.4	53.3

Sources: Industrial Labour Survey, 2001 Ministry of Health, Labour and Management

actively by major companies, etc. (see Table III-12).

In addition, these assignments and transfers are carried out in conjunction with the management of promotions (see Figure III-13).

The promotion management of Japanese companies is known as the seniority-based promotion sys-

tem in which promotions are granted based on the order in which employees entered the company. It is not as mechanical as it seems since it allows for careful evaluation over time of an employee's abilities and achievements, and encourages long-term competition for promotion among employees. However, the

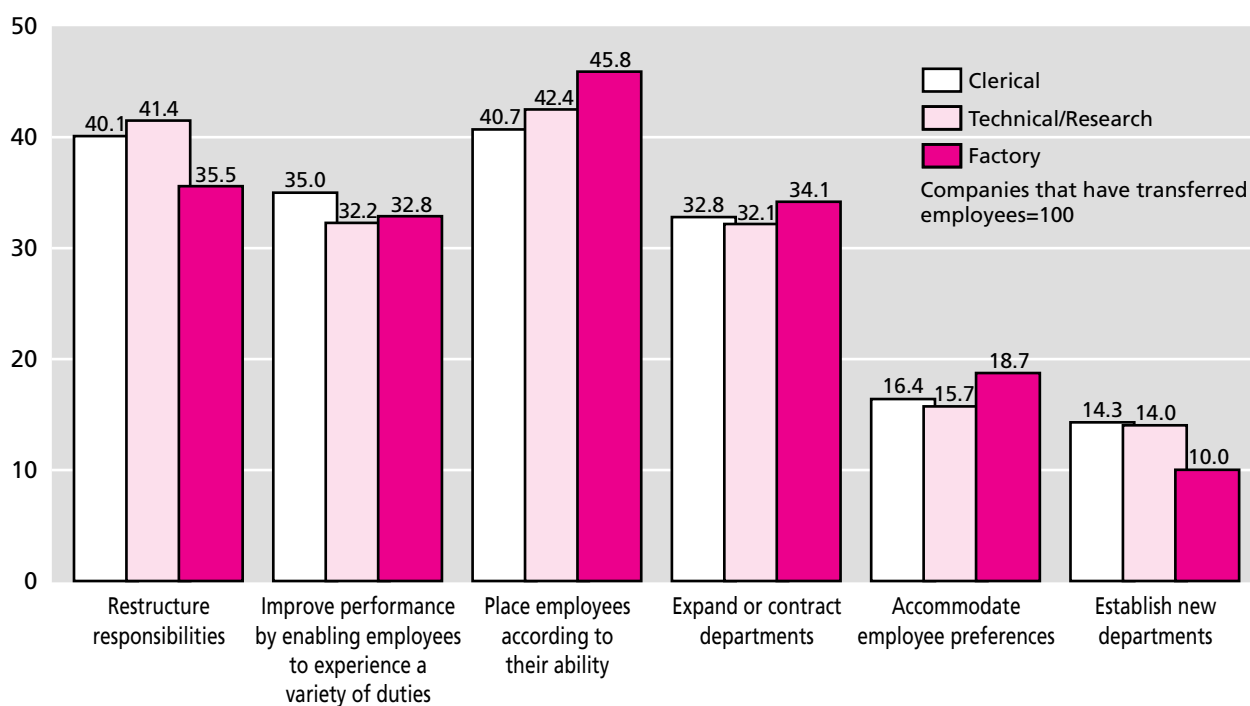
III-12 Ratio of Companies That Did/Did Not Reassign Employees

(%)

Size of enterprise, industry	All industries	Have reassigned employees (multiple answers)				Have not reassigned employees
		Total	Clerical work	Technical and research work	Shop-floor work	
Total	100.0	47.5	28.3	19.2	35.1	52.5
1) 5,000 employees	100.0	99.1	95.9	61.7	84.3	0.9
2) 1,000–4,999 employees	100.0	95.3	88.7	57.4	77.7	4.7
3) 300–999 employees	100.0	89.2	73.4	49.0	71.6	10.8
4) 100–299 employees	100.0	68.1	45.6	28.7	51.0	31.9
5) 30–99 employees	100.0	36.0	17.0	12.3	25.7	64.0

Sources: Survey on Employment Management 2002, Ministry of Health, Labour and Management

III-13 Reasons for Transferring Employees



Source: Survey of Employment Management, Ministry of Health, Labour and Welfare, 2002

Note: Respondents were permitted to provide up to three answers

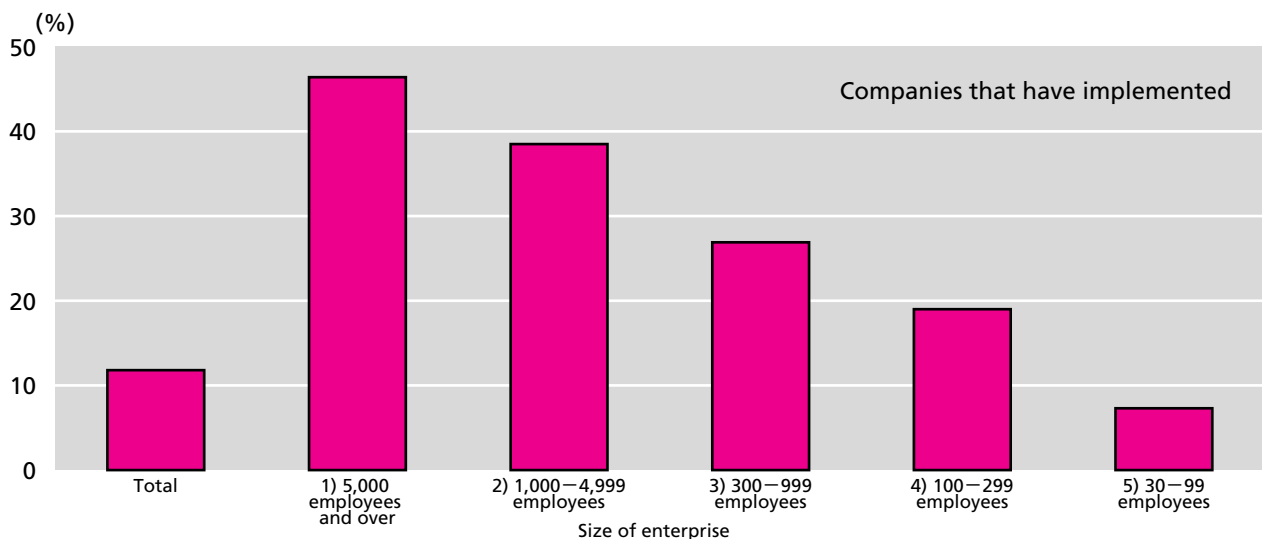
recent trend toward earlier promotions is prompting an increasing number of companies to adopt a more rapid advancement system.

More companies, especially large companies, are now introducing procedures that give serious consideration to employees' wishes when making assignments or transfers in connection with the long-term human resource training system. For instance, in the double-track personnel system, an additional course

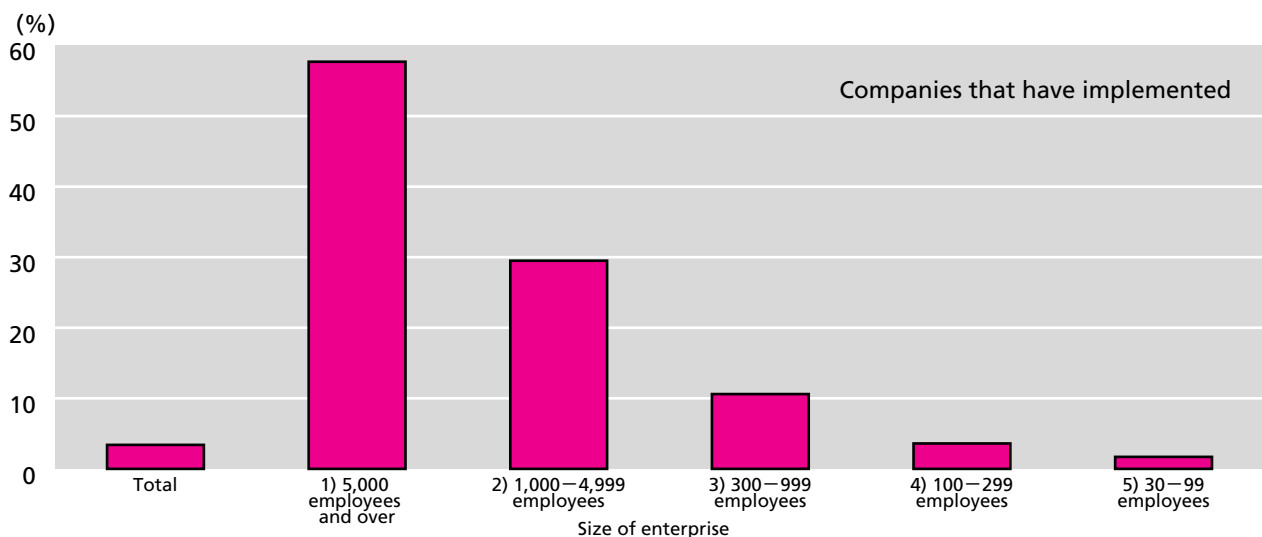
for the training of specialists in a particular field is being added to the management track that formed the heart of the old personnel system (see Figure III-14). The system of in-house solicitation of applicants enables companies to recruit from within the personnel they need with a new demand accompanying business expansions and new ventures, and allows for the selection of the most appropriate candidate from the employees who applied (see Figure III-14).

III-14 Ratio of Companies by Implementation Status of Various Personnel Management Systems and by Future Plans

(Multiple-track personnel management system)



(In-house open recruitment system)



Assignment, Transfer, and Employee Motivation

Assigning and transferring employees by the in-house solicitation of applicants differs from the existing system in its consideration of employees' wishes, rather than solely on company needs. From the company point of view, this system makes it easier to unearth hidden human resources, at the same time having the merit of serving as a motivational measure for employees.

Because an increasing number of companies is

using the Intranet to implement in-house recruitment systems emphasizing employee initiative, the number of recruitment opportunities and transfers is also rising. The number of companies introducing in-house venture systems that provide opportunities for establishing new businesses based on plans proposed by their employees is also rising. In addition to traditional company-initiated career development, independent career development attentive to employees' wishes is also becoming firmly established.

Seniority-based Wage System

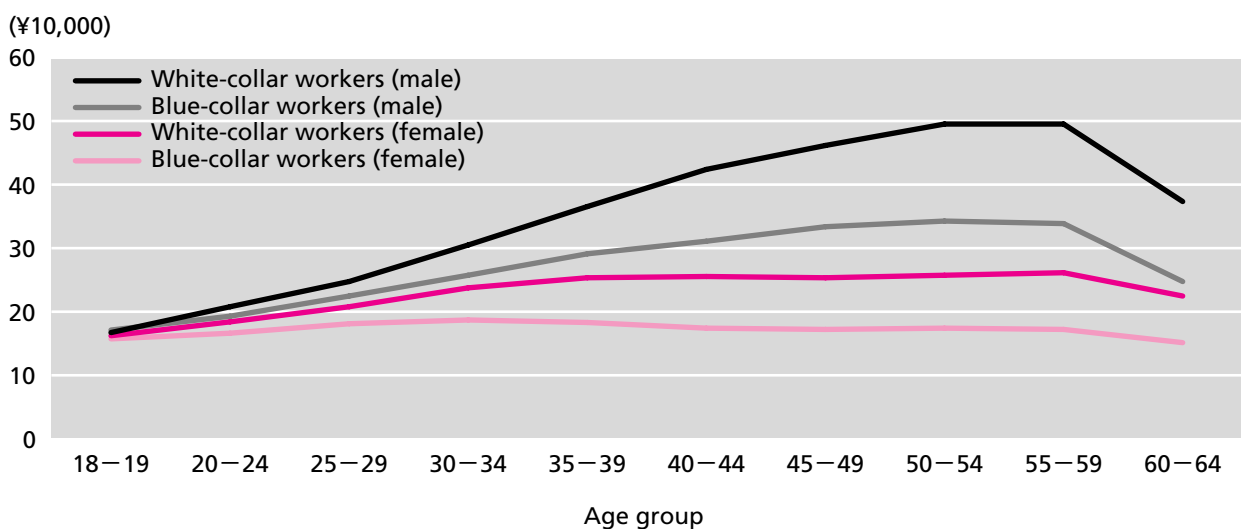
Wage systems that base remuneration on age or years of service are not unique to Japan, but it is said that these are characteristic of Japanese wage systems. This type of wage system is called a seniority-based wage system; but salary increases are not awarded based on age or years of service with total disregard of performance and ability. A merit rating is used to evaluate employees resulting in wage levels that reflect differences in performance or ability, even among employees with the same seniority.

The seniority-based wage system first appeared in Japan in the 1920s. Although considerable debate abounds regarding the reasons for its establishment, the seniority-based wage system was certainly a strategic move on the part of management who wanted to attract and retain employees. By staying at one firm, workers acquired skill with their employers' proprietary technology. Employers, in turn, used promotions to reward workers for their skill development. Additionally, the tendency of the cost of living to increase as employees aged further justified linking wages to seniority. Thus, promotions following

skill improvement and increases in cost of living were connected to longer years of service, and the seniority-based wage system was established to raise wages with advancing age and years of service.

The wage profile by age (and by years of service) charts the status of seniority-based wages by plotting wages for different age groups (and years of service). One characteristic of the Japanese wage profile is the phenomenon called "the white-collarization of blue collar workers" (however, this only applies to male workers). The phenomenon of the white-collar workers' wage profile rising with age is observable not only in Japan, but in Europe and the U.S. as well. However, the situation for blue-collar workers is completely different. In other nations, the wages of blue-collar workers rise a little with age, but these wage increases are all but invisible after age 30. In Japan, however, even though the wage profile for blue-collar workers does not rise as sharply as that of white-collar workers, the two curves are similarly shaped, indicating that wages increase as workers age (see Figure III-15).

III-15 Wage Profile by Age and Sex (manufacturing)



Source: Basic Survey on Wage Structure, Ministry of Health, Labour and Welfare, 2002
 Note: Monthly scheduled earnings are used for wages

Bonus System

Another distinctive aspect of the Japanese wage system is the bonus system. Japan is certainly not the only nation in which bonuses are paid, but the peculiarity of Japan's bonuses is said to be in their large size. Companies pay biannual bonuses equivalent to several months' salary in the summer and winter. They are not legally required to do so, but after World War II the practice of providing bonuses to all employees became customary at most companies.

Performance-related Salaries

Another aspect of Japan's Performance-related Salaries come to the fore recently is the introduction of a annual salary system linked to performance. With the heightening of competition due to globalization and predictions of the further aging of Japanese society, companies have become concerned about the burden imposed by the high salaries paid to the growing ranks of middle-aged and older employees. To create a better balance between those employees' salaries and their productivity, and to further motivate workers, an increasing number of companies—mainly large corporations—are adopting a salary system based on annual performance for managers. However, it is not easy to evaluate performance, and companies will need to set fair evaluation standards before performance-based wage systems can be implemented and utilized as measures to improve efficiency.

At this point, a growing number of companies are abolishing seniority-based wages and shifting toward performance-based wages. Until now, the majority of companies introduced performance-based wage systems for their management-level employees, but there is a movement, as in such companies as Sony, Matsushita Electric Industrial and Hitachi, to extend the application of their performance-based wage systems to include rank-and-file employees as well.

Wage Composition

Incidentally, the wage composition is another unique element in Japan's wage system. The wage composition refers to a series of wage items that composes the total salary paid to a worker. Normally, the wage composition consists of base pay (compensation for labor) plus various additional allowances, such as a

family allowance, commuting allowance, and housing allowance. The term "wage composition" became popular after its coinage under the Wage Control Ordinance during World War II. The "electrical power industry type of wage composition" acquired by All Japan Electric Workers Union in 1946 opposed the pre-war wage pattern based on management's internal class system. The Union forced management to adopt a unified pay scale for white collar and blue collar workers. This is well-known as a wage composition based on factors such as workers' living conditions (age, years of continuous employment, family structure and commuting distance), and served as the foundation for dissemination of subsequent wage compositions.

Retirement Benefits System

Finally, mention will be made of the retirement benefits system, which provides to employees either a lumpsum allowance upon retirement or pension, and is a major pillar of enterprise welfare measures. Retirement benefits are paid in proportion to the number of years of service at a specific company, but the scheme is such that differences in the payment amount arise depending on the reason for retirement. The amount paid is lower for those who retire for their own convenience, but higher for those who retire at the mandatory age after long service, or for those who retire at the companies request (such as during a period of recession). Thus, retirement benefits have become a factor promoting long-term continuous service by Japanese employees.

Until recently, the lump sum retirement allowance has been a large amount, and many workers have received this substantial benefit when retiring at the mandatory age. However, in recent years the percentage of workers receiving a retirement pension has been rising. Behind this development is the fact that the cost burden for companies has increased as the aging of employees leads to larger payments of lump sum retirement allowances. Added to that are the benefits of converting retirement benefits to a pension system, such as the advantages a company may receive through tax codes.

5 Working Hours

Japan's Working Hours Legislation—40 Hours

Japan's working hours legislation is provided in the Labor Standards Law, which has been in effect since 1947. Because the shortening of working hours became a big policy issue in the latter half of the 1980's, the traditional 48-hour workweek set by the law was gradually shortened since 1988. Now, aside from the 44-hour weeks served by workers at commerce, motion picture and theatre, health and hygiene, and service and entertainment workplaces of fewer than 9 employees, the workweek across all industries and business sizes has become 40 hours long.

Annual Total of Hours Actually Worked

Looking at Figure III-18, annual working hours short-

ened by about 400 hours from the 1960's, when the GDP growth rate was high, through the first half of the 1970's. After the oil crisis of the 1970's, working hours hovered at about the same level; but they began shortening gradually once again when the 1980's came to a close. It can be considered that the effect of shortening the working hours set by law played a large role in this decrease in working hours after the end of the 1980's.

Comparing the estimates of annual working hours for 1999 in Table III-16, Japan is just a little shorter than the U.S., and just a little longer than the U.K., but 300 to 400 hours longer than Germany and France. This difference between Japan, Germany and France mainly reflects differences in overtime and the number of annual paid vacation days taken.

III-16 International Comparison of Working Hours
(production workers in manufacturing industries: 2000)

	(hours)				
Working Hours	Japan	U.S.	U.K.	Germany	France
Annual Working Hours	1,970	1,986	1,902	1,525	1,589
Scheduled Working Hours	1,795	1,747	1,751	1,468	—
Overtime Hours	175	239	151	57	—

Source: Estimates made by the Working Hours Department of the Ministry of Health, Labor and Welfare's Labor Standards Bureau based on reports issued by the EU and each nation mentioned above.

Notes: 1) Size of workplaces surveyed: Japan, 5 employees or more; U.S., all sizes; Others, 10 employees or more

2) Includes regular part-time workers.

3) Scheduled working hours and overtime hours for France were unavailable

4) Data for Germany is from 1999

Annual Non-scheduled Hours Worked

Figure III-19 shows quarterly fluctuations in overtime hours. It is said that overtime hours in Japan increase and decrease in proportion to business fluctuations.

This illustrates that businesses make use of overtime hours as a primary means to adjust employment in the face of fluctuations in production demand. That is, rather than taking on new hires during times of prosperity, overtime hours for existing employees are increased; on the other hand, without immediately

resorting to measures such as layoffs when business is slow, the condition is dealt with through a reduction in overtime hours. Behind this is the fact that the cost of overtime allowances for existing employees is generally less than labor costs related to hiring additional employees. Non-scheduled overtime hours thus constantly exist in a large number of Japanese companies.

At present, an annual maximum of 360 overtime hours per worker is prescribed by the Labor

Standards Law; within this range, upper limits are set for fixed periods, such as 15 hours per week, 45 hours per month, and 120 hours per 3-month period. Further, the premium rate for these overtime hours is 25% in ordinary cases, 25% for nightwork (22-5), and 35% for holidays. For those working nightwork (22-5) that also happen to be overtime, the increment is 50%; and it is 60% in the case of a nightwork (22-5) worked on a holiday.

Annual Paid Vacation

Table III-17 examines the number of days of annual paid vacation given and taken, and, with those figures as denominator and numerator, the percentage of vacation days taken. According to the Labor Standards Law, 10 days vacation shall be granted to those workers with an 80% or greater attendance rate and at least 6 months of continuous service with a business, and 20 days shall be given upon reaching 6 years and 6 months of service. But unfortunately the average number of vacation days taken throughout

Japan in 2002 was 8.8. So, in actuality, only half of vacation days given were consumed.

Thus not many vacation days were taken. There is a variety of factors behind this such as that company personnel management do not presume that all the vacation days will be used, and that workers are often too busy with work to use vacation days.

Variable Scheduling System

Aside from that, the Labor Standards Law also provides a variable scheduling system. All within this system are: a system of monthly variation, a system of annual variation, flextime, and a free-style system of weekly variation. In the monthly and annual variation systems, the weekly scheduled working hours will be increased to over 40 hours for, respectively, a specified week(s) or specified month(s); all other weeks/months will be shorter. Therefore, this system can be applied to situations such as a manufacturing industry for which the exceptionally busy periods vary with season, and the corresponding clerical

III-17 Percentage of Annual Paid Vacation Days Consumed (2002)

(days, %)

Industry, Size of Company	Annual paid vacation per average worker		
	Days given (A)	Days taken (B)	Percent Consumed (B/A)
Overall Total	18.2	8.8	48.1
Businesses with 1000 employees or more	19.5	10.4	53.1
Businesses with 300–999 employees	18.1	8.2	45.2
Businesses with 100–299 employees	17.2	7.9	45.8
Businesses with 30–99 employees	17.0	7.3	43.1
Mining	18.6	10.4	56.2
Construction	18.3	6.4	35.1
Manufacturing	18.8	10.3	54.8
Electricity, gas, heat supply and water	19.7	15.1	76.7
Transport and communication	17.3	8.8	51.1
Wholesale and retail trade, eating and drinking places	17.5	6.5	36.8
Financing and Insurance	19.8	7.0	35.6
Real estate	16.9	7.9	46.9
Service industries	17.4	8.7	49.8
(Reference) Industry Totals			
1990	15.5	8.2	52.9
1995	17.2	9.5	55.2

Source: General Survey of Working Conditions, Ministry of Health, Labour and Welfare

Notes: 1) Annual Paid Vacation is the "Vacation" mentioned in Article 39 of the Labor Standards Law

2) Annual paid vacation days given, taken, and percent consumed per average worker are those from 2002, and do not include any days carried forward from the previous year.

fields. For the annual variation system, it has been possible since April 1999 to plan scheduled working hours flexibly for a period greater than one month, but maximums have been set at 10 hours per day and 52 hours per week. Flexitime is a system allowing workers self-management over their comings and goings to and from the workplace during a one-month settlement period. The free-style system of weekly variation was designed for types of businesses such as retail shops, restaurants, and Japanese-style inns, where business may slow down greatly on certain days of the week. This system provides for advance changes (made by the end of the previous week) in the scheduled working hours for a particular day or days, keeping the weekly scheduled hours at a fixed constant. In 2001, 14.8% of businesses adopted the monthly variation system, 42.8% the annual variation system, and 5.0% had accepted flexitime (General Survey of Working Conditions, Ministry of Health, Labour and Welfare).

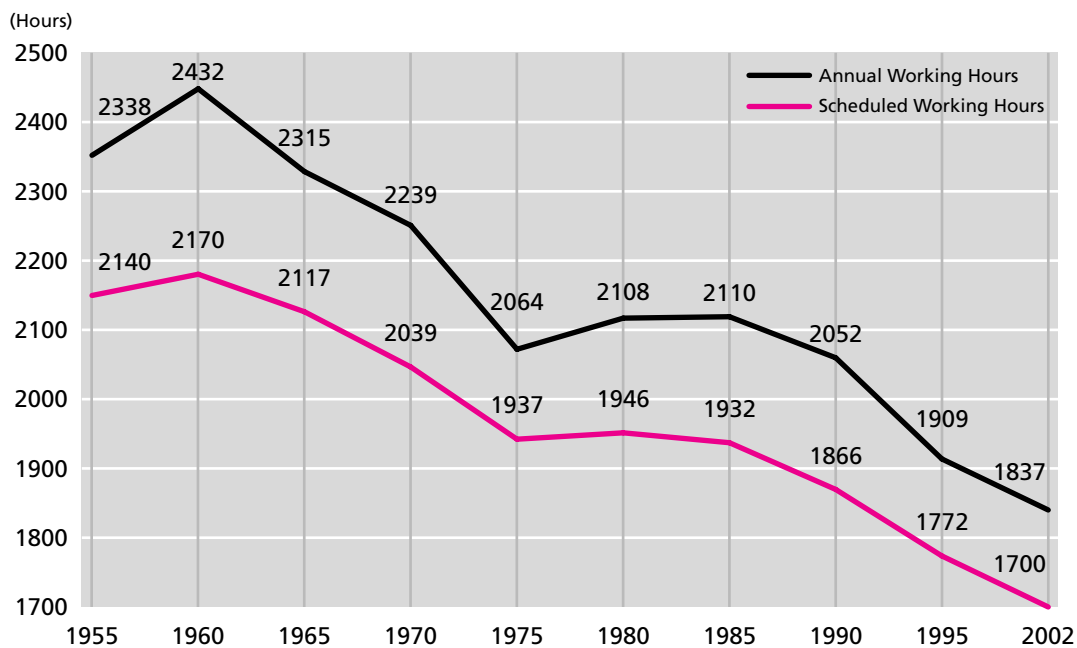
De-Facto Working Hours System

In addition, the Labor Standards Law provides for a “de-facto working hours.” To begin with, in the case of

mining work, the working hours are deemed to cover the entire time—including breaks—from the moment a worker enters the mine until that worker leaves the mine. Secondly, this system applies to “jobs for which calculation of working hours is difficult because work is done outside of the workplace and without specific command or supervision,” such as the sales and reporting (or information gathering) fields. Thirdly we have what is called a discretionary scheduling system. This is divided into a “discretionary scheduling system for specialized work” aimed at specialized work areas such as research and development, computer programmers, editors in mass communications, broadcast and movie directors, and designers; and a “discretionary scheduling system for planning work” aimed at those who are engaged in planning work (such as project planning) in white collar areas.

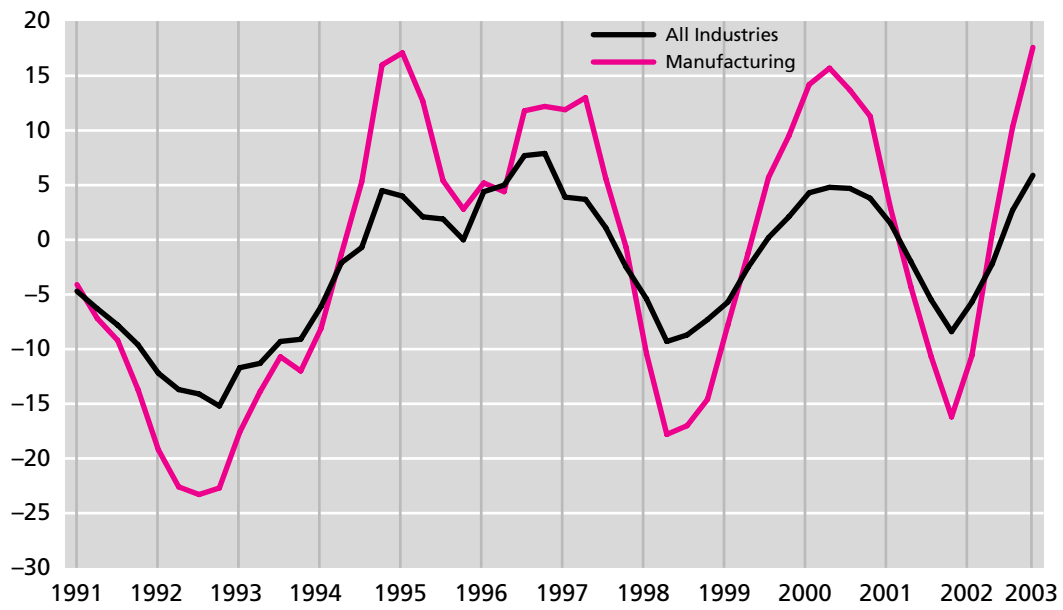
In 2001, the rate of recruitment for the discretionary scheduling system for specialized work was 1.2% for companies with 30 or more employees, and 0.9% for the discretionary scheduling system for planning work (General Survey of Working Conditions, of Ministry of Health, Labour and Welfare).

III-18 Changes in Average Annual Working Hours per Worker



Source: *Monthly Survey of Labor Statistics*, Ministry of Health, Labour and Welfare (former) Ministry of Labour
 Note: Study limited to businesses of 30 employees or more.

III-19 Percentage Fluctuations in Overtime Hours



Source: *Monthly Survey of Labor Statistics*, Ministry of Health, Labour and Welfare (former) Ministry of Labour

Notes: 1) Study limited to businesses of 5 employees or more

2) Fluctuations recorded on a quarterly basis

6 Company Benefits

Labor Cost Structure

Looking at the makeup of labor costs in Table III-20, wages occupy an 81.7% portion in Japan, and the U.S. is at about the same level. On the other hand, wages take up a relatively low percentage in the U.K., Germany and France, so that the percentage of labor costs aside from wages is high. In terms of these labor costs aside from wages, Japan's compulsory benefit costs are 9.3%—a little higher than the U.S., but lower than Germany and France. Costs for retirement benefits, etc. in Japan are 5.8% of total labor costs. The percentages for this item in the U.K., Germany and France are low; conversely, the portion of noncompulsory benefit costs in these countries is high.

Social Insurance Premium Rates

Table III-21 compares the social insurance premium rates in each country. In Japan the insurance premium rate is about 22% of total pay. This is a little higher than the rate in the U.S., and about the same as that in

the U.K., but lower than that in Germany, France and Sweden. The breakdown of Japan's 22.16% is as follows: medical insurance, 7.43%; pension insurance, 13.58%; and unemployment insurance, 1.15%. However, there is a further cost that only employers pay—the system of compensation for accidents at the workplace.

Compulsory Benefit Costs' Structure

Figure III-22 shows the composition of the average compulsory benefit costs per month per regular worker in 2001. Health insurance premiums are 31.7%, and employees' pension insurance premiums are 54.4%, so that these two compose about 86% of the compulsory benefit costs that organizations are paying out for employees. Labor insurance premium occupies 12.8%, broken down as 7.0% for unemployment insurance and 5.8% for workmen's compensation insurance.

III-20 Comparison of Labor Cost Structures by Cost Item (manufacturing)

(%)

Cost Item	Japan (2001)	U.S. (2001)	U.K. (2000)	Germany (2000)	France (2000)
Total labor costs	100.0	100.0	100.0	100.0	100.0
Total wages	81.7	80.7	76.8	75.8	64.8
Wages, salary therein] (81.7)	(73.1)	(67.9)	(65.1)	(58.4)
Wages for vacation days and other paid days off		(7.6)	(9.4)	(10.7)	(6.5)
Total of other labor costs	18.3	19.3	23.2	24.2	35.2
Compulsory benefit costs therein	(9.3)	(8.0)	(8.3)	(15.7)	(20.5)
Non-compulsory benefit costs	(2.3)] (11.3)	(8.7)	(7.0)	(8.9)
Cost of retirement benefits, etc.	(5.8)		(1.0)	(0.6)	(2.2)
Wages paid in kind	(0.3)		(2.3)	(0.4)	(0.1)
Vocational training expenses	(0.3)		(2.4)	(0.5)	(1.5)
All others	(0.4)		0.0	(0.3)	(2.1)

Sources: *General Survey of Wages and Working Hours Systems*, (former) Ministry of Labour
Employer Costs for Employee Compensation, Bureau of Labor Statistics
Labour Costs 1988-1999, Eurostat

Notes: 1) All workers at companies employing 30 or more persons in Japan, 1 or more in the U.S., and 10 or more in the EU.
 2) Numbers inside () are a breakdown of figures

Retirement Benefits System

The cost for retirement benefits, etc. in Japan is split into lump sum retirement allowances and retirement pensions. Retirement benefits are paid in proportion to the number of years of continuous service at a specific business, but differences exist based on the reason for retirement. The rate of payment for workers who retire for their own convenience will be lower, while this rate increases for those who retire at the mandatory age after long-term employment, or for workers who retire at a company's request, such as during a recession. For this reason, retirement benefits have become one factor in the perpetuation of long-term employment for Japanese workers.

Until recently, the lump sum retirement allowance

has been a large amount, and many workers have received this substantial benefit when retiring at the mandatory age. However, in recent years the percentage of workers receiving a retirement pension has been rising. Behind this development is the fact that the cost burden for companies has increased as the aging of employees leads to larger payments of lump sum retirement allowances. Added to that are the benefits of converting retirement benefits to a pension system, such as the advantages a company may receive through tax codes.

In addition, we are also proceeding with a gradual switchover to what is called the Defined Contribution Pension Plan, sometimes referred to as the Japanese edition 401k. This was triggered by the problems

III-21 Social Insurance Premium Rates (workers)

(%)

	Insurance Premium Rate	Portion Paid by Workers	Portion Paid by Employers	Breakdown
Japan (April 1999) ²	22.16%	10.89%	11.27%	Medical insurance (government-managed health insurance) 7.43% (standard salary monthly portion 8.5%, bonus portion 0.8%), Pension insurance (employees' pension) 13.58% (standard salary monthly portion 17.35%, bonus portion 1%), Unemployment insurance 1.15%
U.S. (1999) ³	15.30%	7.65%	7.65%	Old age/survivors/disability pension (OASDI) 12.4%, Medicare 2.9%
U.K. (April 1997)	20% maximum	10% maximum ⁴	10% maximum ⁵	National insurance (retirees pension, jobhunters-benefits, benefits for those unable to work, etc.)
Germany (1998)	42.20%	20.95%	21.25%	Pension insurance 20.3%, Illness insurance (average) 13.6%, Nursing care insurance 1.5%, Accident insurance 0.3% (average), Unemployment insurance 6.5%
France (January 1998) ⁶	41.58%	9.61%	31.97%	Illness insurance 13.55%, Pension insurance 16.35%, Widows' insurance 0.1%, Family benefits 5.4%, Unemployment insurance 6.18%
Sweden (1998)	35.53%	6.95%	28.58%	Pension insurance 20.38%, Medical insurance (sickness benefits, parent benefits, etc.) 7.93%, workmen's compensation insurance 1.38%, Unemployment insurance 5.42%, Others 0.42%

Source: *White Paper on Health and Welfare (1999)*, (former) Ministry of Health and Welfare.

Notes: 1) Basically insurance premium rates are based on total salary. In Japan's case, the premium rates for medical insurance (government managed health insurance) and pension insurance (employees' pension) use values calculated on the basis of total salary including bonuses. Figures are shown in () in the case of standard salary base.

2) In addition, there is also compensation for accidents at the workplace, but the insurance premium differs with type of business.

3) In addition, there are "social insurance" programs managed at the state level—unemployment insurance and accident compensation insurance—but the premium rates differ by state

4) Insurance rates differ with income. The insurance premium rates in the figure are those applying to any weekly pay over 64 Pounds.

5) Insurance rates differ with income. The insurance premium rates in the figure apply in cases when weekly pay is over 210 Pounds.

6) In addition, there are insurance premium rates paid by employers for compensation for industrial accidents and occupational diseases, but they differ by enterprise (4.0% on average). Premium rates for unemployment insurance differ with income. Also, in terms of expenses borne by workers, there is a general social contribution (7.5% of income) outside of the insurance premium paid. This is a kind of tax used specifically for illness insurance and family benefits.

with the conventional corporate pension (Employees' Pension Fund or Qualified Retirement Pension). In the old system, pension disbursement amounts were planned for the future (in the form of defined payments) and, because of low interest, etc. over long periods, investment profits dipped below planned levels and reserve funds were insufficient. In contrast, the Defined Contribution Pension Plan gives the responsibility of investing premium to the subscribers themselves, and the pension amounts receivable in old age change depending on the results. For companies, because they do not promise future disbursement amounts beforehand, no reserve fund insufficiencies or other additional burdens come about.

Diversification of Company Benefits

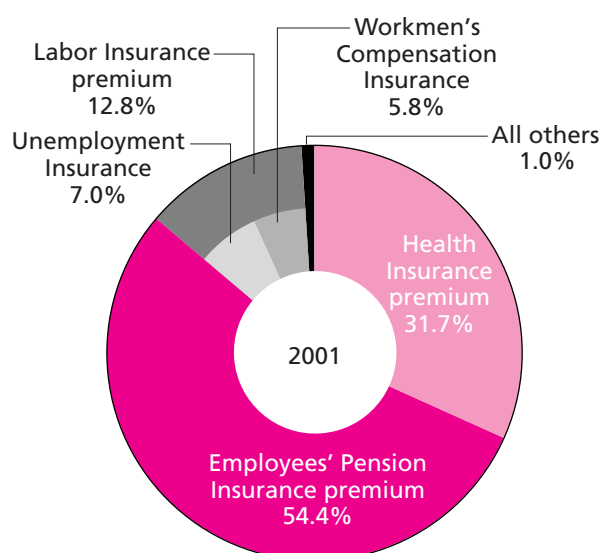
Lately, changes in corporate welfare have rested on matters like the increase in companies' cost burden for public welfare—and the diversification of employee needs—as well as the development of the social security system. Some new mechanisms are currently being introduced: 1) a retirement benefit pre-payment system will add the former welfare portion of labor costs to wages paid to individual workers; 2) a point system in retirement benefits can be combined with a merit-based wage system; and 3) a stock option sys-

tem is being popularized, allowing workers the choice of purchasing stock in their companies at a price fixed in advance. According to the 1999 General Survey of Wages and Working Hours Systems by the former Ministry of Labour, 4.0% of companies with 1,000 or more employees have introduced stock options. According to a survey conducted by Nikko Cordial Securities, after the revision of the Commercial Code in 1997, approximately 30% of all listed companies, 983, have introduced stock options (June 2002).

In addition, to mitigate the welfare cost burden and to satisfy the diversifying needs of employees, arrangements are being made for a variety of welfare choices, and a cafeteria-style plan that will allow employees to use features according to their needs is being gradually disseminated.

Furthermore, a "Family-Friendly Company" award has been created. This is to commend businesses with personnel management systems giving consideration to the household conditions of workers through such efforts as the creation of a vacation/leave system for child care and family care, and the establishment of a daycare center. The Ministry of Health, Labour and Welfare began honoring such enterprises in 1999.

III-22 Breakdown of Average Compulsory Benefit Costs per Regular Worker each Month



Sources: General Survey of Working Conditions, Ministry of Health, Labour and Welfare (2001)

7 Career Development through In-house Training and Education

OJT: Practical Training Predicated on Longterm Employment

A feature of professional education and training in Japan is that, predicated on the assumption that employees will stay at one company throughout their careers, in-house development of human resources at Japanese companies takes place over a long period. Inhouse training—central to this development—consists primarily of OJT (on-the-job training) which gives employees the opportunity to develop their skills through actual business experience. OJT fulfills an important role in educating both blue- and white-collar workers. In factories, for instance, OJT is used not only to teach personnel about the production process, but also to enable them to repair malfunctioning machinery and perform maintenance work. Clerical workers in accounting and other departments learn through OJT how to combat unreliability by, for example, analyzing divergences between budgeted and actual results.

Two Types of OJT

Because OJT often overlaps with the execution of everyday work, it is difficult to gain an understanding beyond surface appearances; however, we can divide OJT into two types—formal and informal. Formal OJT generally involves assigning instructors to train employees, and setting post-training evaluation standards. These points separate formal OJT from informal OJT.

Long-term Informal OJT Builds High-level Talent

The primary distinguishing features of human resource development in Japan are as follows.

- (1) Informal OJT performs a considerably greater role than formal OJT, which is given to newly hired workers to develop low-level skills, and does not extend beyond the initial skill improvement period following introduction to the company.
- (2) Informal OJT is widely used in Japan, but informal OJT carried out over the long-term is indispensable for employees to acquire high-level skills. Informal OJT usually takes the form of a gradual progression or work experiences from simple to more difficult tasks, or a rotation system that enables employees to serve in a variety of positions. OJT gives workers the opportunity to gain a wide range of experience, thus improving their business acumen.
- (3) Long-term informal OJT is widely popular at large corporations, but also at some small and mediumsized businesses.
- (4) OJT is not the exclusive source of training in Japan; it is interspersed with Off-JT (off-the-job training), e.g., training seminars at outside institutions. Off-JT gives added perspective to the experience employees gain through OJT, and helps them gain additional knowledge and theoretical skills that they can use to solve the problems that arise in everyday business situations.

OJT is Founded on Seniority-based Promotion and Promotional Management

This type of OJT functions effectively in Japan thanks to a promotion and pay raise management system that enables senior workers to smoothly pass skills on to subordinates. Senior workers are not reluctant to train their subordinates, since they are confident that the latter will not be promoted or given raises ahead of them; this, in turn, has reinforced teamwork within the workplace. This approach to human resource development has proven to be a positive way for employees to refine their skills, and is also an aspect of Japanese corporate culture that makes Japanese companies so competitive.

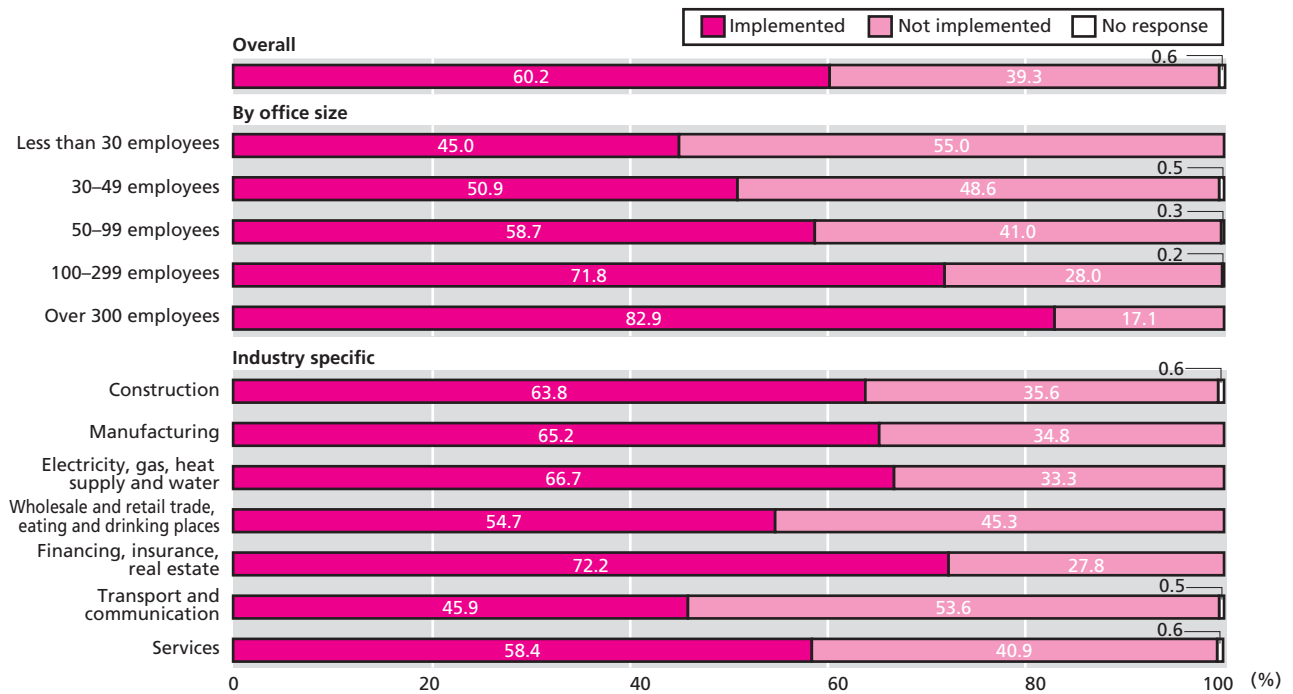
60.2% of Companies Implement Off-JT, and 44.8% Implement Planned OJT

According to the most comprehensive reference on Japanese in-house training, “Basic Survey of Human

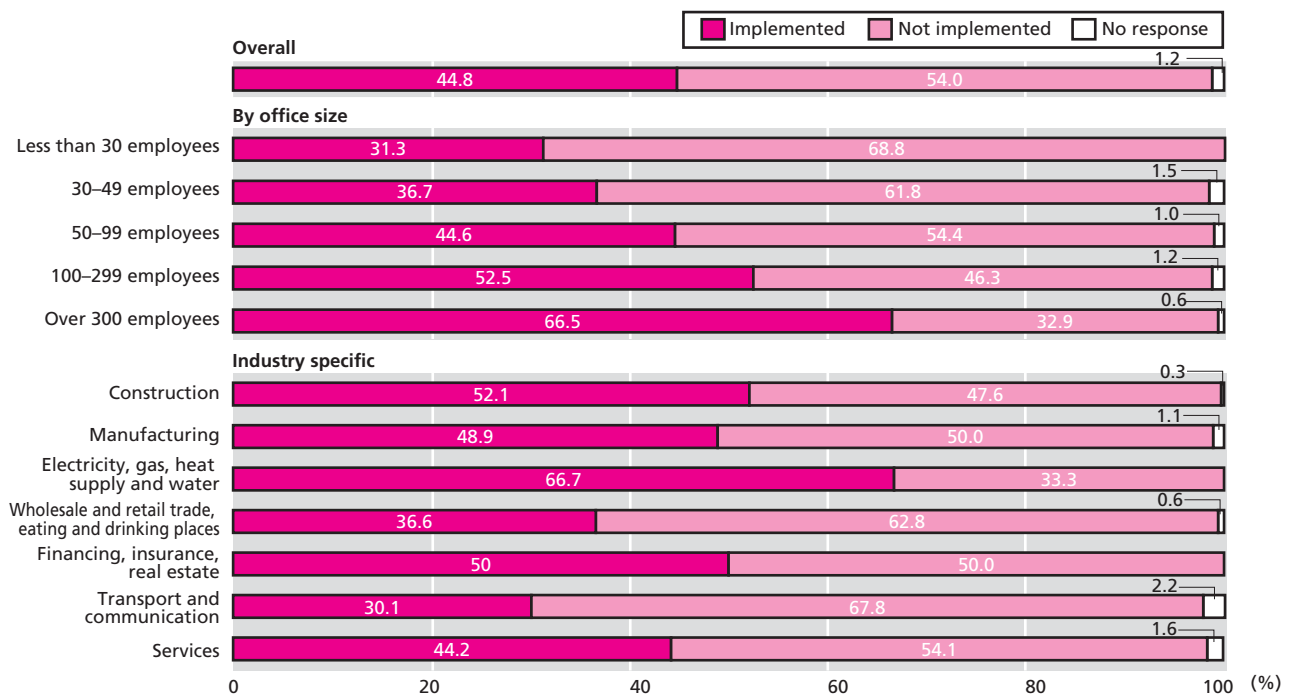
Resources Development” (Ministry of Health, Labour and Welfare), 60.2% of Japanese companies imple-

mented Off-JT in FY2001, and 44.8% implemented “planned OJT.”

III-23 Current Situation of Off-JT Implementation



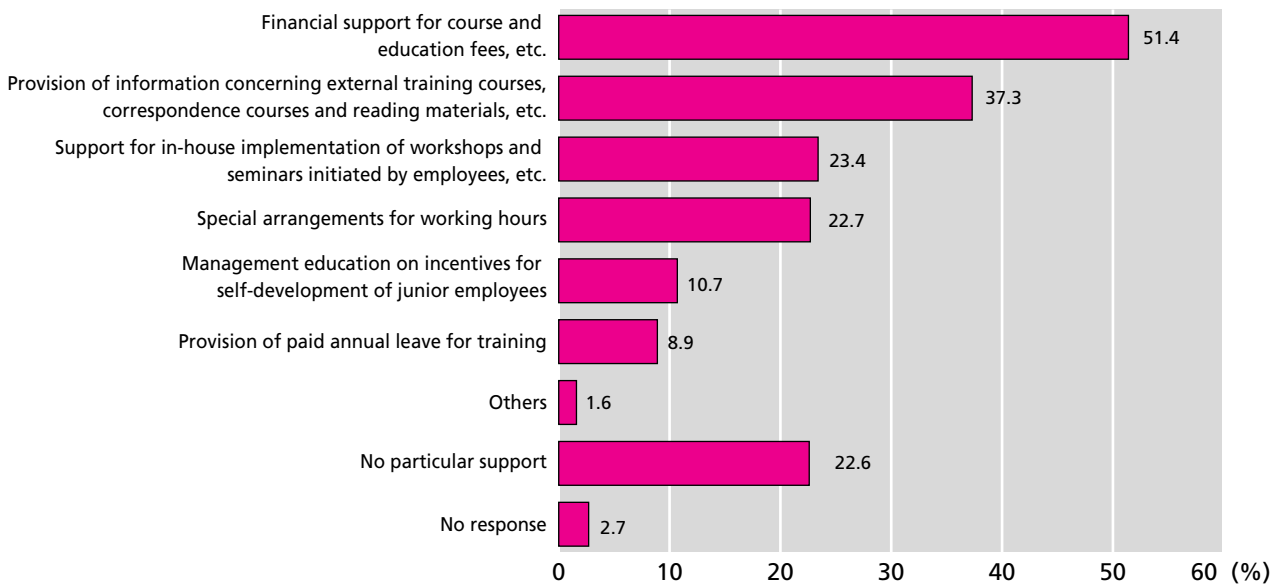
III-24 Current Situation of Planned OJT Implementation



III-25 Responsibility for Skills Development



III-26 Support for Self-development by Employees (multiple responses)



Source: Figure III-23~26 Basic Survey of Human Resources Development, Ministry of Health, Labour and Welfare, 2002

Resignation

“Retirement” is a cause for the cancellation of labor contract relations, and is a general term applying whenever an employee leaves the company where he or she is employed (excluding dismissals). There are different types of retirement: “general resignation” and “resignation for one’s own convenience” take place when the employee unilaterally cancels the labor contract relationship; “resignation by agreement,” “resignation by employee’s request,” and “voluntary retirement” all occur through consent between employee and employer; and “retirement at the mandatory age” comes about according to rules in the labor contract, work rules in the company or collective agreement.

Recent problems related to resignation that have arisen are advised resignations and preferential treatment when soliciting employees for early retirement with business restructuring.

Regarding the former, the wrongful urging of retirement such as through persistent pressing or violence is illegal, and employers are liable for damages. The actual situation is not clear, but looking at the operational statistics of the System for Resolution of Individual Labor Disputes, 10% to 15% of disputes that develop at the workplace are over bullying and harassment related to advised resignation or something closely connected to advised resignation.

Regarding the latter, there have been lawsuits in which employees seek to collect differences in money received from companies resulting from imbalanced preferential treatment depending on when employees resign. This type of preferential treatment has no legal basis, so when, to whom, and what kind of preferential treatment is given can basically be decided by companies. Thus in general, even though using such a system for preferential treatment, the issue of consent of users of the system and imbalances in preferential treatment become legal problems, unless these types of systems are acknowledged as being permanent, applying to all employees and being

clearly part of the conditions of employment, requests by employees for companies to make up for differences in pay are not recognized.

Mandatory Retirement

The Elderly Persons Employment Security Law stipulates that employers may not fix a mandatory retirement age under age 60 (Article 8). According to the 2002 survey* 92.2% of companies provide a mandatory retirement system; of those, 97.5% provide a uniform mandatory retirement system. Of the companies with a uniform mandatory retirement system, 89.2% have set the mandatory retirement age at 60 (see Table III-27).

The Elderly Persons Employment Security Law assigns to employers the obligation to make efforts toward developing a system of continuous employment to age 65 (Article 9). The previous survey shows, however, that 9.6% of companies have set the mandatory retirement age at 61 or above, and 7.0% have set it at age 65 or above (see Table III-27). Based on this, it does not appear that setting the mandatory retirement age to above 60 has become rooted in society.

On the other hand, even though a company may have set its mandatory retirement age at 60, it may have measures for continuous employment. According to the previous survey, 67.4% of companies have adopted some type of measures for continuous employment such as employment extension systems and reemployment systems (see Table III-28). However, 65.7% of companies have set conditions for the application of these in-company systems, such as “limited to employee whom the company accepts as particularly necessary” and “employee who have met certain standards set by the company.”

The percentage of companies which have set their mandatory retirement age to above 60 has risen slightly since the last survey, but continuous employment for elderly persons has still not spread (see Table III-29 regarding issues related to the raising of

the mandatory retirement age). The problem of the employment of elderly persons, originating from a variety of factors such as the gradual increase of the age at which the payment of pensions begins, is an important unresolved issue.

Incidentally, the mandatory retirement system ends the working relationship by reason of a worker reaching a specific age; and while there is strong opinion that this is unreasonable or contradicts the idea of employment security, in a long-term continuous employment system based on seniority, the mandatory system is generally held to be rational. In court, too, it has not been decided that the mandatory retirement system violates the law (it does not violate public order). However, the recent high unemployment rates and long periods of joblessness accompanying the prolonged recession—and in particular age restrictions on the recruiting side preventing reemployment of middle-aged person—have become social problems, and as a result, guidelines assigning to employers the obligation to make efforts to not assign age limitations when recruiting and hiring employees have been created.

In addition, beyond this, many people are still of the opinion that it is necessary to formulate new legislation prohibiting age discrimination. Since a large number of problems remain to be resolved such as how to handle the relationship between prohibiting age discrimination and companies' internal long-term and continuous employment systems, systems of treatment and evaluation, and the promotion of mobility in the labor market, no measures prohibiting age discrimination are expected to be realized at this point in time.

* Statistics and Information Department, Minister's Secretariat, Ministry of Health, Labour and Welfare. "2003 Survey of Employment Management – Retirement Management" (2003).

Dismissals

In Japan, according to enacted laws, employers have the freedom in principle to dismiss employees. Also, in the Labour Standards Law, dismissals are only prohibited 1) during a period of leave for an injury at the workplace or illness, and during the 30 days following, as well as 2) for women, during the period of

leave for pregnancy and delivery (Article 65), and during the 30 days following; but dismissal itself is not prohibited.

On the other hand, dismissal contrary to the legal principle of equal treatment between men and women goes against Article 90 of the Civil Code on public order and is therefore invalid. A further exception by law to the freedom of dismissal is that malicious or retaliatory dismissals, asserting or employing rights given by existing laws, are prohibited as disadvantageous treatment (Article 3 and Article 104, Item 2 of the Labor Standards Law; Article 13, Item 2 of the Equal Employment Opportunity Law; Articles 10 and 16 of the Child Care and Family Care Leave Law; Article 7 of the Trade Union Law).

Looking at dismissals in general, the restriction imposed by the legal principle of "abuse of dismissal rights" has attained an especially important role. This principle, which has been established by precedent of the Japanese Supreme Court from about the mid-1970s onward, is a legal theory that will examine and restrict the use of dismissal rights when an employer unilaterally cancels a labor contract with a employee. The Supreme Court stated, "the use of the right of dismissal by an employer shall become invalid, as an abuse of rights, when lacking in objectively rational pretext or when it cannot be approved as corresponding to any socially accepted idea," formulating the content of this principle. Further, the Court expressed that "even when there is a reason for general dismissal, the employer may not always be able to dismiss the employee. If the basis for dismissal in the specific situation concerned is remarkably unreasonable, or when it cannot be approved as corresponding to a socially accepted idea, the concerned expression of intention to dismiss shall be invalid as an abuse of the right of dismissal." The court went on to present specific requisites and methods for interpretation of the principle. In short, this principle urges the careful consideration of all favorable circumstances for the dismissed employee before judgment, so as to avoid merciless dismissals.

These legal principles are stated in an amendment to the Labour Standards Law in 2003. Behind this was the recognition that this legal principle should be stated because even though the principle has been

playing an important role in Japan's dismissal regulations, the fact that it was not a law made it socially ambiguous. There was also the recognition that by stating the principle, the easy dismissal of employees because of the recent economic recession should be stopped. The key to the future operation of this system is how society takes the message that lies in the making of written legal principles of the abuse of dismissal rights.

Collective Dismissals for Economic Reasons

The adjustment of employment in Japan is focused chiefly on the regulation of overtime, and is accomplished through measures not to bring grief to employees. As a step to eliminate permanent employees from the enterprise, this adjustment has not been made as long as the management situation is not terribly bad. The basis for this situation is that dismissals are, in actuality, difficult to carry out because Japanese companies have come to view long-term continuous employment as important, and the existence of the legal principle of "abuse of dismissal rights" supports this.

Regulations relating to collective dismissals are formed based on the above-mentioned legal principle of "abuse of dismissal rights," and the following criteria must be satisfied or the dismissal will be illegal and invalid.

1) Are personnel cuts necessary?—It is not necessary for conditions to get to the point that collective dismissals must be made or the continuing existence of the company is in danger; it is sufficient that the management situation worsens such that a rational manager can adequately consider implementing collective dismissals. However, actions inconsistent with personnel cuts may be considered requisites for the denial of such necessity. 2) Was every effort made to avoid dismissals?—Employers must look into implementing alternatives such as restrictions on overtime, reassignments and temporary transfers, freeze on new hires, layoffs, voluntary retirement, and cuts in part-time and other non-permanent positions. 3) Were the criteria reasonable for selection of dismissal candidates?—Criteria must be objective and impartial. Some examples are: numbers of late arrivals and

absences, existence of a history of behavior in violation of work rules in company, and low impact of economic blow to employees such as those with no dependents. 4) Was every effort made to talk the situation over with employees or the labor union?—This is of course necessary when the collective agreement contains an item guaranteeing discussion of personnel matters; even when no such item exists, it is understood as necessary from the position of loyalty to the labor contract or labor-management relations. Specifically, there shall be adequate explanation and hearing of opinions regarding the events leading up to the collective dismissals, and the term and method of carrying out such dismissals.

The four criteria above are called the legal principles of collective dismissals. As stated earlier, however, while the concept of the legal principles of collective dismissals is included in the legal principles of the abuse of dismissal rights, and in the amendment to the Labor Standards Law in which the legal principles of the abuse of dismissal rights were stated, the details of the principles are not explained. In the process of discussing the amendment, there were intensive discussions regarding whether the four criteria above should be specified, but in the end, due to a well-known representative court case related to the legal principles of collective dismissals, the principles were seen as limiting the easy downsizing of personnel. Given such responses only, whether the dismissal regulations will become more efficient is not without doubt.

Disciplinary Dismissals

Work rules in the company generally provide the heading "disciplinary actions" for handing down punishments to persons such as those who violate workplace orders. Disciplinary actions are the personal sanctions or punishments that a company carries out against its own employee for the reason that the employee disturbed the order of that company. These actions are, from the most minor: warning, reprimand, official reprimand, salary reduction, suspension, counseled dismissal, and disciplinary dismissal.

Dismissals lend a great disadvantage to workers, especially in the case of a disciplinary dismissal; because the worker receives the evaluation of a per-

son thrown out of a company for violating the order, that employee is at an extreme disadvantage when again looking for a job. However, if such a violator of the order is left in the company, it is possible that the productivity and daily business of the other employees may be hindered. Accordingly, an approach is being taken that, while considering the disadvantage to the employee and the benefits to the company, rigorously judges the legal validity of disciplinary actions including the personal sanctions of disciplinary dismissal. In short, the following are necessary in the event of a disciplinary dismissal: ①the reason for action, and the type and degree of action corresponding to this reason, are specified in the workplace regulations, etc.

(legal principle of *nulla poena sine lege*, or no punishment without a law), ②the issue has come up in the past, and the same type and degree of action were carried out (general principle of equal treatment), ③the substance of the action is appropriate when held up against the type and degree of violation, and other circumstances (general principle of equivalence), and ④the procedures of the action are fair (examination by a disciplinary committee, and an opportunity to defend given to the person in question). In addition, because disciplinary dismissals are also dismissals, the legal principles of the abuse of dismissal rights which are stated in the amendment to the Labour Standards Law apply, and these dismissals are regulated.

III-27 Ratio of Enterprises with Fixed Retirement Age System, by Retirement Age

(%)

Size of enterprise, industries	Enterprises with Fixed Retirement Age	Ages 59 or below	Age 60	Ages 61-64	Age 65	Ages 66 or over	Same as on left Ages 66 or over	Same as on left Ages 61 or over	Same as on left Ages 65 or over	
All Industries	[97.5]	100.0	1.1	89.2	2.7	6.8	0.1	98.9	9.6	7.0
Size of enterprise										
5,000 employees and over	[95.0]	100.0	—	98.4	1.3	0.3	—	100.0	1.6	0.3
1,000—4,999 employees	[97.8]	100.0	—	97.2	2.0	0.9	—	100.0	2.8	0.9
300—999 employees	[97.0]	100.0	0.2	93.3	3.1	3.1	0.4	99.8	6.5	3.5
100—299 employees	[97.6]	100.0	0.0	90.8	3.5	5.7	0.0	100.0	9.2	5.7
30—99 employees	[97.5]	100.0	1.6	88.0	2.4	7.8	0.1	98.4	10.4	8.0
Type of Industries										
Mining	[98.0]	100.0	—	91.9	2.0	6.1	—	100.0	8.1	6.1
Construction	[96.6]	100.0	1.3	87.8	3.6	7.3	—	98.7	10.9	7.3
Manufacturing	[99.0]	100.0	0.4	94.0	0.9	4.7	0.0	99.6	5.7	4.7
Electricity, gas, heat supply and water	[94.7]	100.0	—	98.5	1.5	—	—	100.0	1.5	—
Transport and communications	[96.4]	100.0	1.5	84.7	5.0	8.8	—	98.5	13.8	8.8
Wholesale and retail trade, eating and drinking places	[96.6]	100.0	2.6	89.2	3.2	5.0	—	97.4	8.1	5.0
Financing and insurance	[97.8]	100.0	—	95.6	3.5	1.0	—	100.0	4.4	1.0
Real estate	[91.9]	100.0	—	91.0	3.9	5.1	—	100.0	9.0	5.1
Services	[97.1]	100.0	0.8	84.0	3.4	11.2	0.5	99.2	15.1	11.7
2002 Survey Total	[96.0]	100.0	0.6	90.3	2.3	6.6	0.2	99.4	9.1	6.8

Source: Ministry of Health, Labour and Welfare, *Survey on Employment Management 2003*.

Note: Figures in [] shows the ratio of enterprises which adopt uniform retirement age system among the enterprises that adopt retirement age system.

III-28 Ratio of Enterprises by Industry, Enterprise Scale, Retirement Age Class in Fixed Retirement Age System, Presence of Absence of Employment Expansion System, Re-employment System, and Future Adoption

(%)

Size of enterprise, industries	Enterprises which have a uniform retirement age system		Enterprises with such system				Enterprises with no such system		(Same as on left) with such system	
			Total	Employment extension system only	Re-employment system only	with both re-employment and extended employment	Planning to introduce system	No Plans to introduce system	Employment extension system (incl. the both systems)	Re-employment system (incl. the both systems)
All Industries	[97.5]	100.0	67.4	14.3	42.5	10.7	3.4	29.1	24.9	53.1
Size of enterprise										
5,000 employees and over	[95.0]	100.0	77.5	4.9	71.3	1.3	5.2	17.3	6.2	72.6
1,000–4,999 employees	[97.8]	100.0	69.2	4.7	55.7	8.9	4.8	26.0	13.5	64.5
300–999 employees	[97.0]	100.0	69.0	5.4	52.7	10.9	3.4	27.6	16.3	63.6
100–299 employees	[97.6]	100.0	70.8	11.0	50.4	9.4	2.9	26.4	20.4	59.8
30–99 employees	[97.5]	100.0	66.0	16.6	38.2	11.2	3.6	30.4	27.8	49.4
Type of Industries										
Mining	[98.0]	100.0	74.7	13.1	51.5	10.1	2.0	23.2	23.2	61.6
Construction	[96.6]	100.0	79.7	20.4	44.9	14.3	1.6	18.7	34.8	59.3
Manufacturing	[99.0]	100.0	70.3	13.1	47.1	10.1	2.4	27.4	23.2	57.1
Electricity, gas, heat supply and water	[94.7]	100.0	71.6	3.0	65.5	3.0	—	28.4	6.1	68.5
Transport and communications	[96.4]	100.0	77.4	20.0	43.6	13.8	3.5	19.2	33.8	57.4
Wholesale and retail trade, eating and drinking places	[96.6]	100.0	59.5	13.5	37.5	8.5	5.0	35.5	22.0	46.0
Financing and insurance	[97.8]	100.0	61.1	6.4	48.3	6.5	1.6	37.3	12.8	54.7
Real estate	[91.9]	100.0	64.3	7.2	50.8	6.2	3.1	32.6	13.4	57.0
Services	[97.1]	100.0	59.2	11.6	37.0	10.6	4.8	36.0	22.2	47.6
2002 Survey Total	[96.0]	100.0	71.0	14.7	42.6	13.7	8.1	20.9	28.4	56.4

Source: Ministry of Health, Labour and Welfare, *Survey of Employment Management 2003*.

Note: Figures in [] shows the ratio of enterprises which adopt uniform retirement age system among the enterprises that adopt retirement age system.

III-29 Ratio of Enterprises by Challenge to Raising the Retirement Age to Early 60s (%)

Size of enterprise	Enterprises with fixed retirement age	Enterprises with such system												Nothing particular	No response	
		Total	Review of job descriptions and work environment	Review of working hours and forms of employment	Review of personnel management such as positions/titles	Review of wage structure	Review of retirement allowance system	Maintenance of work efficiency	Self-development	Retraining	Special arrangement with regard to health	Others				
All	[92.2]	100.0	84.0	(100.0)	(35.5)	(22.9)	(48.6)	(75.5)	(44.0)	(35.0)	(11.5)	(2.3)	(51.4)	(2.5)	9.5	6.5
5,000 employees and over	[100.0]	100.0	93.5	(100.0)	(52.3)	(45.0)	(81.1)	(89.4)	(71.9)	(30.1)	(10.9)	(5.3)	(49.7)	(6.6)	1.5	5.0
1,000–4,999 employees	[99.8]	100.0	93.1	(100.0)	(47.3)	(29.5)	(73.2)	(86.4)	(67.7)	(26.7)	(11.5)	(7.4)	(43.9)	(4.5)	3.6	3.3
300–999 employees	[99.4]	100.0	93.4	(100.0)	(41.1)	(19.4)	(68.1)	(81.6)	(57.8)	(32.0)	(11.0)	(4.4)	(46.1)	(2.7)	4.1	2.5
100–299 employees	[98.0]	100.0	86.1	(100.0)	(38.6)	(21.9)	(56.4)	(78.2)	(52.3)	(35.7)	(10.4)	(4.0)	(48.0)	(3.2)	8.3	5.5
30–99 employees	[89.6]	100.0	82.0	(100.0)	(33.2)	(23.4)	(42.5)	(73.4)	(38.5)	(35.4)	(12.0)	(1.2)	(53.5)	(2.1)	10.6	7.3

Source: Ministry of Health, Labour and Welfare, *Survey on Employment Management 2003*.

Note: Figures in [] shows the ratio of enterprises which adopt retirement age system among all enterprises