Spectrum of industrial relations systems

Industrial relations are deeply embedded in a given national and historical context and collective bargaining, their core activity, varies in its scope and function from one country to another. Today, in advanced countries, there is a spectrum of industrial relations systems in terms of their effectiveness as a means of joint determination of wages and conditions of work and institutional stability. On the one hand, collective bargaining in European Nordic countries is carried out orderly in a highly centralized way between central organizations of labor unions and employers. With an extremely high union density (70-90%), their collective agreements are a kind of joint regulations governing conditions of work and employment during the life of agreements. This system has been in existence since the early 20th century. Similarly, in Germany, the determination of wages and conditions of work is considered as a sphere of autonomy of social partners without any intervention of the government and collective bargaining at the level of industry tends to determine effective wage rates. In fact, in most continental European countries, collective agreements signed by two parties are made binding by law or by case law not only to the members of labor unions or employers’ organizations but to all enterprises and workers falling under their coverage. Thus, in those countries, collective bargaining is an effective and stable institution. On the other hand, collective bargaining in the UK has been changing rapidly in recent years, with the declining unionization rate and a more assertive management attitude influenced by American management. According to a survey, the coverage of collective bargaining fell to 39% in 2004 from 66% in 1984. In the USA, the unionization rate has diminished considerably over recent years, particularly in the private sector, and collective bargaining covers today less than 12% of workers including the public sector. American labor unions are now definitely in a defensive position in front of aggressive management which often openly adopts an anti-union attitude. In this spectrum, Japanese industrial relations can be ranked between continental European countries and Anglo-Saxon countries in terms of their effectiveness and institutional stability.
In this short article, we would first stress two salient features of Japanese industrial relations, that is, a non-confrontational attitude and institutional stability, before describing the legal framework, actors of industrial relations, and collective bargaining and consultation. Then, we will look at problem areas which industrial relations actors are facing in this age of economic globalization.

1. Salient features of Japanese industrial relations

In comparative terms, Japanese industrial relations are characterised by a decentralised bargaining structure, a non-confrontational attitude of both sides and an institutional stability. Collective bargaining almost always takes place at the level of individual enterprises, even though enterprise unions are affiliated to an industrial federation. There is no industry-wide or national level bargaining which would fix inter-firm floor wages and other conditions of work covering all workers in the industry concerned. Large differences in wages according to the size of the enterprise may well come from this lack of inter-firm regulations. Enterprise unions are autonomous entities composed of all regular employees of one particular enterprise (except managerial positions). Generally, collective bargaining at the enterprise level fixes cross-border wage increments without differentiating by category of workers. An advantage of enterprise unionism is that management and employees can be easily convinced that they are in the same boat and that the prosperity of the enterprise concerned is a primary consideration to both. In fact, historical development of Japanese enterprises helped to share such a view; during the high economic growth period when Japanese enterprises grew rapidly, workers saw their wages and conditions of work improve year by year. In addition, we could underline the fact that most senior managers, including CEO, are always promoted from within after more than 25-30 years of service in the same enterprise, part of which in non-managerial positions. This means that managers have experienced being simple employees (union members) for many years before sitting on the management side. Compared to American or French enterprises, whose senior managers
tend to be selected according to educational background and professional capacity, an egalitarian treatment in terms of wages and possibility of promotion is a rule in most Japanese enterprises. Union officials in Japanese enterprise unions are exclusively composed of employees of the enterprise concerned. Generally, they are on temporary detachment in their union officials’ term (the regulation requires that their wages are paid out by union fees), and they will resume their employment career in the same enterprise. Only in very large enterprises are key union positions held by long-term detachment. In this condition, it is likely that the management and union could share a certain common understanding of the economic situation of the enterprise and that collective bargaining is carried out usually without fierce confrontation, though each side may hold divergent views on improvement of conditions of work and capacity to pay.

This non-confrontational attitude of collective bargaining in Japan may easily be inferred by the quasi-absence of work stoppages in recent years: the last year that work stoppage statistics reached a considerable height dates back to 1975 when there were major strikes in transportation. Another indication of this non-confrontational attitude is shown by the small difference between wage demands that unions submit and the agreed wage increase: in 2011, for instance, labor unions demanded on average 1.93% wage increase before entering the bargaining process and the outcome of negotiation was 1.83%. The reason why enterprise unions submit such minimal claims is that, before arriving at formal wage claims, they take into account price changes, the competitive situation of the enterprise and the wage demands of rival enterprises. Their initial demands diverged considerably from agreed wage increases up to the 1980’s but their demands have become modest and realistic since the 1990’s due to mild deflation and recessions. This attitudinal change may be partly ascribed to a lack of militancy of rank-and-file members, and partly to the success of information sharing policy that management has carried out, as we shall see later.

Another salient feature of Japanese industrial relations is their institutional stability. Historically, free industrial relations began with the democratization reforms that the Occupational administration (de facto American protectorate) executed just after the end of WWII. It encouraged the formation of labor unions as a part of the democratization of industry (Trade Union Law adopted in 1945) and the unionization rate grew rapidly and peaked in 1949, with 55.8%. In a devastated post-war economy, Japanese industrial relations experienced severe industrial strife which culminated in an aborted general strike of transportation in 1947 led by Marxist labor unions. But by the mid-1950’s the reconstruction of the Japanese economy being well on its way, collective bargaining in the private sector became constructive without much antagonism (radical activists were either dismissed or marginalized). Then, in 1955, labor movements launched a tactic of concerted spring wage negotiations, whereby large enterprises would get a substantial wage increase as pattern
setters. This tactic was accepted by employers’ organizations so that, from this time on, collective bargaining has revolved around this spring negotiation. With the passage of time, the major players of the spring wage negotiations changed considerably; pattern setters were shipbuilding and the steel industry and transportation in the 1960’s, electrical appliances, the steel industry, private railways in the 1970’s, automobile, information technology, private railways then after. And in spite of drastic economic and social changes over the past 50 years, the annual spring negotiation continues to be the most important annual occurrence for industrial relations actors. Today, this annual negotiation is well formalized with a rather strict time-table so as to arrive at an agreement in March (pattern setters) and others in April–May period. Even if the coverage of the annual negotiation has declined a great deal due to declining unionization rates, the annual round of wage negotiations remains as a cornerstone of Japanese industrial relations.

2. Institutional set-up

Legal framework

In the field of industrial relations, a basic piece of legislation is the Trade Union Law of 1949, which modified that of 1945, one of the first pieces of democratization legislations under the Occupational administration. It guarantees freedom of association and ensures that unions enjoy immunity from civil and criminal liability in their exercise of union activities. It also makes unlawful anti-union acts from their employer. There is no limitation on the organization as to the level of the organization or number of workers unionized. This law does not cover the public sector and public enterprises to which specific legislation is applied. The law of industrial conciliation and arbitration of 1946 fixes the procedures for the resolution of industrial conflicts (central and regional labor commissions for recognition of labor unions and mediation procedures). As to conditions of work, the Labour Standard Law of 1947 lays down minimum standards for hours of work and minimum wages. Except for the latter law which has been revised from time to time, few changes have been made to this legal framework.

Compared to US law, Japanese law is quite liberal as there is no limiting condition of representation (no majority requirement to create a labor union) but adopts a similar concept of unfair labor practices (examined by labor commissions). There is a limited possibility of the extension of collective agreement but hardly used in practice. In the past, the above cited basic labor legislation has been the object of a great deal of litigation concerning, in particular, hours of work, discrimination based on sex and dismissals through which an important case law has been established in these areas.
Actors of industrial relations

Employers’ organizations

Japan Business Federation is the apex organization which groups large enterprises. The main role of the JBF is to express the concerns or preoccupations of Japanese business at the national and international level. It is a loosely organized body of coordination and is not directly involved in collective bargaining, though it provides general guidelines for annual wage negotiations to its members. The presidency of the JBF is normally held by a big name of this Japanese business (past presidents included those of Canon, Toyota, Tepco, New Japan Steel, and the present president, H. Yonekura, comes from Sumitomo Chemicals). Small and medium enterprises are represented by other employers’ organizations such as Chambers of Commerce.

HR departments

In relation to industrial relations, special mention should be made of the role of the HR department in individual enterprises. In Japanese enterprises, which form a closed internal labor market, the HR department is entrusted with wide responsibility with regards to hiring of employees, career development, selection of managers including senior managers, etc. As a rule, entry to the enterprise is restricted to new graduates from universities or high-schools without experience. These new employees follow an internal skill formation (on-the-job training) and career development (regular job rotation) in the same enterprise. A person’s career within the enterprise is a long-distance race to climb up to management and senior management positions. In each stage of the employee career, it is up to HR department to select suitable candidates. In fact, the whole control system in Japanese enterprises is based on personal networks and nominations. This is in stark contrast to a typical American enterprise where the finance department is now entrusted with this control function with figures and graphs of returns and profit rates. Collective bargaining matters are also handled by the HR department within the enterprise concerned. Individual enterprises are autonomous in determining wages and benefits in collective bargaining but in practice there is an intensive consultation with competitors in the same industry. Industry leaders, for instance, Toyota or New Japan Steel, have to take into account the situation of smaller (less profitable) enterprises, as their wage settlements are likely to have a spill-over effect on the industry concerned.
Labor Unions

Rengo is the most important confederation of labor unions which today represents 6.8 million workers. It was created in 1989 by the merger of major federations with 7.6 million workers (hence, a considerable drop in membership). Ideologically moderate, its stronghold resides in large automobile, electrical appliance, commerce and public service enterprises. Rengo may fix a yearly target for annual wage negotiations but its recommendation has no binding power over its members. It maintains a rather close link with the Democratic Party which was in power from 2009-2012. There is another confederation called Zenroren, which is more radical but its membership does not exceed 0.6 million workers. Unions are basically organized at the enterprise level. The preponderance of enterprise unions may be illustrated by the stream of union finances: out of total union fees that union members pay (generally 1-1.5% of employees’ wages), 80-85% are retained by the enterprise unions, only 15-20% going to industrial federations. Rengo receives a token sum from industrial federations.

Union density has decreased a great deal in the last 30 years (Figure 1): after phenomenal growth under the Occupational administration, union density reached around 30-34% at the beginning of 1980, then after declined 1% every two or three years up to 2005. It now stands at 18.5% (2010). The unionization rate differs significantly by the size of the enterprise and by sector. In large enterprises of more than 1,000 employees, 46.2% of them are organized, whereas this rate is 13.9% in enterprises employing 100-299 workers. The organization rate is relatively high in public services and hospital services. In many large enterprises, membership of the enterprise union is often made compulsory for new regular employees joining the enterprise in April by virtue of a union-shop agreement (the rationale of the agreement was to avoid the creation of radical unions in the enterprise). However, such a binding provision applies only to regular employees of the enterprise, leaving most non-regular workers (part-time workers, fixed-term workers, and sub-contracting workers) out of union protection. For the instance, only 6% of part-time workers are organized.
Why has the unionization rate declined is a matter of debate among scholars, but most specialists agree that the labor movement is unable to organize in newly created enterprises and industries. These are typically service industries such as medical services, food services (bento or take-out food), educational activities and services to business. Often these activities are physically carried out near clients or in decentralized offices by highly specialized workers, which makes unionization difficult. In addition, enterprise unions which may have sufficient financial and human resources to organize are, by nature, uninterested in organization efforts whereas most industrial federations simply lack both resources. In fact, Japanese enterprise unions are a community of employees of the enterprise concerned in a closed sphere. As the Japanese labor movement is based on this closed model of enterprise unions, it is unable to unionize new businesses and new types of workers (non-regular workers). Of course, there are some exceptions such as UI-Zensen (services and commerce union) which recently succeeded in organizing a number of part-time workers who are often the great majority in super-markets and department stores but the exception proves the rule. Most Japanese enterprise unions sitting on acquired advantage of automatic affiliation of new employees, have no desire or no capacity to organize workers of other enterprises. And, new employment is by and large created by new enterprises, generally in the service sector. Japanese enterprise unionism has failed to develop an inter-firm coordination body, as practiced in many European countries.

**Government**

Though the government does not intervene directly in the process of collective bargaining, it plays an important role as the regulator of labor markets and a model employer of the public sector. Basically, the labor law fixes minimum conditions of work including legal minimum wages, working time and safety regulations. For instance, the legal maximum hours of work is 40 hours a week, beyond which over-time premium rate should be applied. Legal annual leave is 10 days plus one day upon one year of service up to 20 days. Minimum wages are fixed by region (per hour) and rates are adjusted every year by tripartite regional minimum wage commissions. These rates are rather low (around 30% of average wages) but they have a significant influence on the wage rates of part-time workers in rural regions. The wage adjustments in the public sector are based on the principle of comparison with the private sector. In these days of wage stagnation in the private sector, this year, there was a slight cut in nominal wages of the public sector.

**Collective bargaining and consultation**

Collective bargaining always takes place at the level of enterprises, in particular on wage issues. The procedure and timetable to follow is today well established: in November and
January, there are intense meetings of coordination on each side, particularly at industry level, so as to fix wage demands and strategy taking into account price movements, profitability of the sector and enterprise. Industrial unions may try to formulate cross-enterprise wage demands or, when there is a big difference in profitability among enterprises in the same industry, they may drop any guideline, allowing free individual negotiations. Wage claims submitted in January will be followed by several rounds of negotiations so that a settlement is reached in March for pattern setters (traditionally, automobile, electric appliances, private railways).

Instrumental to this process is the process of joint consultation in large enterprises. In spite of the fact that there is no binding obligation to create a consultation mechanism as in Germany, France, large enterprises established a consultation mechanism with enterprise unions in the 1950’s and 1960’s. It was intended to improve communication with unions and workers in order to avoid industrial conflicts and improve the productivity and performance of the enterprise concerned. In large enterprises, every month or two months, joint consultation meetings composed of management and union representatives are typically held on the annual economic plan including recruitment policies, conditions of work, welfare and safety at work. As the same people from management and union sit on this joint consultation as well as collective bargaining, the demarcation line between consultation and collective bargaining is often blurred. In many instances, those items for which a consensus cannot be reached tend to be left to collective bargaining. Individual worker’s questions or claims may be brought up in these meetings. Information-sharing between management and union is generally thorough and of quality. This is why the wage demands that the union submits are realistic, diverging little from a final settlement.

3. Problem areas

So far, we have not looked into difficulties or problem areas that Japanese industrial relations actors are facing. These are indeed tremendous. Firstly, with a declining unionization rate, the coverage of collective bargaining has also dwindled so that today only less than 20% of workers benefit from collective bargaining (1). Excluded from it are most of poorly paid workers and those in precarious employment. Mainly active in large enterprises and in the public sector, the Japanese labor movement is now increasingly seen as the voice of relatively well-off workers, which is a far cry from the traditional role that the Japanese labor movement used to fulfill (2). Finally, in many enterprises, traditional HRM appears to have changed under competitive pressures and the development of the service sector (3).

1) As already note earlier, the rate of unionization has declined gradually but continuously over the last 30 years. In 1985, 29% of employed persons joined labor
unions but in 2011 this rate was only 18.5%, that is, more than 80% of employed workers are not organized in unions. Given that industry-level or central level agreements are unknown in Japan, this means that more than 80% of workers are outside the scope of collective bargaining and consultation. In this large majority one can find poorly paid workers in small businesses and so-called non-regular workers (part-time workers, fixed-term workers and agency workers). For workers outside unions, wages and other conditions of work beyond minimum legal standards are determined by market conditions. In the event of dismissal, they cannot benefit from prior consultation with the support of union shop stewards.

2) Changing social role of labor unions.

In most countries, labor unions have two faces: one is to defend the group interests of their members while the second is to represent the voice of the whole workers’ community. In some countries, as in the US, unions, once recognized, should act as representatives of all workers group (exclusive bargaining agent). But in Japan there is no such obligation. Therefore, enterprise unions are to defend primarily the interests of their constituency, that is, regular employees of the enterprise concerned. These days, large Japanese enterprises now utilize many non-regular workers (part-time workers, agency workers and fixed-term workers) as well as many sub-contractors. At the national level, partly due to the growth of the service sector, non-regular employment has increased rapidly over the last three decades so that today one out of every three workers has a non-regular contract. There exists a huge difference in wages and benefits between regular employees and non-regular workers (on average, the hourly wage of a part-time worker is less than 50% of regular workers’ but they neither do the same, nor similar jobs). Thus, regular employees of large enterprises enjoy much better wages and conditions of work, and employment conditions. As enterprise unions tend to defend the interests of those who are already relatively well-off, enterprise unions are seen as the voice of well-off employees of large enterprises. However, the apex labor organization, Rengo, is called to participate in many national commissions of labor and social protection matters as the de facto voice of the worker’s class. But it is difficult to consider them as true representatives of precarious or poor workers. The Japanese labor unions have lost much of their reputation as a social mover for vulnerable and poor workers.

3) Transformation of HRM.
In recent years, in a number of countries, HR practices have undergone a considerable change. In the US, the tenet of corporate governance placed human resources just as other physical and financial resources so that management adjusts human resources to fluctuating demands over the short term. The days of the old school like IBM or Eastman-Kodak, which practiced long-time employment principle, are over. This wave of neo-liberal thought has spread outside the US in the time of economic globalization. Thus, in Asia, it came to South Korea just after the Asian financial crises of 1997, changing radically the HRM of chaebols. In Japan where the model of life-time employment was rather resistant, change in HR management came gradually. After the burst of the bubble in 1990-91, the Japanese economy experienced anemic domestic consumption and investment together with ailing financial institutions. In order to survive in these recessive conditions, enterprises had to reduce costs by two ways: relocation of certain processes to emergent countries where labor costs were low, and reduction of maximum regular employment (fixed costs) by using external resources (non-regular employment and sub-contracting). As a result, the number of regular employment drastically reduced in Japan, whereas overseas employment grew rapidly. Traditionally, the HR department was a key function of control, from recruitment to selection of senior management. But most of the responsibility concerning employment of non-regular workers and overseas employment is now decentralized to the operation division. As a result, the role of the HR department is narrowed to regular workers or, sometimes, to core employees (trading companies). As a whole, however, the HR department is still responsible for the recruitment of all new graduates (university and high school), internal training programs, staffing and promotion to management and senior management positions. In this sense, the transformation of HR management in Japanese enterprises has been gradual but steady in favor of flexibility.

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References
