

Global Advantage Through People

Human Resource Management
Policies and Practices in
Ten APEC Economies



edited by

Michael Zanko



Asia Pacific Economic Cooperation 1998

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International Business Research Institute
University of Wollongong

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List of Currencies

Australia	AUD, A\$
Chinese Taipei	NT\$
Hong Kong	HK\$
Indonesia	Rupiah (Rp)
Japan	Yen, ¥
Korea	Won
Malaysia	Malaysian Ringgit, RM
People's Republic of China	Yuan
Thailand	Baht
United States of America	USD, US\$
European Union	ECU

Introduction

Background

Around the world, there is growing recognition that how human resources (people) are managed is a key source of sustainable competitive advantage for business. Nowhere is this seen to be more relevant than in the Asia Pacific region, the prospective economic growth centre of the world in the 21st century; growth predicated in no small part on the effective and efficient management of human resources. This region, encapsulated by APEC, is made up of a broad diversity of cultures, economies, legislatures, political systems and labour markets in differing stages of development. In turn, this international heterogeneity gives rise to a variety of approaches to and unique experiences of human resource management (HRM) in firms and agencies. For all the attention directed at the region, there has not yet been a full and systematic examination of the nature of this critical activity: how are human resources managed in firms and agencies across the Asia Pacific? Dominant HRM models have tended to centre on European and North American perspectives. Such models may be less salient in the Asia Pacific region.

With increasing efforts being channelled towards the establishment of regional cooperation and identity through APEC (the Asia-Pacific Economic Cooperation), so the importance of understanding HRM across the region strengthens. This is underpinned by the findings of the APEC HRD (Human Resource Development) Experts meeting held in Manila in October 1995, which identified small and medium sized enterprises (SMEs) as a major growth and employment generating engine; and by the APEC Business Advisory Council (the private sector arm of the APEC forum established by the APEC Economic Leaders) which stresses the development of region-wide practices and policies to meet the challenge of business globalization. Additional support for the need to understand HRM across the region is found in growing intra-regional investment and technology transfer by international and multinational corporations, often leading to the transfer and development of personnel, with their associated HRM policies and practices. Clearly, there is a need for systematic and accurate data on HRM in the Asia Pacific.

In response to the above need, this report brings together details of up-to-date human resource management in ten APEC economies. These are:

- Australia
- Chinese Taipei
- Hong Kong, China
- Indonesia
- Japan
- Korea
- Malaysia
- People's Republic of China
- Thailand
- United States of America.

It serves as a practical guide to predominantly macro-level HRM policies and practices in these economies, and provides the basis for their meaningful and informed comparison, as well initial related strategy development at a regional level. Its currency means that the effects on HRM as well as some adjustments made by economies to the recent financial crisis and economic slowdown have been included.

Purpose

The overall purpose of the report and its systematically codified economy HRM profiles is improved knowledge, understanding and sensitivity to HRM policy and practices in the Asia Pacific region. This translates into more concrete uses for different groups:

For APEC

This report begins to fill an existing and important gap in APEC's knowledge and understanding of HRM policies and practices. By systematically focusing on actual policies and practices in APEC economies, an APEC regional perspective which recognises individual member differences may be derived. As such, the report adds value to APEC as an entity as well as to its constituent members through efficient single source access.

For Governments

The report will be of use of government agencies in the formulation of better informed strategy and responses to APEC regional cooperation efforts in the general field of employment relations.

For Business and Employees

The report will be a readily accessible and therefore efficient source of HRM data for small through to large firms contemplating the deployment of human resources in different parts of the APEC region. This is likely to facilitate intra-regional technology and expertise transfer.

For Universities/Colleges

The report will be valuable in teaching undergraduate and postgraduate students about cross cultural management of human resources in the Asia Pacific. This will apply directly and equally to all APEC economies since the report does not seek to promote a particular national or cultural stance.

Report Structure

The central part of the report, the Economy HRM profiles, has been compiled from detailed contributions made by prominent HRM researchers and practitioners based in each of these economies. Each of the profiles has been written in conformance with a detailed, pre-determined format. The criteria used in the descriptive analysis are:

- The Economy Context
- Labour Market
- Employment Law
- Recruitment and Selection
- Training and Development
- Pay and Benefits
- Employee Relations
- Current HRM Issues and Trends
- Key Organization Addresses
- References.

These criteria were defined more fully for the seventeen contributors to follow. By using this format, the report permits initial, broad comparisons by individual criterion as well as simplifying cross referencing. Contributors provided, wherever possible, documentary and/or statistical support for assertions. Given the size limitations of this report, each profile is primarily a description of macro-level HRM policies and practices. Industry/firm level examples were used to underscore particular analytic points. In cases where a diverse range of approaches and methods are practised in a HRM area, contributors identified the dominant practice, with variations described to capture the wider mix of, for example, recruitment practices or occupational health and safety legislation.

In addition to the ten economy HRM profiles, there is a preliminary chapter on APEC, the Human Resource Development Working Group and the Scope for Regional Human Resource Management. This chapter provides an overview of the APEC Forum with particular emphasis on its Human Resource Development Working Group (HRDWG), the key domain for addressing human resource issues. The scope for regional human resource management with an HRDWG that is essentially concerned with education and training related matters is discussed. There is also a concluding chapter which, based on an initial comparative analysis of the economy HRM profiles, identifies patterns of HRM, as well future directions. The implications of HRM in these economies for APEC are also examined.

For those readers who wish to find more information on a particular economy, a list of key organization addresses, as well as extensive references are provided at the end of each profile.

Industry Input

Each economy's profile contributor(s) was required to appoint two senior industry based persons to act as editorial advisors on the draft profiles. The twenty industry representatives, drawn from the public and private sectors and from the labour movement, served as an external validity check on the contributions as well as assuring their contemporary and practical relevance. Their participation is consonant with APEC's strong emphasis on the involvement of the business/private sector in its activities, and the particular need for the HRDWG to secure the participation of labour and management.

Michael Zanko
November 1998

APEC, the Human Resource Development Working Group and the Scope for Regional Human Resource Management

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Introduction

When the Asia-Pacific Economic Cooperation (APEC) Forum was established in 1989, a high priority was placed on human resource development (HRD) in its aim for economic integration and cooperation in the Asia Pacific region. Accordingly, APEC created a Human Resource Development Working Group to address the issues arising from the diverse requirements and demands for education, training, development and human resources among the Forum's members. This emphasis on HRD has continued and, in November 1997, the APEC Forum of Ministers meeting in Vancouver declared 1998 'The Year of Human Resource Development'. This chapter seeks to place the HRD Working Group in its wider context. It provides a brief overview of the APEC Forum, emphasising its role as a distinct regional organisation. It then focuses on APEC's Human Resource Development (HRD) Working Group, one of the most dynamic elements in the forum, by examining its operation, processes and policy priorities. It provides a picture of how HRD issues are raised and managed in APEC HRD Working Group networks. The chapter concludes by examining the scope for regional human resource management in the Asia Pacific through the APEC HRD Working Group.

The Asia Pacific Economic Cooperation Forum: A Overview

The Asia Pacific region has a rich and diverse cultural heritage including: Chinese in the People's Republic of China, Chinese Taipei, Hong Kong and in all of the countries of South-East Asia; Japanese; Koreans; Malaysians; Indonesians; Filipinos; the bearers of diverse European heritage in North America, Canada, Australia, New Zealand and Central and South America; Russians and other ethnic groups in the Russian Federation; as well as the indigenous peoples of these economies. The APEC forum is a politically complex, culturally diverse and economically heterogeneous region with a preponderance of relatively unskilled and agriculturally based human resources, but also with large numbers of highly skilled workers. In 1995, the then 18 members of APEC had a combined output of around 56% of world GDP, around 45% of the world's exports and 39.2% of the world population of 5.6 billion (DFAT 1997:3). Table 1 provides a snapshot of the key indicators of member economies (including the three members designate - Peru, Russia and Vietnam). It gives an inkling of the variation in the region. APEC was established on 31 January 1989. Although the formation of APEC was announced by the then Australian Prime Minister, Mr Bob Hawke, the concept of a Pacific Economic Community had been championed and discussed by the Japanese through the 1980s. The Japanese are regarded as co-founders of APEC (Bates 1996:280). However, ideas for Pan-Pacific economic cooperation had been discussed for more than two decades and attempts made to make it a reality. In 1967, the Pacific Basin Economic Council (PBEC) was formed for business and academic cooperation. In 1968, the first in a series of Pacific Trade Development (PAFTAD) conferences was held but there was little support from the participants for formalising regional economic cooperation at the government level (DFAT 1997:3).

Australia Area ^a : 7,713 Population ^b : 18.31 GNP ^c : 367.8 GDPpc ^d : 18,720 Exports ^e : 60,299 Imports ^f : 65,428	Indonesia Area: 1,905 Population: 198.34 GNP: 213.4 BNPpc: 1,080 Exports: 49,814 Imports: 42,929	Papua New Guinea Area: 463 Population: 4.40* GNP: 4,976 GNPpc: 1,160 Exports: 2.7 Imports: 1.5
Brunei Darussalam⁵ Area: 5.77 Population: 0.3* GNP: 4,850 Exports: 2,273+ Imports: 1,915+	Japan Area: 378 Population: 125.26 GNP: 5,149.2 GDPpc: 40,940 Exports: 443.1 Imports: 336.0	Republic of the Philippines Area: 300 Population: 71.90* GNP: 83.3 GDPpc: 1,160 Exports: 20,417 Imports: 34,122
Canada Area: 9,976 Population: 29.97 GNP: 569.9 GNPpc: 19,020 Exports: 201,636 Imports: 174,962	Republic of Korea Area: 99 Population: 45.54 GNP: 483.1 GNPpc: 10,610 Exports: 130,346 Imports: 150,676	Singapore Area: 1 Population: 3.74 GNP: 93.0 GNPpc: 30,550 Exports: 131,340 Imports: 125,016
Chile Area: 757 Population: 14.42 GNP: 70.1 GNPpc: 4,860 Exports: 15,353 Imports: 17,828	Malaysia Area: 330 Population: 20.57 GNP: 89.8 GNPpc: 4,370 Exports: 78,254 Imports: 78,418	Chinese Taipei⁶ Area: 36 Population: 21.47 GNP: 275,144 GNPpc: 12,872 Exports: 115.9 ^f Imports: 102.4
People's Republic of China Area: 9,561 Population: 1,232.08* GNP: 906.1 GNPpc: 750 Exports: 151,197 Imports: 138,944	Mexico Area: 1,958 Population: 96.58 GNP: 341.7 GNPpc: 3,670 Exports: 59,058 Imports: 61,163	Thailand Area: 513 Population: 60.00 GNP: 177.5 GNPpc: 2,960 Exports: 55,526 Imports: 71,843
Hong Kong, China Area: 1 Population: 6.31 GNP: 153.3 GNPpc: 24,290 Exports: 180,745 Imports: 198,560	New Zealand Area: 271 Population: 3.57 GNP: 57.1 GNPpc: 15,720 Exports: 14,360 Imports: 14,725	United States of America Area: 9,364 Population: 266.56 GNP: 7,433.5 GNPpc: 28,020 Exports: 625,073 Imports: 822,025
Member Designates		
Peru Area ^a : 1,280 Population ^b : 24 GNP ^c : 58.7 GDPpc ^d : 2,420 Exports ^e : 5,575 Imports ^f : 9,224	Russia Area: 16,889 Population: 148 GNP: 356 GNPpc: 2,410 Exports: 81,137 Imports: 60,916	Vietnam Area: 325 Population: 75 GNP: 21.9 GNPpc: 290 Exports: 5,449 Imports: 8,155

Notes:

^a Area: thousands of square kilometres

^b Population: 1996 (mid year population) in millions

^c GNP: 1996, in billions of US Dollars

^d GNP per capita: 1996 GNP per capita using the World Bank Atlas method in US Dollars

^e Exports and Imports, value in millions of US Dollars Jan - Dec 1996.

^f Exports and Imports: merchandise trade, 1996, in billions of US Dollars

* provisional, preliminary or estimated figure

+ 1995

Source:

¹ 1997 World Development Report, World Bank

² Monthly Bulletin of Statistics, UN, February 1998

³ World Bank Atlas, 1997

⁴ Statistical Data Book 1996, Chinese Taipei

⁵ Department of Economic Planning & Development

⁶ Statistical Data Book 1997, Chinese Taipei.

Presented at: <http://www.apecsec.org.sg/member/indi.html>

Table 1 Key Indicators of Member Economies

The creation of APEC is a complex story also reflecting themes that ran through 1980's. They include the dynamism of East Asia (People's Republic of China, Japan, Korea and Chinese Taipei (Taiwan)), the growing strength of regionalism, the search for a post-Cold War order in the Asia Pacific, the increasing prominence of trade and economic issues in international affairs, the global trend towards trade liberalisation and deregulation, and the shift from a predominantly North-South agenda to more diverse and practical forms of cooperation between industrial and industrialising countries. APEC also demonstrated the coming of age of small and middle powers such as Japan, Australia, New Zealand, Brunei, New Guinea, Malaysia, Indonesia, Thailand, and the Philippines in international affairs (DFAT 1997:4).

APEC Agenda and Voluntary Approach

The APEC agenda is primarily focused on voluntary and consensus based trade and investment liberalisation and facilitation. More specifically, APEC economies are committed to free trade and investment by 2010 for industrialised member economies and by 2020 for developing member economies. The agenda also includes policy cooperation and consultation in areas such as human resource development, customs procedures, standardisation and regulation of telecommunications. Unlike the European Union (EU) or the North America Free Trade Agreement (NAFTA), APEC's approach to trade liberalisation does not include special tariff treatment or preferences for its members. In this sense, APEC is not an exclusive club. In APEC, participation in projects and activities is voluntary. It is a policy formulation forum capable of reaching decisions swiftly if it desires, usually at the annual APEC Leaders' meetings (APEC Seoul Declaration 1995). It has a non-legalistic framework which is dependent on precedents and principles in the form of declarations and concluding statements from previous meetings, to which members can appeal in debate. However, there is no mechanism of last resort, beyond the self-interest of its members and collegial pressure to observe precedents and principles (DFAT 1997:4). The task of organising its meetings and carrying forward its agenda is largely taken by individuals or groups from the member economies. APEC has administrative support from its Secretariat located in Singapore which has a small professional staff of just over 20, compared with 1200 staff in the Organization for Economic Cooperation and Development (OECD), 230 staff in the World Trade Organisation (WTO) Secretariat, and the extensive institutional infrastructure of the European Union.

Development of the APEC Process

The APEC process has developed as a series of meetings between Ministers from the Pacific Rim economies which enables them to discuss and debate trade and economic issues relevant to the region. Between Ministers' meetings, APEC is managed by Senior Officials' Meetings (SOM) which are convened several times a year. Other working groups and specialist committees meet at least annually to address particular issues and carry forward projects. In 1992, the Ministers agreed to establish a small APEC secretariat in Singapore reflecting the perceived need among the members of the Association of South East Asian Nations (ASEAN) for only modest institutional support (DFAT 1995:5).

In 1993, APEC economy leaders were brought into the process with an initial meeting convened by President Clinton in Seattle. This imparted a dynamic element to the APEC process by drawing in support from the highest decision-makers in each economy. APEC Leaders' meetings are typically unstructured. Discussions have no set agenda or lower-level officials present, but are effective in adding momentum to the pace of APEC development.

Membership

Membership of APEC, which has almost doubled since its establishment in 1989, includes a broad spectrum of the economies within the region (see Table 2). It has interlocking membership with other multilateral economic and policy forums. Most member countries of the Association of South-East Asian Nations (ASEAN) - Malaysia, Singapore, Thailand, Brunei Darussalam,

Vietnam, the Philippines and Indonesia - belong to APEC. The APEC membership also includes the three countries who are signatories to the North American Free Trade Agreement (NAFTA) (the United States, Canada and Mexico). Other members include Australia, the People's Republic of China, Chinese Taipei, Hong Kong, and New Zealand. At the APEC Leaders' Meeting held in Vancouver in 1997, the Federation of Russian Republics, Vietnam and Peru were admitted as member designates of the Forum. The new members will participate in the APEC Leaders' Meeting to be held on 17 - 19 November, 1998 in Kuala Lumpur, Malaysia (www.apecsec.org.sg).

Original Members (12)	1991 (3)
Australia	Chinese Taipei
Brunei Darussalam	Hong Kong, China
Canada	
Indonesia	1993 (2)
Japan	Mexico
Korea	Papua New Guinea
Malaysia	
New Zealand	1994 (1)
People's Republic of China	Chile
Philippines	
Singapore	1998 (3)
Thailand	Russia**
United States of America	Vietnam**
	Peru **
Total Membership - 21 Economies	

* Updated list from Australian Department of Foreign Affairs 1997:6

** Member Designates

Table 2 Current APEC Membership

APEC Organisation

APEC operates within an informal, non-legalistic, consensus and consultative framework (see Figure 1). It does not forge agreements through direct negotiations but informal discussions take place on specific issues of national interest to each economy. The APEC chair rotates annually amongst all members with an ASEAN member alternating every other year. In 1998, Malaysia is the Chair of APEC after Canada took its turn in 1997.

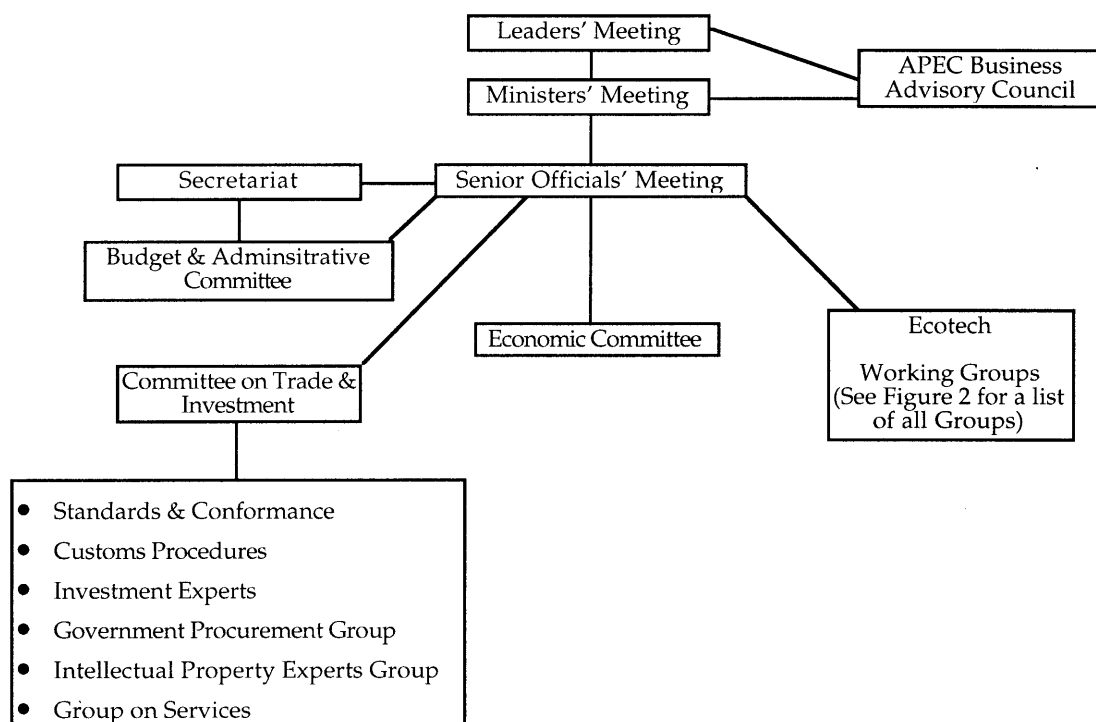


Figure 1 APEC Organisation Structure

At the apex of the organisation is the informal meeting of APEC Leaders, usually the heads of Government. In 1993, it was held in Seattle (USA), Bogor (Indonesia) in 1994, Osaka (Japan) in 1995, Subic Bay (Philippines) in 1996, Vancouver (Canada) in 1997 and Kuala Lumpur (Malaysia) in 1998. The annual Foreign Affairs and Trade Ministers meet to approve the APEC's Work Program and budget, makes policy decisions such as institutional structure and membership and sets the agenda for the year ahead. Ministers brief the Leaders on major policy issues and directions.

Senior Officials, usually the head or deputy head of foreign or trade department of member governments, meet regularly between Ministerial meetings. Unlike the WTO or the United Nations, APEC does not have permanent missions assigned to the conference headquarters. The senior officials meet to implement ministerial decisions and recommendations for the Leaders. The Senior Officials Meetings (SOM) manages and monitors the activities and work programs of all the Working Groups and Committees.

Various APEC Committees and Working Groups are charged with promoting economic growth and cooperation, and with building an Asia-Pacific community. Known as APEC's Three Pillars, the specific areas in which fora pursue these activities are: trade and investment liberalization, business facilitation, and economic and technical cooperation (Ecotech). Human resource development activities are primarily located in the Ecotech area. Ecotech is concerned with enhancing members' ability to benefit from trade and investment liberalization and reducing disparities that exist among members. Table 3 lists the APEC Working Groups and other specialist 'Ecotech' groups.

Working Groups

- Energy
- Human Resource Development
- Marine Resource Conservation
- Tourism
- Trade Promotion
- Fisheries
- Industrial Science & Technology
- Telecommunication
- Trade & Investment Data
- Transportation

Other Specialist 'Ecotech' Groups:

- Agricultural Technical Cooperation Experts Group;
- *Ad Hoc* Policy Level Group on Small & Medium Enterprises;
- APEC Infrastructure Workshop;
- Infrastructure Dialogue (under economic committee).

Table 3 APEC Working Groups and Other Specialist Ecotech Groups

The HRD Working Group

Established in 1990, one of the most dynamic of the 10 Working Groups in APEC is that covering Human Resource Development (HRD). With HRD as one of the APEC Economic Leaders' six priorities, this Working Group is primarily concerned with education and training issues. These issues are cast widely to include basic education, industrial training, productivity and equity in labour forces and workplaces, creating of comparable labour market data, lifelong learning and management development. The HRD Working Group is the largest of the ten, in terms of the number of participant economies and projects completed. The total number of delegates attending the sub-groups and HRD Working Group meetings reached 125 in 1997. Each HRD sub-group has a particular brief and focus. The 5 HRD sub-groups are:

- Human Resource Development in Industrial Technology (HURDIT) Network, coordinated by the Philippines;
- Business Management Network (BMN), coordinated by the United States of America;
- Network for Economic Development and Management (NEDM), coordinated by Indonesia;
- The Education Forum (EdFor), coordinated by Chinese Taipei;
- The Labour Market Information Group (LMI), coordinated by Australia (www.apecsec.org.sg).

The HRD Working Group, including the networks and sub-groups, meets twice a year, usually in January and July. The January meetings consider the emphasis, adjustments and directions arising from the APEC Leaders meetings in November of the previous year to determine its work programs. The July meetings focus on project proposals submitted before the HRD Working Group for full or partial funding by APEC. Projects funded by individual members can also be endorsed as APEC projects if the aims and outcomes fall within the mission and objectives of APEC HRD. Each project overseer reports to the HRD meeting on progress and

also manages and monitors the development of the project in a systematic format recommended by the HRD Working Group.

Missions and Principles

In 1993 at an APEC Shepherds' (Working Group Chairs') meeting in Washington DC, a Mission Statement was adopted for APEC HRD. It is to:

Identify education and training needs in the Asia Pacific and investigate ways of increasing quality, efficiency and equity in education, collaboration and the development of staff, students and ideas (APEC HRD minutes, 1993).

In 1995, this Mission Statement was further elaborated and consolidated by APEC in the Osaka (Japan) Individual Action Program for Human Resource Development. The program restated the principles included in the Declaration of HRD Framework, namely:

- people are the most important resource in economic development and growth, the aim of which is to enhance the quality of life and well-being;
- development of human resources contributes to the alleviation of poverty, increases access to basic education, full employment and full participation;
- human resource development requires cooperative action by the public and private sectors, including educational institutions;
- in designing HRD programs, the complex diversity of people, culture and systems needs to be taken into account (DFAT 1997:93).

The HRD Working Group currently has 80 approved projects partially or fully funded from the Central or Trade Investment and Liberalisation Fund (TILF), or funded by individual economies. Of these, 58 projects have been completed and 22 are in progress (APEC Update 1997:28). The content of the projects ranges from Understanding Cultures in APEC, to Labour Market Information, Lifelong Learning, and Global Advantage Through People: HRM Policies and Practices. The number of projects funded each year is dependent upon the project funds available, with the total amount of funds available each year being about US\$150,000 - 200,000.

Strategic Priorities

As is the case with the other nine APEC Working Groups, and six sub-committees, the priorities and policy frameworks of the HRD Working Group have been endorsed by Senior Officials and are normally accepted by Ministers and Leaders. One of the major statements which reflected the collective view of APEC is the HRD Policy Framework. At the 15th HRD Meeting held in Sydney in 1997, eight Medium-Term Strategic Priorities were adopted:

- providing quality basic education with a focus on improving access to education and training and educational attainment for all groups within society;
- improving labour market information and analysis in order to support flexible and efficient workforces able to support economic growth, trade and investment in the region;
- enhancing the skills of managers, entrepreneurs, and educators/trainers in key sectors; supporting the needs of small and medium-size enterprises; and helping managers in business and government to develop the skills for managing sustainable growth;
- promoting and developing lifelong learning as a means to meet both the rapidly changing skills needs in the economy and the needs of individual workers by upgrading professional and management training, and vocational and technical education and training;
- increasing the quality of curricula, teaching methods and instructional material in education, training and skills development at all levels with a particular focus on preparing for the 21st century;

- facilitating the occupational mobility of qualified persons to help meet skill shortages and qualifications where and when they occur and to increase the opportunities for people to gain the skills required for the economic growth and development of member economies and the region as a whole;
- enhancing the quality, productivity, efficiency and equitable development of labour forces and workplaces in member economies;
- strengthening regional cooperation in education and training to support trade and investment, with a focus on facilitating trade liberalisation (DFAT 1997:93).

Achievements

The HRD Working Group views its main achievements, which are broadly in line with its strategic priorities, as follows:

- ‘the development of comparable labour market information systems to support effective and efficient labour markets in the region;
- development and provision of business management training programs for SMEs;
- joint research and demonstration of best practices in industrial skills training;
- sharing of up-to-date knowledge within a network of lifelong learning specialists in the region;
- cooperative development of education statistics for better planning of quality education systems; and
- development of frameworks for mutual recognition of skills and qualifications to facilitate mobility of qualified professionals such as engineers’ (<http://www.apecsec.org.sg>).

In June 1998, an APEC HRD Taskforce on the Human Resource and Social Impacts of the Financial Crisis recommended that HRD: ‘examine best practices in member economies on balancing market liberalization with labour market adjustment; cooperate with the Finance Ministers process to strengthen corporate governance and financial sector supervision and regulation, through support to training programs; develop closer links with business and civic groups to enable them to contribute to its activities; and that APEC work with international financial institutions to ensure that social needs of the affected economies are addressed’ (<http://www.apecsec.org.sg>).

Challenges

A major challenge for the HRD Working Group is to obtain adequate resources to develop effective medium and long-term policies and programs, to promote the exchange of HRD knowledge and expertise among the members of the Group, and to remove obstacles to the mobility of people across the region. APEC has consistently emphasised HRD as a major factor underpinning sustainable economic growth within APEC. This emphasis is given expression in the 80 project activities supported by the Working Group. However, APEC’s scarce financial resources are spread too thinly for it to be able to address adequately the diverse needs of the membership. Fewer and more substantial projects with a strong regional basis and focused on common major problem areas may be more beneficial for Forum members. The diversity of the currently funded projects points to the depth of HRD concerns in the region, the policy implications of which have yet to be properly addressed by the Forum. Moreover, the needs of the membership may not thus far have been systematically addressed by the Working Group, principally because of the nature of representation on the Working

Group. Rather than managers of multinational enterprises and small businesses or academic experts on HRD being present, meetings of the Group are usually attended by government officials.

Another challenge facing the HRD Working Group comes from the multiple sources and annual policy declarations, priorities and directions from APEC Leaders, Ministers and Senior Officials from 21 economies. This makes the management, integration and monitoring of collaborative projects problematic. In particular, the direction and emphasis of each policy pronouncement are dependent, to a large extent, on the priority economic policies and issues of the host economy for the Leaders' Meeting. Each year, the policy emphasis changes to reflect the priorities of the host economy - for that year's meeting. In theory, by the time each economy has hosted one APEC Leaders' meeting, 21 different emphases could be on the table for discussion. There are, therefore, difficulties in integrating and implementing changing HRD policies in an APEC which operates on voluntary principles.

Scope for Regional Human Resource Management

The predominant contextual concerns in human resource management have been, quite naturally, at a national level with the focus on legal, political, economic, social and labour market issues and developments. Far less attention has been directed to international contextual influences on HRM. Where such work has been undertaken, it has concentrated primarily on the European context, in particular on the European Union (EU). Given the emergence of international regional blocs elsewhere (for example, NAFTA, ASEAN and, of course, APEC), and given the apparent growth in the economic, political and social interdependence among their constituents, there are strong grounds for assessing their role in shaping current and prospective HRM. In this section, a preliminary exploration is undertaken of the potential impact of APEC on region-wide HRM. This is based on a comparison of key HRM-related policies of the most established regional grouping in the world, the European Union, with those of APEC. Particular emphasis will be placed on the role of HRD Working Group, since it has been charged with the 'people' focus within APEC.

Arndt (1993) identified three types of supra-national regionalism: preferential trading arrangements (eg EU, NAFTA); growth triangles (eg Singapore-Johor-Riau); and open regionalism based on non-discriminatory trade (eg APEC). All of these regional formations challenge the national economy as the sole economic organising unit. The European Union, to date, is the bloc that has gone the furthest in terms of this 'challenge' through economic integration by liberalising not only its regional product markets, but also its regional factor markets (including capital, labour and information). Since its inception more than 40 years ago, the EU has also moved increasingly closer to political union through stages involving economic cooperation and harmonisation, followed by legislated economic integration. The EU has evolved an extensive and permanent institutional framework for the development and implementation of its policies and programs. It has in place a President, a Council of Ministers, a Parliament with more than 600 members, a large Commission (civil service bureaucracy), a Court of Justice, a banking system, major committees plus a number of centrally funded but autonomous agencies, foundations and centres. It has its own substantial funds and reserves drawn from differential contributions by members. The EU also develops and enacts its own legislation which is binding on the 15 member states, although its implementation by the member states is not assured of consistency.

In the EU, social policy is the domain which relates most closely to matters directly concerning HRM. From the 1950s until the early 1970s, community level social policy development was a low priority. Since that time it has grown to be 'at the heart of the process of European

integration' (http://europa.eu.int/pol/socio/info_en.htm). A key characteristic of social policy development and implementation is the involvement of interest groups in the consultation process through the European Economic and Social Committee. These interest groups include, among others, employers, trade unions, small businesses, consumers and the professions. Viewed as economic and social partners in the EU, they are given the opportunity to provide input into social and economic policy. The Treaty on European Union also provides for social dialogue by consultation with management and labour and opinions or recommendations from the two sides before proposals are submitted to the Council for legislative decision. Social policy legislation has been enacted in a number of areas, including: dealing with the free movement of labour, equal treatment for men and women, workplace health and safety, and the issues of worker information and consultation and the terms and conditions of employment. EU social policy also entails funded region-wide programs, social policy research and active information exchange.

The European Social Fund (ESF) is the EU's principal financial source for developing human resources and promoting employment. 'Between 1994 and 1999 the ESF will transfer a total of ECU47,000 million from the European Union budget in order to cofinance actions undertaken by Member States.

'The main priorities for action are to:

- combat long term unemployment and exclusion from the labour market;
- develop the professional skills and qualifications of potential job seekers;
- help young unemployed persons to enter the labour market;
- promote equal opportunities between men and women in the labour market;
- foster the creation of new jobs;
- pre-empt unemployment by adapting workers to industrial change;
- improve education and training systems' (http://europa.eu.int/pol/socio/info_en.htm).

Of topical interest is the EU's strategy to deal with its most pressing socio-political and economic problem: continuing structural employment running at a rate in excess of 10%. The key elements of this strategy are:

- completing the single market to increase economic dynamism, investment and job creation;
- encouraging entrepreneurialism through SMEs;
- economic and monetary union leading to greater price stability;
- a European Employment Action Plan requesting Member States to use education and training to make people more employable; reduce non-wage labour costs; make labour market measures more active; and target measures at the worst hit groups;
- increased focus of EU funds on job creating activities and investments.

The above discussion gives the impression of a well developed, sophisticated and far-reaching EU social policy and program that would touch and influence human resource management activities in enterprises and other organizations in all 15 Member States. However, evidence of the impact of European Union level activity on HRM is equivocal. In drawing on the results of the Price Waterhouse Cranfield Survey (1989-92), based on over 15,000 responses from European organizations, Teague (1994) found human resource managers, overall, to be untroubled by EU Social Policy. The reasons put forward to explain this were that HR managers were either unaware or unsure of the importance of the Social Policy; or that the Policy was seen as having little real impact. A caveat was that larger international firms with more than 1000 employees were more sensitive to EU level policy, with one quarter believing that they would be significantly affected.

APEC, as a regional entity, stands in marked contrast to the EU in almost every respect. It is much younger than the EU and far less developed in terms of overall institutional infrastructure and social policy. However, in a similar vein to the EU in its early days, APEC is predominantly concerned with economic integration, albeit market rather than politically driven. It remains to be seen whether a prominent social policy platform will develop in APEC over time. Unlike the EU, APEC operates on the premise of voluntary 'open regionalism'; there is no attempt to create an exclusive, preferential trading club. APEC does not have an extensive formal institutional framework, no legislature, nor significant budgets. It operates on the basis of member self-funded, consensual mutual adjustment rather than the EU's more federative, centrally funded system. Furthermore, APEC's membership is larger than the EU's (21 compared with 15), and more socially, politically and economically heterogeneous. This membership is also geographically significantly more dispersed, residing in four continents (rather than one) and straddling the world's largest ocean.

APEC's social policy equivalent to the EU is to be found largely in its HRD Working Group. The policy scope of this Group is more limited than that of the EU. It has been predominantly concerned with education and training issues, and has not dealt with matters such as workers' basic rights, occupational health and safety, and equal opportunity. Its social partnering approach to policy development is also more limited than that of the EU. Business, including SMEs, is given a prominent voice in APEC processes, including the HRD Working Group. The representatives of labour have, to date, not been embraced in such a manner, although this is in prospect.

There is, however, some evidence to suggest a broadening of social policy issues that affect HRM in the HRD Working Group and the processes for addressing these. For example, the recent APEC HRD Task Force on the Human Resource and Social Impacts of the Financial Crisis sees the Working Group expanding its focus to the wider issue of how to deal with the resulting unemployment and social dislocation. In the area of social partnering, the Second APEC HRD Ministerial Meeting in Seoul in 1997 emphasised the need for the participation of labour as well as management in APEC HRD activities. There have also been initial steps towards harmonization in certain aspects of APEC labour markets, for example, the development of common accreditation and professional standards for technical occupations such as engineering, and the streamlining of visa arrangements and the creation of special immigration lanes to improve business mobility. Overall, a picture slowly emerges of the APEC HRD Working Group assuming a broader social (and employment) agenda, acknowledging the need for wider social partnering, and working on activities which in part show the beginnings of region-wide application.

It is still premature to speculate on the specific direction which APEC might take on issues affecting HRM. The prospect of developing a social clause based on 'core' labour standards (such as those found in a number of International Labour Organization Conventions) or similar to the EU's social chapter seems rather remote, given APEC's broad church membership. Furthermore, with its lack of financial and human resources, and institutional clout (through legitimated sanctions), APEC's consensual and cooperative approach to integration means that contentious HRM issues are likely to be sidestepped. However, what is clear is that APEC's economic integration activities will have HRM related consequences. In order to ensure the effective adaptation of these activities, their HRM related consequences need to be mapped and taken into account beforehand. Perhaps there is no clearer example than anticipating the short and medium-term consequences for HRM of the proposed reductions in tariff protection in the coming years. The economy HRM profiles contained in this report are a first, tentative step to mapping the HRM terrain in which APEC's economic priorities are worked out.

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Australia

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Economy Context

Geography

Land and Climate

Australia comprises a land area of about 7.6 million square kilometres and is the fourth largest country in APEC and the sixth largest in the world. The climate varies from tropical in the north, arid in the middle and temperate in the south through to alpine conditions in the parts of the south-east. Two-thirds of the continent is arid or semi-arid. Whilst Australia does not experience extreme cold, the continent is prone to droughts, floods, tropical cyclones and bushfires. Australia is the lowest, flattest and, apart from Antarctica, the driest of the continents" [Australian Bureau of Statistics (ABS), 1997: 4]. The severe 1991 - 1995 drought cost an estimated AUD 5 billion in lost primary production. Relative to the size of the population, Australia has abundant natural resources and space. However, inappropriate farming and pastoral practices, combined with a dry climate, means that productivity of the agricultural and pastoral land is limited. The exploitation of Australia's substantial mineral resources (including coal, gold, alumina, bauxite, uranium and iron ore) are important to gross domestic product and exports. Australia is a net exporter of energy (ABS 1997).

Population

Australia has a population of 18 million people, most of whom live in the coastal temperate regions. The most densely populated 1 per cent of the continent contains 84 per cent of the people and only 15 per cent of the population live in rural areas. Population growth is greatest on the outskirts of the major cities. Since the post-war period, population growth has averaged nearly 2 per cent per annum, the fastest of all advanced industrial economies. From 1990 - 1996, a reduction in the birth rate to less than 2 children per woman and cuts to immigration saw the population grow only 1.1% (Dowrick, 1997: 13 - 17). Like other countries, albeit to a lesser extent, Australia has an aging population. Between 1995 and 2021, it is estimated that population aged 65 years and over will increase by 86 per cent. Those over 65 will shortly outnumber those under 15.

Ethnic Groups and Languages

The ethnic makeup of Australia has been shaped by immigration from over 200 countries. The 1991 Census found that 3.8 million Australians were born overseas and a further 3.3 million had one or both parents born overseas. Migration has been encouraged for a number of reasons:

- nation building (migration to Australia has usually been permanent);
- labour supply (to meet shortages in the 1950s and 1960s);
- skilled migration (to meet ongoing skill shortages in particular areas);

- business migration (where the immigrant brings capital and business expertise to Australia);
- humanitarian grounds (for example, from South-East Asia in the 1970s); and
- family reunions.

The overseas-born population is more highly educated and skilled than the Australia-born population which indicates the priority placed on labour market criteria in immigration policy. Nevertheless, migrants' social and cultural contribution is also valued throughout the community. Australia has led the world in accepting refugees since the 1970s.

Despite the increasingly diverse make-up of Australian society, it remains true that Australian society is dominated by Anglo-Celtic people and culture. English is the national language. A number of other languages are spoken in the community and over 13 per cent of the population (both Australian and overseas born) speak a language other than English at home. Of this 13 per cent, the great majority are also fluent in English. Italian, Greek, Chinese (Cantonese or Mandarin), Hungarian, Arabic/Lebanese and Vietnamese are widely spoken and 6 per cent of the Australian born population speak one of the indigenous languages of the Aboriginal and Torres Strait Islander peoples at home. The languages spoken in the community provide an indication of migration sources, but the United Kingdom and Ireland have dominated as the main sources of migrants. Until the 1980s, over 40 per cent of migrants came from the UK. Over the first half of the 1990s, this share has dropped to 13 per cent as migration sources have diversified. Between 1990 and 1995, the largest source countries in order were New Zealand, Hong Kong, Vietnam, the Philippines and India.

Political Context

Australia is a Federation of States: New South Wales (NSW), Victoria, Queensland, Western Australia, South Australia and Tasmania. There are also two Territories, the Northern Territory and the Australian Capital Territory. Federation took place on January 1, 1901 and the Commonwealth of Australia is governed by a Constitution devised in the late 1890s. There are three levels of government (local, State/Territory, and Federal) with a complex division of powers and responsibilities. Human resource managers therefore face overlapping and competing systems of industrial relations and employment laws.

Australia is a constitutional monarchy with a Parliamentary democracy. Queen Elizabeth II of England is Queen of Australia. The Queen's representative in Australia, the Governor-General, holds ultimate executive power but is appointed by the Prime Minister. According to the Constitution and to British and Australian political conventions, this power is only to be exercised according to the advice of government ministers; a principle that has generally held true. One exception was the Governor-General's dismissal of the Whitlam Labor Government in 1975 which created an enormous political crisis. More recently, there has been a vigorous debate on Australia becoming a republic, an idea encouraged by the passage of time, economic maturity, greater interaction with Asia and the changing shape of Australia's population.

The system of government in Australia follows the British Westminster tradition with a separate judiciary and executive and a non-politicised public service administration. The High Court of Australia is the highest court and interprets the Constitution. Australian law derives from English common law. Australia's political structure was also influenced by the federations of the United States and Switzerland as the Constitution is concerned with protecting the autonomy of the States whilst also creating a nation (Jaensch 1984). The Constitution outlines the powers to be exercised by the Commonwealth (such as defence, foreign affairs, immigration, excise

and customs, the postal system, etc) with the States having jurisdiction over any areas not expressly reserved for the Federal government (health, education, justice, roads, public transport, water, etc). The third level of government is local. Local governments, or councils, are concerned with town planning, waste management, community development, etc. Federal laws take precedence over State laws if there is any overlap and local government activities are overseen by State governments. In practice, the distinction between levels of government has not been static and there are also significant areas of duplication.

Over the century, the Federal Government has expanded its role relative to the States. For example, two of the most important Federal government activities, provision of social security and macro-economic policy, were not important considerations at the time of Federation. The High Court has supported the Federal government's increased significance but perhaps the centralisation of tax collection since the 1940s has played the most significant role. Whilst State governments have jurisdiction over very important public services, they are dependent on the financial allocations from the Federal government for the bulk of their revenue. The shift of power to the centre is in keeping with Australia's political, social and economic development. Since 1983, the Federal government has used the 'international treaty' power in the Constitution to legislate selected international agreements in areas that would otherwise be beyond its constitutional authority. Recently, the Federal government has written legislation based on International Labor Organisation's conventions. Emphasis on Australia's international obligations and relationships is in line with Australia's increasing engagement with other countries and in international trade.

The Federal Parliament consists of two houses: the House of Representatives and the Senate (this structure is also generally in place at the State level). The population is divided into 148 'seats' and voters elect one representative per seat to the House of Representatives. Voting is compulsory from 18 years of age. Counting is 'preferential' rather than 'first past the post'. Preferential voting means that if none of the candidates in a seat wins at least 50 per cent of the primary votes, then the votes received by the candidate with the least share of the primary vote are distributed according to that candidate's 'preferences'. Then the preferences of the candidate with the next lowest primary vote are distributed, and so on, until a winner is declared. The party with the most seats forms Government and the party's Parliamentary members elects a Prime Minister who then appoints Ministers for particular government functions (the Cabinet). Governments are elected for three-year terms though early elections are not uncommon. The Senate is the house of review as well as being concerned with representing particular States. Senators are elected on a State-wide basis and the smaller States and Territories are granted a minimum number of Senate representatives regardless of population. No Government has held an absolute majority in the Senate since 1981 so bills passed by the House of Representatives are often amended.

Australia has an essentially two-party political system between the Australian Labor Party and the Liberal Party-National Party. Given that one of the 'two parties' is a coalition and that a third party, the Australian Democrats, has been influential through holding the balance of power in the Senate, the term is somewhat misleading but accurate in the sense that all elections for the House of Representatives are a contest between the Liberal-National Coalition and the Labor Party.

The most recent Federal election in 1998 saw the government (the Liberal-National Coalition led by Prime Minister John Howard) returned but with a slimmer majority than their landslide

win in 1996 when they defeated Labor who had held office since 1983 (under Prime Ministers Bob Hawke and Paul Keating). The Coalition's strength federally is also reflected at the State level with only NSW and Queensland being held by Labor. The government however does not have a majority in the Senate. The balance of power in the Senate is held by the Australian Democrats. Another minor party on the right of the political spectrum was formed in the mid-1990s, Pauline Hanson's One Nation Party. Despite receiving national and international media attention for its race and immigration policies, One Nation received less than 10 per cent of the vote nationally, failed to win any seats in the House of Representatives, and took only one place in the Senate.

Australia has a stable democratic system of government. Nevertheless, political parties have not ensured that the Parliament reflects Australian society. Australia has a low number of women in Parliament (along with other important leadership areas in the community) and Parliamentarians are overwhelmingly from Anglo-Celtic backgrounds. Nevertheless, the number of women in Parliament has increased over the 1990s, and in the 1998 election a Chinese-born candidate and an Aboriginal candidate were elected to the Senate.

Economic Context

Economic Size and Growth

Australia's gross domestic product (GDP) is AUD 440 billion (OECD, 1996); the seventh largest economy in APEC (APEC, 1997). Economic growth has averaged 3.7 per cent per annum over the past half century. Population growth has been a significant contributor to trend economic growth and private investment has also been important. Private investment over the post-war period has remained at a relatively high level of between 16 - 18 per cent of GDP. Public investment has not been so consistent. Reductions in government spending from the mid-1980s have seen public sector investment drop to around 5 per cent of GDP compared with around 8 per cent in the 1960s. At the beginning of 1998, the economy was healthy and growth rates have averaged 3.9 per cent since 1993/94 with profits at historically high levels (ABS 5204.0). The expansionary phase from the 1991/92 recession represents "the longest sequence of uninterrupted expansion [in Australia] since the early 1960s" (OECD, 1996: 16). Healthy economic growth rates have been achieved without exacerbating inflation. Indeed, Australia has performed well by international standards with the inflation rate within the 2 - 3 per cent target set by the Reserve Bank of Australia (the central bank) (Junor, 1997: 53). Cyclical growth patterns are substantially influenced by international developments (Dowrick, 1997). The Asian financial crisis which arose in 1997 is a threat to the contribution of exports to growth and has also created volatility in the Australian dollar.

Economic Performance

In simple GDP per capita terms, Australia is the sixth wealthiest APEC country (behind Japan, the USA, Canada, Singapore and Hong Kong) (APEC 1997). However, a more qualitative approach would perhaps place Australia higher in the rankings based, for example, on greater opportunities for leisure (assuming that leisure is valued) (Dowrick, 1997: 12) and abundant natural resources. Like other developed economies, Australia has seen an increase in the polarisation of income over the 1980s and 1990s and, despite the egalitarian cultural emphasis, Australia performs below the OECD average in terms of income distribution. The degree of polarisation would be much more substantial but for the improvements in the 'social wage' (welfare and free health care) in the 1980s (Kriesler, 1997: 9). If the social wage is included, Australia deserves to retain some of its reputation for a 'fair go'.

Productivity is often used as an indicator of economic performance and it is a significant contributor to changes in living standards. It is particularly sensitive to fluctuations in employment growth. Longer term productivity trends in Australia have matched those in developed countries since the 1970s oil crisis and there has been strong underlying productivity growth since 1993/94 (Dowrick, 1997: 27). Productivity growth in Australia has been higher than in most APEC countries in recent years.

Australia's greatest economic (not to mention social) problem is unemployment. The unemployment rate has remained above 8 per cent since 1991 after it peaked at just under 11 per cent in the 1991/92. Currently, employment is expanding at around 2.5 per cent (a slow down from 4 per cent achieved in 1994/95) (OECD, 1996) (see Table 1). This rate of growth is insufficient to reduce the unemployment rate and much of the employment growth has been in part-time and casual jobs. Around one-quarter of the labour force is employed on a casual basis and this, combined with a pool of long-term unemployed and high rates of youth unemployment, has negative implications for Australia's long term human resource development due to the lower levels of training received by casual workers and the loss of skills amongst the unemployed (Stegman, 1997).

High unemployment rates have been associated with a low savings rate and persistent current account deficits. The savings rate has averaged 17 per cent of GDP during the 1990s; significantly below the OECD average. The introduction of compulsory superannuation savings from the late 1980s should improve Australia's savings performance in the long run. The current account deficit has averaged 4.5 per cent of GDP since the 1980s compared with an average 2.5 per cent over the 1960s and 1970s (OECD, 1996). The proportion of the economy accounted for by international trade is relatively low compared with other APEC economies but Australia is still an open trading economy. Micro-economic reforms (especially tariff reductions, financial deregulation and the floating of the exchange rate) have seen Australia increasingly affected by international economic trends. Australia is highly dependent on international investment and capital goods (Kriesler, 1997: 1 - 2). In 1994/95, foreign direct investment in Australia was equivalent to 27 per cent of GDP (OECD, 1996). Primary exports account for a major share of trade in a number of world commodity markets which makes Australia vulnerable to changes in the world economy. A particularly bright spot is that exports of manufactured products have been growing strongly at an average of 14 per cent per annum since the mid-1980s. Earnings from tourism, education and business-related services were also buoyant in the mid 1990s (OECD 1996).

	1986	1992	1996
Unemployment Rate	8.0	10.6	8.5
Employment Growth	3.6	-0.7	2.5
Inflation	4.3	1.2	3.1
Gross Domestic Product	4.5	2.2	4.2
Net Foreign Debt (% of GDP)	31.3	39.3	40.0*
Foreign Debt Interest Payments (% of Export earnings)	15.0	15.6	11.3*

Source: ABS 5204.0. Annual estimates of national incomes and expenditure, Australia 1997. Canberra: Commonwealth of Australia; Kearney, C. 1997. International finance and exchange rate policy. In Kriesler, P. (ed.). The Australian economy: 2: 76 - 95. St Leonards: Allen & Unwin.; OECD. 1996. OECD economic surveys 1996 - 1997: Australia. Paris: Organisation for Economic Co-operation and Development.

Note: * Figures are for 1994/95

Table 1 Key Economic Indicators (annual average)

Economic Structures

Like other developed economies, an increasing share of output comes from the services sector. Manufacturing now accounts for only 11 per cent of Australia's 8.3 million strong workforce and 14 per cent of GDP (ABS 1994); which is almost the lowest proportion in the OECD. Two-thirds of manufacturing output and employment are located in Victoria and New South Wales. Australia has a relatively small public sector and low levels of taxation compared to OECD averages. Government expenditure is equivalent to 36 per cent of GDP (OECD, 1996).

Another aspect of economic structure is firm size. Large firms are defined by the ABS as "management units which employ 200 or more persons or have assets worth more than [AUD] 200m" (ABS, 1997: 318). In 1994/95, small to medium firms (with less than 200 employees) accounted for "99.6% of the total number of... businesses, and represented 61% of the employment, 53% of the sales, 39% of the profits and 50% of the industry gross product" of Australia (ABS, 1997: 318). Large firms are outnumbered by small to medium firms but large firms account for a significant proportion of the economy. The distribution of workplaces and employment by firm size is shown in Table 3 in the Labour Market section.

Ownership patterns in Australia are similar to other mainly English-speaking countries. Apart from small businesses, family ownership is not common nor are conglomerates with cross-shareholding amongst large firms. It appears that institutional investment through superannuation savings will become increasingly important in the future. Fitting with the predominance of small businesses, 35 per cent of Australian workplaces have the principal owner working on site (Morehead et al., 1997: 65). At the other end of the scale and in keeping with high rates of foreign investment in Australia, 28 per cent of the private-sector has some foreign ownership and 17 per cent of workplaces are predominantly foreign owned. It is estimated that 18 per cent of private sector workplaces are part of multi-national corporations with the head office most likely to be in the United States (43%), United Kingdom (27%), New Zealand (6%) or Japan (6%). European (including United Kingdom) ownership is declining and direct investment from APEC based firms is rising (Morehead et al., 1997: 65 - 66).

Economic Policy

In the 1980s, the emphasis of policy was on centralised wage fixing, real wage restraint, and currency devaluation accompanied by improvements in the 'social wage' (family allowances, childcare, universal health service provision, etc) to encourage employment growth without exacerbating inflation and the balance of payments. There were also active industry policies for some industries (steel, heavy engineering, vehicle manufacture, textiles, clothing and footwear) to encourage structural adjustment as tariffs were reduced. In the late 1980s, the emphasis switched to micro-economic reform; particularly the decentralisation of wage fixing to encourage productivity tradeoffs to improve competitiveness as the economy became more open to international forces. The approach to economic management changed substantially with the election of the conservative government, the Liberal-National Coalition, in March 1996 (Kriesler, 1997).

In terms of fiscal policy, the norm in Australia has been to run budget deficits (apart from a period in the late 1980s). In 1996/97 a surplus was again achieved through significant cuts in government spending. Levels of public debt are quite low by international standards. Total net debt of all levels of government is 36 percent of GDP (Neville 1997: 103). Further, large cuts in public sector employment plus funding cuts to labour market programs means that any reduction in unemployment will not arise from the public sector (Stegman, 1997).

Monetary policy was used to slow the economy and control the current account deficit from 1988 to 1990 (interest rates reached over 18% in 1988/89) and contributed to the economic downturn of 1990 - 1992. Since the mid-1990s, monetary policy has mostly been concerned with controlling inflation (Kriesler, 1997: 7). The exchange rate is not managed by the government; the Australian dollar was floated in December 1983. The Reserve Bank of Australia has adopted a 'managed float' approach whereby it intervenes for purposes of stability and sometimes to influence outcomes but the degree of intervention is minimal by international standards (Kearney, 1997: 88 - 89). The financial system is regulated by the Reserve Bank of Australia through strict reporting requirements and capital-adequacy ratios. Banks are required to hold a minimum level of capital of 8 per cent of risk-weighted assets (Milbourne, 1997: 131). In mid-1997, the 'Wallis Report' into the financial sector was released which recommended further changes to improve competition and efficiency within the financial sector.

Industry policy and micro-economic reform since the 1980s has been directed at improving international competitiveness. Tariffs have been declining since that time and the average rate of assistance/protection for manufacturing fell from 15 per cent in 1989/90 to 8 per cent in 1995/96 (Morehead et al., 1997: 4). Government policy is for a 5 per cent tariff rate by 2000 as part of the move towards free and open trade and investment in the APEC region (OECD, 1996: 125). Regardless of the stance of domestic economic policy, Australian economic outcomes are affected by international economic, trade and financial factors over which it has very little influence (Kriesler, 1997: 4).

Infrastructure

Australia has the transport, communications, regulatory and education infrastructure of a developed economy. Combined with stable political and financial systems, Australia is well placed for continued economic growth. In Sydney, hosting the 2000 Olympics is the focus for infrastructure development and there are plans for improvements to community amenities and public transport as a result.

Although public sector investment in infrastructure is low, infrastructure has received significant policy attention through the National Competition Policy. Infrastructure development has focused on increasing competition amongst providers (including State-owned utilities), increasing the role of the private sector through out-sourcing and privatisation and improving national cooperation to reduce the degree to which infrastructure is disrupted by State borders. The National Competition policy is based on the 1993 'Hilmer Report' which argued for increasing competition among infrastructure services such as electricity supply as well as extending "...the review of regulatory restrictions to competition, structural reform of monopolies, the granting of access rights to essential facilities (such as telecommunications networks, electricity grids and rail networks), prices oversight of GBE (government business enterprises) and ensuring that public and private enterprises compete on equal terms" (OECD, 1996: 109). Two major government assets have been privatised: Qantas and the Commonwealth Bank. Telstra (the publicly-owned telecommunications organisation) was partially sold off in 1997 with further privatisation planned.

Socio-Cultural Context

Australia is multicultural. It is multicultural in two senses: (1) the population is ethnically, linguistically, and culturally diverse; and (2) this diversity is valued by the community and promoted and supported by government policy at all levels. The 1996 Census of Australia

identified 282 languages (including 170 Aboriginal and Torres Strait Islander languages) and 92 religions. The most popular religions are Christian. Catholicism, followed by 27 per cent of the population, has recently overtaken the Anglican church as the most popular religion. Non-Christian religions (such as Buddhist, Islamic and Hindu religions) have grown quickly in recent years reflecting the increased diversity of immigration and now account for 3 per cent of the population. Around 23 per cent of the population have no religion or no commitment to a particular religion (ABS, 1997: 96 - 97).

According to Cope and Kalantzis (1994), Australia has progressed from White Australia, to assimilation, to multiculturalism and now to 'productive diversity'. This is a mindset where businesses can make a profit out of using its ethnically-diverse workforce to meet the needs of ethnically-diverse customers at home and in export markets. The newer 'export' industries of education and tourism require Australia's skills and attitudes associated with successful multiculturalism (Cope and Kalantzis 1994). Multiculturalism is supported by national institutions and the law as well as by the community. Further, there is wide acceptance of the importance of individuals having control over their own lives at the same time as providing welfare and community infrastructure to make choices possible. But if there is conflict, the interests behind the dominant culture take precedence, and sexism, racism and promotion of business interests over the living standards of the least powerful in the community should also be recognised as aspects of Australia's culture. Most notably, the history of Aboriginal and Torres Strait Islander peoples since white settlement is one of cultural subordination. The indigenous communities face restriction of native title rights, poor living standards, and high rates of incarceration.

Important social issues in the 1990s include changes in family structures and roles, as well as gender roles. The 1990s have been characterised as the 'age of anxiety' because of rapid social change and redefinition of values and roles. Marriage failures and the changing role for women (particularly rising workforce participation) are a source of stress and change (Mackay 1993). Families are becoming smaller due to women bearing fewer children, a rising number of single parent families, and an aging population. In 1976, almost half of all families were couples with dependent children; in 1996, this had fallen to 41 per cent (ABS, 1997: 82).

Australia's standards of living and national values promote opportunities for equality through access to education, personal development and cultural freedom for most. Quality of working life (access to work which allows for self-development), quality of family life, and quality of leisure are all important concerns (even though some members of the community are beset by difficulties in meeting basic needs and finding employment). Urban society is consumerist, concerned with keeping up with the latest local and international trends and gadgets, devoted to convenience foods and disposability, but perhaps with an appreciation for leisure more than for accumulation of material wealth distinguishing Australia from other advanced societies. Televisions, video cameras, mobile phones, computers, CD players and video games are common possessions. About 30 per cent of households use computers at home frequently (ABS 1997: 299) and Internet access is increasing rapidly. Sport is an important source of recreation and actively encouraged and funded by all levels of government. For example, physical education and participation in sport is a compulsory and important part of the school curriculum. Watching sport is also very popular and significant air time and newspaper print is devoted to sport. An event eagerly awaited is the 2000 Olympics in Sydney. The Olympics, the centenary of Federation in 2001 and the possibility of becoming a republic will strengthen

Australia's feelings of nationhood just as rising economic inequality and the resistance of Australian Aborigines to their social, cultural and economic position will challenge it.

Recent History

1980s: Economic recession saw unemployment and inflation rates rise about 10 per cent in 1982. In 1983, there was a change of Federal government to the Australian Labor party. A new approach to economic management and industrial relations was implemented under the Price and Incomes Accord. The Accord, which lasted until 1996, was an agreement between the union movement and the government concerning wages policy, economic management and social welfare. It was designed to moderate wage rises in order to promote employment growth whilst protecting living standards through tax and welfare measures (the Accord is also discussed in further in other sections of this Profile). The economy was much stronger in the late 1980s (apart from escalating current account deficits) and much more engaged internationally than at the start of the decade. In 1988, non-indigenous Australians celebrated the bicentenary of the landing of the First Fleet and white settlement. Indigenous people also celebrated the survival of their cultures despite 200 years of dispossession. Subsequently, debates ignited concerning indigenous rights as well as the idea of Australia becoming a republic.

1990s: In response to persistent current account deficits and rising foreign debt, the Federal government of the day raised interest rates to record levels. This, combined with international factors, pushed the economy into recession over 1991 and 1992. Unemployment reached record levels in the worst economic crisis since the Great Depression of the 1930s. Since then economic conditions and unemployment rates have improved significantly. Native title has also been a significant issue in the 1990s. In 1992, the High Court's Mabo decision overturned the doctrine of 'terra nullius'; that is, it recognised that Australia's indigenous population had land title rights that had not been respected for over 200 years. The Wik decision in 1996 confirmed that native title was extinguished by freehold title, but not by pastoral leases, and that pastoralists and indigenous ownership rights could co-exist. The Native Title Act (1993) (Cwlth), as amended in 1998, is the legislation designed to identify rights and to manage native title claims (<http://www.atsic.gov.au/>). In 1998, the Liberal-National Coalition was returned to office and the Prime Minister Howard outlined the political and social agenda for Australia. In addition to the proposed Goods and Service consumption tax that was the focus of the election, he declared that reconciliation between indigenous and non-indigenous Australians and the debate over changes to the Constitution to create a republic were the main issues facing Australia as it approached the bicentenary of Federation in 2001.

Labour Market

Overview

Australia may be characterised as having an occupational labour market structure rather than relying predominantly on internal labour markets, especially in the small to medium firm sector. Employers are just as likely to look outside the firm as inside for employees and skills, and workers are likely to pursue careers within industries or occupations rather than within one firm. Whilst activities within firms are important for skill acquisition, most formal training and awarding of qualifications occurs outside firms. Wages tend to reflect occupational attainment (which is shaped by occupational segregation by gender) rather than, say, firm size or age. Nevertheless, there are many arrangements and variations in the Australian labour

market. The tag 'occupational' is a generalisation but a useful generalisation to compare Australia's labour market to, say, internal labour markets found in the large firm sectors of Japan and the United States. Internal labour markets in Australia can be found in communications, insurance and chemicals. A mixture of occupational and internal labour market approaches can be found in manufacturing, but in most manual occupations, training is low and career paths almost non-existent (although award restructuring in the late 1980s has led to the development of career paths for those workers with access to formal training). Even for managers, the trends of downsizing and 're-engineering' favoured in the late 1980s and early 1990s have changed management jobs towards an occupational model, with managers increasingly likely to be employed on short-term contracts (Gardner & Palmer, 1997: 316 - 317; Fraser, 1996; Morehead et al., 1997; Wright, 1995: 138).

Occupational labour markets are more susceptible to macro-level management compared with internal labour markets (for example, cooperation between employers to provide training to spread the risk of skilled employees being 'poached'). In Australia, there has been a determined effort to reshape the labour market. This has been tied closely to workplace reform agendas within industrial relations policies. Industrial relations reform and a higher quality labour force are regarded as solutions to Australia's competitiveness problems as well as being linked to the resolution of more immediate issues like unemployment. Nevertheless, there is little agreement between employers, political parties and trade unions as to the right level and type of regulation. This section maps out the terrain of Australia's labour market in terms of workforce characteristics as well as considering government policies.

Current and future labour market trends

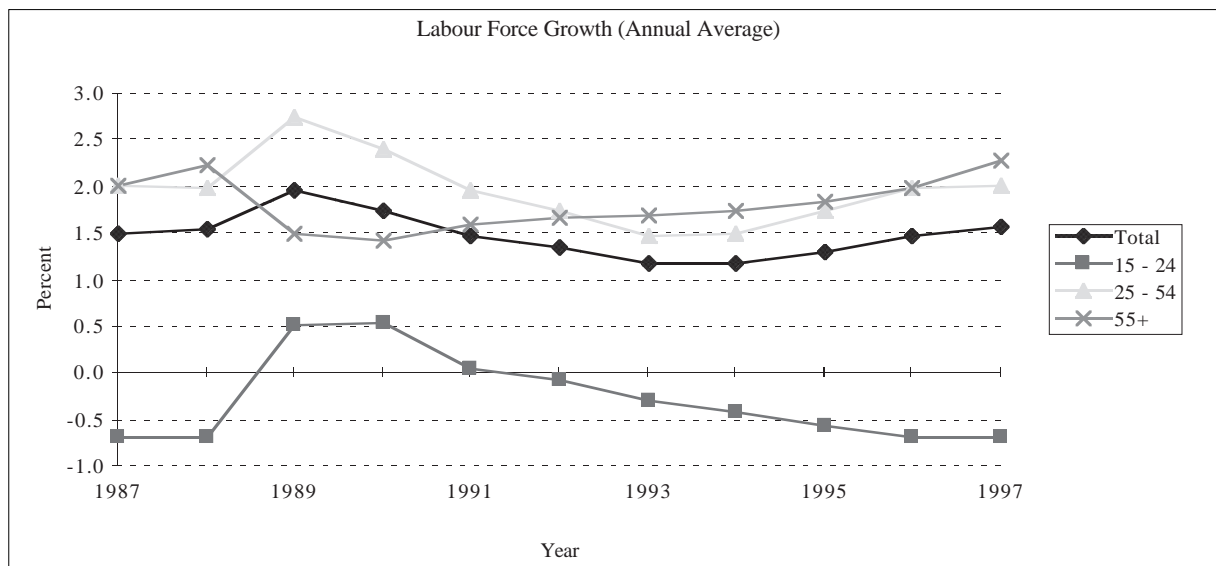
The major labour market trends of the 1990s are:

- a shift towards professional and service sector/white collar employment away from blue-collar and unskilled employment;
- an aging workforce due to a collapse of the youth full-time labour market as well as an aging population;
- persistently high rates of unemployment and long-term unemployment;
- rising participation rates for women;
- a rapid growth in part-time, fixed-term contract and casual work; and
- a reduction in employees' labour market power due to high unemployment and casualisation.

The Department of Employment, Education, Training and Youth Affairs (DEETYA) undertakes long-term labour force planning; the latest report (published in 1995) looks forward to 2005. The trends noted above are expected to continue over the next 5 years, although unemployment is expected to decline to around 5% from being above 8% for most of the 1990s. High skilled occupations are expected to expand faster than low skilled occupations, with the exception of sales workers. Manufacturing employment is expected to decline in line with rising productivity stimulated by the pressures of international competition. Employment in infrastructure services is also expected to decline as productivity rises due to micro-economic reforms. Estimates of the supply of skills show that the education and training system is well placed to meet labour market demands. The proportion of the population who will hold a senior secondary certificate or a tertiary qualification is expected to reach 68% in 2005 compared with 57% in 1994. Whilst there may be localised or short-term skill shortages in specialised occupations towards 2005, the education and skill level of the population will be at historically high levels. DEETYA

argues that the challenge will be for employers to “...make the most of the opportunities which this will present for improvements in quality, productivity and organisational effectiveness. A failure to take advantage of the rising skill base of the workforce would represent a missed opportunity on the part of management and employers and a waste of part of the education and training investments of governments” (DEETYA, 1995).

Labour Force Growth and Participation Rates



Source: Derived from ABS, 1994. [ABS Time Series Service](http://gopher://gopher.statistics.gov.au). gopher://gopher.statistics.gov.au. Commonwealth of Australia.

**Figure 1 Labour Force Growth by Age Categories
(Average Annual Percentage Change)**

Figure 1 shows patterns in the growth of Australia's working age population for the past 10 years. The labour force has grown more slowly in the 1990s than in earlier periods and the number of persons aged over 55 is growing more quickly than persons aged 15 - 24. Changes in participation rates have lessened the impact of population changes on the labour market. For example, employment has grown by more than the population due to rising female participation rates. Also, even though 15 - 24 year olds now account for a smaller share of the working age population, there is no labour shortage for young workers; the reverse is true. Youth unemployment rates remain high (28% for 15 - 19 year olds) as the number of full-time jobs for this age group is half the number in the economy in the 1970s. Young people are still in the labour market, but are more likely to be combining study and part-time work than holding a full-time job. Of persons aged 15 - 24 who attend school or university, 58% are also in the labour market (ABS 6302.0).

International comparisons of employment participation/population ratios show Australia to be an average performer. Australia's participation rate is below Japan, the United States and New Zealand, but ahead of Italy, France and Germany (ABS 6101.0). More data on the size of the labour force and participation rates are shown in Table 2.

	Labour Force Size (‘000s)	Participation Rates (percentage)		
<i>Age Group:-</i>	<i>Persons</i>	<i>All Persons</i>	<i>Males</i>	<i>Females</i>
20 - 24	1,110	81	86	76
25 - 34	2,315	81	93	69
35 - 44	2,321	82	93	71
45 - 54	1,896	78	87	69
55 - 59	502	58	73	43
60 - 64	239	33	47	19
65+	147	7	11	3
Total	9,258	63	73	54

Source: ABS 6302.0, *Labour force, Australia, November 1997*: Table 10, Canberra: Commonwealth of Australia.

Note: 15 - 19 years olds are excluded from the table but included in the totals.

Table 2 Labour Force Size and Participation Rates by Age Categories

Female participation rates have been rising steadily rising from 44% in 1979 to 54% in 1997. For women aged 25 - 54, 68% are in the labour force (ABS 1994; ABS 6302.0). The extent of 'feminisation' suggested by participation figures alone is overstated. Women are still segregated into low paid and low status work and part-time work has grown significantly. That is, positions of influence are still likely to be held by males (Bradley, 1997). Male participation rates are declining. In March 1979, the rate was 79% compared with 74% in 1997. This decline is partly associated with increased retention rates in education for those aged 15 - 24 plus earlier retirement for those aged 55 and over. Discouragement from job seeking may also be a factor for those over 35 years of age (ABS, 1994).

Flows in and out of employment are significant. Whilst the workforce numbered around 8.5 million people at any one time in 1997, labour force experience statistics show that 9.2 million people worked at some stage in the year-to-February 1997 (the latest data available) (ABS 6206.0). Seventy-six percent of workers worked the whole year, 18% had two jobs and 6% had three jobs (successively or concurrently) (ABS 6286.0). For males, the most common reasons for time out of the labour market are: 'attended an educational institution' (26%); 'retired or voluntarily inactive' (24%) and 'holiday/travel/leisure activities' (23%). For women, the reasons were 'home duties/childcare' (56%) and 'attended an educational institution' (16%) (ABS 6206.0).

Workers Born Outside Australia

Australia has been dependent on overseas-born workers as a source of labour supply (especially for skilled workers) for most of the post-war period (Gardner & Palmer, 1997). As at November 1996, 3.8 million people aged over 15 were born overseas (26.6% of the population aged over 15). Over 93% of migrants become permanent residents (ABS 6101.0). In 1995/96, 99,140 persons arrived compared with 87,430 in 1994/95 and 69,770 in 1993/94 but still well below the peak of 145,320 in 1988/89. Around half of the intake in 1996 settled in New South Wales (ABS 6101.0).

In terms of labour market position, overseas born workers form two distinct categories: those born in *main English speaking countries* (MESC) and those born in *other than main English speaking countries* (OMESC). Migrants from MESC have a very similar profile to Australian-born workers with the exception that they hold more post-school qualifications. By contrast, the OMESC group experience significant labour market disadvantages. Migrants from OMESC have an unemployment rate of around 11%, or 23% if they cannot speak English well (ABS 6203.0). There is evidence to suggest that these workers are placed in the bottom of the labour queue by employers. Discrimination (race and age) appears to play a role (beginning with the failure to recognise qualifications awarded in outside of mainly English speaking countries) but sectoral change may also be a factor. The two most recent recessions accelerated the shift from the Industrial Sector to the services sector and over half of OMESC workers are employed in the industrial sector. Even within the industrial sector, OMESC workers lost their jobs more than other workers (ABS 6203.0).

Employment Growth

Over the past two decades, average annual employment growth was 1.8%; and male employment grew more slowly than female employment (1.1% to 2.9%). In the medium-term (between 1993 to 1997), employment grew at an annual average of 2.0%. In the severe recession of the early 1990s annual employment growth was negative from November 1990 to June 1992. Employment growth peaked at 5.0% in April 1995. Growth rates have not been sufficient to reduce unemployment and levels of involuntary part-time employment are high.

Employment by Firm Size

Workplace size is decreasing. Between 1990 and 1995, workplaces employing between 20 - 200 employees increased their share of total employment. The proportion of employment accounted for by large workplaces (more than 200 employees) declined by 3 percentage points while workplaces employing from 5 - 19 workers declined by 6 percentage points (these data exclude a large number of workplaces with fewer than 5 employees). In workplaces with more than 20 employees, the mean number of employees per workplace was 109 in 1990 falling to 98 in 1995. (Morehead et al., 1997: 340). Public sector workplace size declined by 20% over the five year period. By industry, the largest declines in workplace size were in Transport and Storage; Construction; Mining; Electricity, Gas and Water; and Manufacturing. Average workplace size increased in Communication Services; Personal and Other Services; Property and Business Services; and Cultural and Recreational Services (Morehead et al., 1997: 399).

Number of Employees	% of Number of Workplaces	% of Total Employment
5 - 19	69	17
20 - 49	16	14
50 - 99	8	16
100 - 199	4	16
200 - 499	2	15
500 or more	1	22

Source: Morehead, A., Steele, M., Alexander, M., Stephen, K. and Duffin, L. 1997. Changes at work: the 1995 Australian workplace industrial relations survey: Table A1. Melbourne: Addison Wesley Longman.

Table 3 Workplaces and Employees by Firm Size, 1995

Note on sources: This Economy Profile often relies on data from Morehead et al. 1997. This publication contains the results of a survey (the Australian Workplace Industrial Relations Survey, or AWIRS) of general managers, employee relations managers, union delegates and employees in 2,001 workplaces with more than 20 employees during 1995 on a range of economic, human resource management and industrial relations issues. From these workplaces, more than 19,000 employees were also surveyed. In addition to the main survey, there was also a survey of 1,075 small workplaces with 5 - 19 employees. AWIRS was also conducted in 1990 so the survey contains valuable information on trends between 1990 and 1995. AWIRS was conducted by the Department of Workplace Relations and Small Business (Cwth). It is similar to the workplace surveys conducted in the United Kingdom and Canada.

Employment by Industry and Occupation

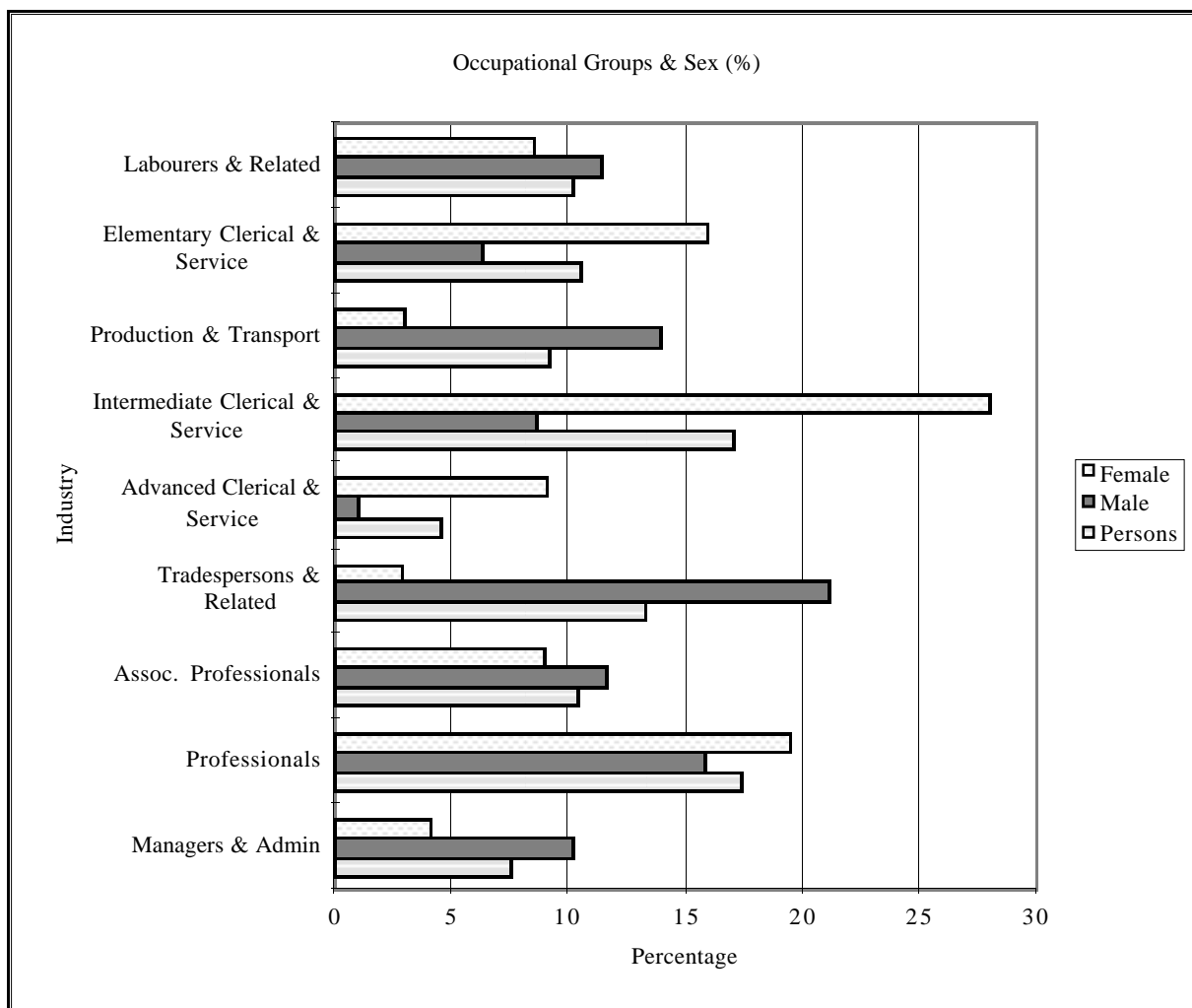
Figure 2 shows the comparative distribution of employment by industry for 1987 and 1987. Retail Trade has the most employees followed by Manufacturing and Property & Business Services. A decade ago, Manufacturing was the largest industry. Between 1960 and 1973, manufacturing accounted for an average 28% of Australian employment but now accounts for only 13.5%. A decline in manufacturing employment is a common trend in industrialised market economies of the OECD but the decline in Australia has been greater; average manufacturing employment in OECD countries is 19% (Colebatch, 1997).



Source: Derived from ABS. 1994. ABS Time Series Service. gopher://gopher.statistics.gov.au. Commonwealth of Australia.

Figure 2 Employment by Industry in 1987 and 1997 (% distribution)

A significant aspect of Australia's labour market is gender segregation. Whilst participation rates between women and men are becoming more even, there are major imbalances in the distribution of men's and women's employment by industry and occupation. Whilst women account for 43% of all employment, they account for above 50% of employment in the following industries: Health and Community Services (77%); Education (67%); Finance and Insurance (55%); Hospitality (54%) and Retail Trade (52%). The industries where women are under-represented include: Mining (11%); Construction (12%); Utilities (15%); Transport and Storage (23%); and Manufacturing (27%) (ABS 6302.0 November 1997).



Source: derived from ABS 6302.0. *Labour force Australia, November 1997*, Canberra: Commonwealth of Australia.

Figure 3 Employment by Occupation and Sex (% distribution)

Gender segregation is even more apparent amongst occupational categories than across industries, as shown by Figure 3. Greater disparities are apparent in the first sub-group below the major categories. For example, 98% of Secretaries & Personal Assistants are female and other occupations which are more than 70% female are: Nursing Professionals; Intermediate Service Workers; Intermediate Clerical Workers; Health & Welfare Associated Professionals and Elementary Sales Workers. There are also occupations which are extremely male dominated. For example, more than 99% of Mechanical and Automotive Tradespersons are male. Other occupations that are more than 85% male are: Construction Tradespersons; Electrical and Electronics Tradespersons; Intermediate Plant Operators; Road and Transport Drivers; Generalist Managers; Skilled Agricultural and Horticultural Workers; Science, Building and Engineering Professionals; and Police Officers (ABS 6302.0).

The narrow range employment opportunities for women is also indicated by the crowding of women into a small number of occupations. The top three occupational categories for women (at the first sub-group level) account for 41% of female employment; the equivalent figure for men is 17%. The high rate of male employment amongst Generalist Managers (90%) and Specialist Managers (75%) is evidence of 'vertical' as well as 'horizontal' segregation; otherwise

referred to as the 'glass ceiling' (ABS 6302.0; Rubery & Fagan, 1994). As women are particularly concentrated in low paid occupations and part-time work in Australia, it appears that low pay is an important factor in Australia's gender segregation patterns. According to the Department of Industrial Relations (1992 in Green et al., 1997: 173), gender biased wages distort occupational choice and distort employer selection procedures, and therefore reduce productive capacity.

Employment by Status

An employee is designated to be part-time if they work less than 35 hours per week. A casual employee is engaged on a non-permanent basis from hour to hour. In practice, casuals are employed for fairly predictable hours and may stay with the one employer for many years. They can be dismissed without notice and do not receive paid sick leave or holidays (casuals receive a hourly loading of 20% as compensation for not having paid leave). During the 1980s and 1990s, annual average part-time employment growth was 4.6% compared with 1.1% for full-time employment. About half of jobs created in the recovery from the early 1990s recession were part-time and Australia's part-time employment share is amongst the highest in the OECD (OECD, 1996). This is not only a product of feminisation: male part-time employment was the fastest growing category of employment and grew an average 5.9% per annum compared with 4.2% for female part-time employment (ABS, 1994). Part-time and casual employment now constitutes over 25 per cent of total employment (there are significant overlaps between the categories with around 75% of part-time employees also being employed on a casual basis). The rate of part-time and casual employment for *jobs* (as opposed to employees) is even higher. In the year to September 1996, 38% of all jobs were casual in nature (ABS 6286.0). Fixed-term employment is another growing category.

Table 4 shows employment distributed by full-time and part-time status and also the varying rates of part-time employment by sex.

	Persons	Male	Female
November 1997	<i>8.5 million</i>	56.6	43.3
Full-time	74.2	67.1	32.9
Part-time	25.8	26.5	73.5
November 1979	<i>6.2 million</i>	63.8	36.2
Full-time	83.8	72.0	28.0
Part-time	16.2	21.1	78.9

Source: Derived from ABS. 1994. ABS Time Series Service. gopher://gopher.statistics.gov.au. Commonwealth of Australia.

Table 4 Employment by Status and Sex (%distribution)

Self-employment is another form of non-standard employment, defined as a person who "operates his or her own economic enterprise or engages independently in a profession or trade and the business is not incorporated" (ABS 6203.0). In Australia, around 15% of employees are self-employed (18% of males and 11% of females). Self-employment as a proportion of total employment has been relatively constant since 1978 (ABS 6302.0). Industries with particularly high rates of self-employment are Agriculture (54%) and Construction (37%). Self-employees tend to be older, to work longer hours on average, and to be employed as Managers and Administrators (which includes farm managers) and Tradespersons and Related Workers (ABS 6302.0).

Unemployment

Table 5 shows the deterioration in the labour market over the 1990s but also that Australia has had high levels of unemployment since the 1980s; in the 1960s, Australia's unemployment rate averaged less than 2%. Nationally, the highest unemployment experienced in the post-war period was during the early 1990s recession when unemployment rate reached 11% in the year-to-September 1993 (annual average). The differences in the labour market before and after the recession suggest that significant labour market restructuring occurred on top of the impact of a cyclical downturn (Stegman, 1997: 72). Table 5 also provides further evidence that the women's employment position improved relative to men in the 1980s. The OECD attributes males' higher unemployment rate to the jobs shakeout in the early 1990s recession. Between 1990 and 1995, around half a million jobs have been created in the services sector whilst employment in the industrial sector is still 100,000 below 1990 levels and men are more likely to work in the industrial sector (OECD, 1996).

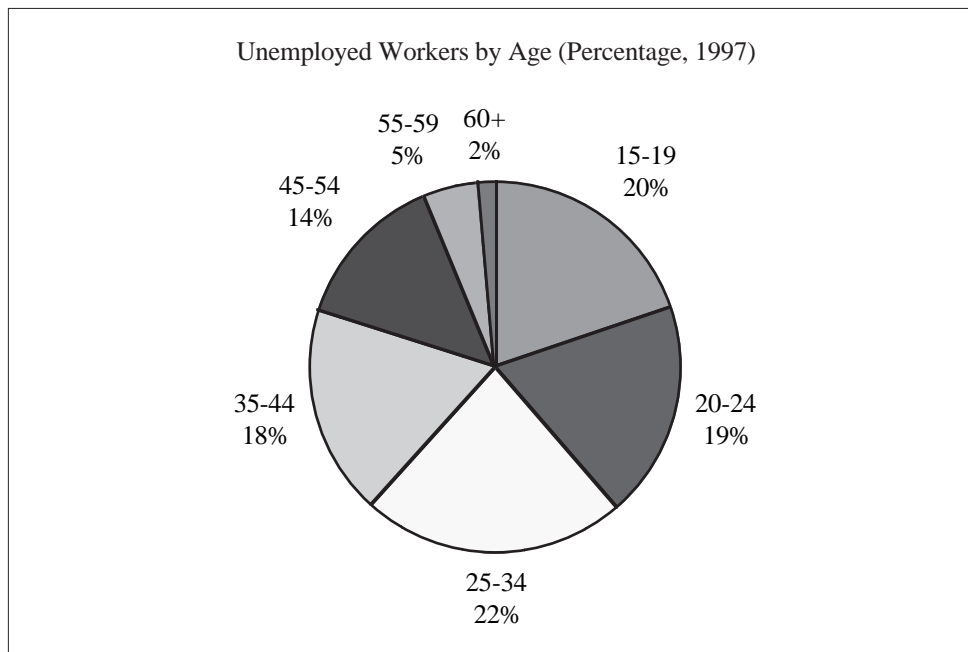
The unemployment rates for 15 - 24 year olds seem high. However, the percentage of 15 - 19 year olds who are not in full-time employment or full-time education and are currently seeking work as a *share of the population aged 15 - 19* is only 5.5%. Nevertheless, there are probably a number of students who would prefer to start their working lives earlier if full-time job opportunities were available (ABS 6302.0).

	1979 - 87	1987 - 97
Males	6.9	8.8
Females	8.6	8.5
Persons	7.5	8.7
Persons aged 15 - 24	14.3	15.7

Source: Derived from ABS. 1994. [ABS Time Series Service](http://gopher://gopher.statistics.gov.au). gopher://gopher.statistics.gov.au. Commonwealth of Australia.

Table 5 Average Unemployment Rates in the 1980s and 1990s (percent)

A longitudinal study of job seekers found that on average 15 - 19 year olds spend 62 weeks looking for work while 45 - 59 year olds spend 73 weeks searching. Women take 61 weeks to find employment and men take 69 weeks (ABS 6286.0). Education reduces job search periods: the average job search is 58 weeks for job seekers with a degree or higher compared with 71 weeks for those who did not complete secondary school. The group experiencing the longest job search period is those who do not speak English well. These workers average 85 weeks of searching (ABS 6286.0). Figure 4 shows the distribution of unemployed workers across age categories.



Source: ABS 6302.0. Labour force Australia, November 1997. Canberra: Commonwealth of Australia.

Figure 4 Unemployment by Age Categories (% distribution)

The ABS also collects data on unemployment according to the occupation and industry in which the person was last employed. These figures suggest that job loss in 1997 was highest in Hospitality, Manufacturing and Construction. By occupation, job loss was greatest amongst Labourers & Related Workers, Intermediate Production & Transport Workers and Tradespersons & Related Workers (ABS 6302.0). This data confirms that low qualifications increases the risk of unemployment and that male-dominated occupations are experiencing higher rates of unemployment than female-dominated occupations.

Another indicator of labour market problems is under-employment. Whitfield and Ross (1996: 93 - 96) estimated under-employment in 1993 to be 18.5% for males and 30.9% for females, that is, just less than double the official unemployment rate for men and almost triple the rate for women. The ABS bases its estimates of underemployment on the number of part-time workers who would prefer to work more hours. By this measure, the rate of underemployment has ranged from 3.6% in 1989 to a peak of 6.9% in 1992 - 1993. Involuntary part-time workers tend to be young which suggests that part-time and casual employment may be a precursor to full-time permanent employment. In the past, women have dominated the category of involuntary part-time workers but now men account for 44% of such workers (ABS 6265.0). A ground-breaking longitudinal study conducted by the ABS of 875,100 job seekers over 1994 - 1996 found that these job seekers started 878,000 jobs between May 1995 and September 1996 and that 66% of these jobs were casual, 89% lasted less than 12 months, and 48% of them were part-time (these categories overlap). Only 52% of this group who were working in September 1996 were in permanent employment. Very small firms (less than 10 employees) are more likely to employ workers on a casual basis. Of the jobs found with small employers, 71% were casual compared with 56% of jobs with large employers (more than 100 employees). The first job a job seeker took from unemployment was likely to be casual but subsequent jobs were less likely to be casual (ABS 6286.0).

Long-term unemployment is also an indicator of labour market problems, particularly of labour market rigidity. Workers who have been unemployed for more than 52 weeks are designated to be 'long-term unemployed'. In November 1997, over 248,000 workers were in this category (164,000 males and 84,000 females). Half of these workers have been unemployed for more than 2 years (ABS 6302.0).

	LTU as Percentage of Total Unemployment	LTU as Percentage of Employees
November:-		
1990	20.3	1.6
1993	38.7	4.5
1994	36.8	3.5
1995	31.2	2.8
1996	28.9	2.6
1997	31.8	2.9

Source: ABS 6302.0. Labour force, Australia, November 1997. Canberra: Commonwealth of Australia; ABS 6204.0. Labour force, Australia, 1978 - 95. Canberra: Commonwealth of Australia.

Table 6 Long-Term Unemployment (LTU)

Table 6 shows the impact of the early 1990s recession on long-term unemployment. November 1993 was approximately at the end of the labour market trough of this recession. The recent increase may be associated with cuts in 1996 to labour market programs such subsidies to employers for hiring long-term unemployed workers (OECD, 1996: 76). In the 1997/98 Budget, spending on labour market programs was cut by \$30.2 million (DEETYA, 1998).

Government Labour Market Policies

Overview

Like most countries, the Australian government (State and Federal levels) has played an important role in human resource development (HRD). Investment in education through schools, vocational colleges and universities plus regulation of apprenticeships, traineeships, qualifications and immigration are the means through which the government manages employment and training. The government also influences labour demand and supply through Labour Market Adjustment Programs (LMAPs). Australia's educational infrastructure (including funding arrangements) is complicated because the Federal government does not have power under the Constitution to be directly involved in education and training but provides much of the funding. The States therefore run schools, Technical and Further Education colleges (TAFE) and universities, but Federal government policies and funding arrangements are influential. In 1992, agreement amongst Federal and State governments was reached to adopt one system of vocational education and training (VET) throughout Australia. Whilst progress has been difficult, the so-called National Training Reform Agenda (NTRA) is well advanced and should lead to a more efficient training system with national portability of qualifications.

A distinctive feature of Australian VET has been the strong link between HRD and the centralised industrial relations system in the late 1980s to early 1990s. Industrial relations reform agendas emphasised micro-economic reform in the workplace and encouraged the creation of career paths and increased training in order to increase skill levels and productivity. The emphasis of micro-economic reform with respect to training changed in the early 1990s in response to unemployment resulting from the recession. Jobs growth and labour market adjustment received more attention. Nevertheless, participation in education and training is rising (apart from traditional blue collar apprenticeship training). Many argue that a significant cultural change with regard to education and training has occurred which coincides with demands for more flexible, adaptable and higher skilled workers due to globalisation and micro-economic reform (Harris et al. 1995; OECD 1996; ANTA 1998).

Education Structures

Compulsory education begins at age 4 or 5 through to 15 or 16 (there are variations between States). Some children also attend pre-school from age 3 - 4. Infants and primary school lasts until around age 11 or 12. Secondary school is divided into two levels: lower and senior. The lower level lasts for four years and students may exit with a certificate at around age 15 - 16. The senior level lasts for a further 2 years and students exit with a senior secondary certificate. A diploma may take 1 or 2 years full-time and a Bachelor's degree takes 3 or 4 years full-time. Qualifications are ranked by the Australian Qualifications Framework:

- Doctoral Degree
- Masters Degree
- Graduate Diploma
- Graduate Certificate
- Bachelor Degree
- Advanced Diploma
- Diploma
- Australian Vocational Certificate Level 4
- Australian Vocational Certificate Level 3
- Australian Vocational Certificate Level 2
- Australian Vocational Certificate Level 1
- Senior Secondary Certificates of Education.

Generally, schools award senior secondary certificates. TAFE and Registered Training Organisations (RTO) award vocational certificates and diplomas (vocational certificates are competency-based). Universities award Bachelor degrees through to Doctorates. Employment requiring a university degree is generally referred to as 'professional'; para-professional employment may require a diploma or advanced certificate; whilst skilled trade, operations or clerical employment would require a vocational certificate at Level 3 or 4. Skilled vocational work is only restricted to qualified workers in government-recognised trades: electricians, plumbers, hairdressers, chefs, fitters, etc. must complete apprenticeships.

Approximately half of all school leavers undertake no further formal education, around one-third go to university, and the remainder undertake various forms of vocational education and training. For the workforce as a whole, around 16% hold degrees, 4% hold associate diplomas, 15% hold skilled vocational qualification and 4% hold basic vocational qualifications. Around 4 million employees do not have any post-school qualifications (Mansfield, 1998). Employment opportunities for those leaving after lower secondary school have declined in the 1980s and 1990s.

In common with other main English speaking countries, a distinction has been made between general education and vocational education. In practice, it is difficult to draw a line between general education and vocational education and training, and the links between schools, universities, TAFE have recently been strengthened. Since 1995, school students have been able work towards vocational certificates (including work placement and part-time employment) while at school at the same time as gaining senior secondary certificates. This approach improves school-to-work transition, encourages students to continue to combine work and study after school, and allows them to improve their general (or 'key') competencies (discussed below). Approximately half of secondary schools offer vocational courses and in 1995 around 9% of students participated (OECD, 1996: 140); in 1998, 33% of senior high school students in New South Wales were undertaking recognised vocational studies. Universities have also increased their acceptance of TAFE studies as an alternative means of entry and competency standards for 19 professional occupations have been developed by professional associations. However, universities are not obliged to consider these standards in curriculum nor assessment (OECD, 1996: 144). Universities remain on the fringe of the NTRA.

Participation and Funding

Despite the Federal/State complications, the education system achieves good results with close to 60% of students completing senior secondary certificates or a tertiary qualification. This proportion is expected to rise to 68% by 2005 (including 26% with university degrees) (DEETYA, 1995). Between 1988 and 1995, the number of university students (including international students) rose by 44% at the Bachelor degree level and 178% at the Graduate Certificate, Diploma or Masters level. Participation in university education is amongst the highest in the OECD (OECD, 1996: 136). In 1991, a target for participation adopted as part of the NTRA was: that by 2001, 95% of 19 year olds should be in education and training, or have completed senior secondary certificates or other qualifications. In 1990, only 70% of 19 year olds met this standard; currently it is 82% (OECD, 1996: 134). Long-term labour market planning predicts continued increases in education and training participation and that there will be sufficient supplies of skilled labour through to 2005 (DEETYA, 1995). In 1995 there were 1.3 million people enrolled in government funded VET programs compared with 630,000 students in universities: if the loads are converted to equivalent full-time students, the numbers are 485,000 in VET and 467,000 in universities. There are around 84 TAFE Institutes operating from 1,100 locations around Australia and 36 universities (ANTA, 1998; OECD, 1996).

Another way of considering the success of the education system is to consider international literacy comparisons. An international study of prose, document and quantitative literacy found that Australia's literacy standards were average, on par with Canada and above the United States. Some support for the Australia's apprenticeship system was found in the result that Australian 'craft' workers (or trade qualified workers) performed at a much higher standard than those in the United States or Canada (ABS 6101.0).

Australia as a whole invests only an average amount in education. Australia spends 5.5% of GDP on education and the OECD average is 6.4% (Gardner & Palmer, 1996: 425). International comparisons show that the share between private and public investment in education in Australia is about average, but that Australia tends to invest more in general education than vocational education and training than other countries (OECD, 1996: 135). Schools and TAFE are almost completely government funded (OECD, 1996: 188). Universities have been free for students since the mid 1970s, but fees have been gradually re-introduced from the late 1980s with a sharp rise in 1997 with most undergraduate degrees costing a minimum between \$12,000

and \$18,000. In recent years, a more flexible approach to accrediting training has seen private tertiary educators expand particularly in clerical skills, hospitality, and computing training but the TAFE system is highly regarded and costs students very little.

The Need for VET Reform

During the 1980s and early 1990s, there were a series of reports about the efficacy of Australia's labour market and training system. Access to apprenticeships, and therefore, to the status of 'skilled', was limited to the narrow range of occupations where apprenticeships were available. The limitations of traditional apprenticeships, the lack of structured work-based VET leading to nationally-recognised and portable qualifications, inefficiencies due to State-based systems, plus, most importantly, low participation rates in VET in the 1980s, indicated a need for reform. Changes to work organisation implemented through changes to industrial relations awards and agreements also showed the inadequacies of VET and school-to-work transition in Australia.

The National Training Reform Agenda

In 1992, government ministers around Australia agreed to develop a national system of vocational education and training based on adopting competency-based training (CBT). The Australian National Training Authority (ANTA), which has industry, union and training provider representation, was created to put this policy into place. The objectives of the national VET system are "...to promote:

- a national vocational education and training system
- close interaction between industry and vocational education and training providers to ensure that training meets industry's needs;
- an effective training market with public and private providers;
- an efficient and productive network of publicly funded providers that can compete in the training market;
- increased opportunities for individuals and groups who have been disadvantaged in training and employment in the past; and
- improved cross sectoral links between schools, higher education [universities] and vocational education and training" (ANTA, 1998)

The NTRA has three key elements:

- *National Training Framework*: This refers to national policies and arrangements for registering training providers, accreditation processes, quality assurance, etc. as opposed to State based arrangements. It includes the agreed objectives of the system of "...equipping Australians for the world of work, enhancing mobility in the labour market, achieving equitable outcomes, and maximising the value of public expenditure on vocational education and training (Moran, 1997 in ANTA, 1998);
- *Australian Recognition Framework*: This encourages mutual recognition of qualifications and training materials provided by Registered Training Organisations throughout Australia underpinned by quality assurance measures. It was implemented on 1 January, 1998; and
- *Training Packages*: These include 'endorsed' (compulsory) industry competency standards and performance standards, qualification and assessment guidelines and the 'non-endorsed' (recommended) component of learning strategies, assessment materials and professional development materials) (Patterson, 1997 in ANTA, 1998).

The most significant aspect of the reforms is that structured work-based training arrangements that result in qualifications are being spread throughout industry where previously they were limited to a narrow range of male-dominated trade areas (OECD, 1996: 139). On-the-job training

is by far the most common form of training in Australia. Training based on competency standards allows for the improved management, design and recognition of such training and allows for workers to receive nationally recognised and portable qualifications as a result. The incorporation of on-the-job training and formal education into one system should also encourage life-long learning by improving articulation between forms and levels of training.

The shift to competency standards and CBT is a major one and if fully implemented involves rewriting occupational descriptions, redesigning careers and wage rates (and resolving all the associated industrial relations and human resource management issues), redesigning training and accreditation, retraining educators and trainers, creating a cadre of assessors, and finding more resources for education and training. Further, national competency standards, assessment procedures and accreditation processes have not yet been completed. Training packages are under development in most industries. Packages for over 20 industries have been finalised, and by the end of 1998, over 60% of the workforce will be covered (Mansfield, 1998).

Entry-level Training

The first tier of competencies to be achieved by all workers within the new system are referred to as the 'key competencies'. These competencies are required by every worker and create a capacity for life-long learning. These competencies may be attained at school, at work, through on-the-job training, or through other life experiences. Thus, all industry or occupational specific training packages incorporate the key competencies. The seven competencies are:

- collecting, analysing and organising ideas and information
- expressing ideas and information
- planning and organising activities
- working with others and in teams
- using mathematical ideas and techniques
- solving problems
- using technology (Mayer Committee 1992: 44).

In 1998, the New Apprenticeships' System came into effect. The system is designed to encourage employers to offer training positions at the training wage rate with flexible employment arrangements. Apprentices and trainees are covered by contracts regulated by State Training Authorities and do not become employees; that is, the employer is not obligated to provide the apprentice/trainee with employment at the end of the training period. As part of the Training Market, employers and trainees will have 'User Choice'. User Choice allows the employer and trainee to decide on a particular training program (which includes the competencies to be gained, the mode, timing and location of delivery, and assessment arrangements) and to choose a provider from the registered training organization that best suits their needs. This ends TAFE's monopoly of being the only institution providing accredited trade training. In 1996/97 there were 52,400 traineeship commencements compared with 36,000 in 1995/96 (DEETYA, 1997).

An important part of the system, particularly for small to medium firms, are Group Training Schemes. These schemes have been in operation for around two decades and are supported by government funding. Group Training allows for the long-term responsibility of training contracts to be shared amongst a number of employers based on particular employers' circumstances. There are around 90 schemes employing around 20,000 apprentices and trainees (approximately 10% of the total). In addition to managing employment placement for apprentices and trainees, they offer advisory services and sometimes off-the-job training (ANTA, 1998).

Immigration

Another way that the government influences labour supply is through immigration policies. When labour market shortages exist, the government raises the quotas for particular categories of skilled immigration. In recent years, business immigration has been particularly encouraged. The migrant is accepted based on business management skills and investment in economic activity in Australia. In addition to varying quotas, the government affects supply of skills through its procedures for recognising overseas qualifications. The National Office of Overseas Skill Recognition, with involvement from unions and professional bodies, has procedures for accrediting overseas training. It is difficult to achieve accreditation through this route, particularly for qualifications earned in other than main English speaking countries. It is estimated that by the end of the 1980s, there were over 200,000 immigrant workers not using the skills acquired overseas (Gardner & Palmer, 1997: 434).

Labour Market Adjustment Programs (LMAPs)

Youth unemployment and difficulties experienced by retrenched middle aged workers are key foci of LMAPs. Traditionally, Australia's approach has been to pay unemployed workers an Unemployment Benefit (commonly referred to as 'the dole') and to provide free job search services through the Commonwealth Employment Service (established in 1946) and training at TAFE. From the mid 1990s, social security recipients have been encouraged to take short-term or part-time work if full-time permanent work is unavailable.

The current Federal Government's approach to unemployment policy may be characterised as neo-classical in that it emphasises market forces and the role of individuals in contrast to an emphasis on institutional regulation (Gardner & Palmer 1997: 113). That is, the current government regards unemployment to be the manifestation of labour market impediments such as an inflexible wages system and too much regulation. The OECD's prescriptions for Australia match Federal government policy and refer to the need for increasing competition across the economy, further decentralising industrial relations, reforms to labour market adjustment to introduce competition amongst service providers, increasing expenditure on VET, limiting award wage increases and continuing tariff reductions (OECD, 1996: 76).

The current Federal government has reduced spending on labour market programs and is taking a more market-orientated approach to labour market adjustment and job search, referred to as the creation of an Employment Services Market (with a similar philosophy as the Training Market discussed above). The Commonwealth Employment Service, which used to provide a national job search service to all job seekers and provided employers job candidates free of charge, has been dismantled (effective 1 May 1998) and replaced by a mix of public and private job agencies called the Jobs Network. Employers are now charged a fee for supplying job candidates unless the job candidate is receiving unemployment benefits. If the successful candidate is on unemployment benefits, the government will pay the agency a subsidy. Other services (at a fee) provided by agencies included are job search training, individualised job preparation assistance, support services for employers and potential apprentices and trainees.

Employment Law

Overview

In framing highly regulated and relatively centralised employment and industrial relations systems, Australian employment law is a substantial, complex, and often confusing affair. The Commonwealth (federal level) and the States have their own legislatures and employment laws which co-exist, overlap and often duplicate one another. In recent years, changes have

been introduced with a view to harmonising and decentralising these systems in order to reduce their legal burden. It is not within the scope of this section to present the richness and complexity of employment law in all the jurisdictions in Australia. For the purposes of simplicity, the focus will be primarily on federal employment law, since federal law potentially (and often) has the widest scope and impact. However, examples of state employment law will be provided at various points in this analysis.

Another distinctive feature of Australian employment law is that individual and collective laws are intertwined and interdependent: there is no discrete nor clear distinction. The organization of this section reflects this feature through examination of employment law as follows: sources of employment law, contract of employment, workplace/industrial relations law, anti-discrimination and equal opportunity law, and occupational health and safety law. Employment and related law is also identified elsewhere in this profile; for example, in the Pay and Benefits section, social security and workers' compensation laws are noted in terms of their benefits delivery and eligibility conditions.

Sources of Employment Law

The main sources of employment law in Australia are found in:

- the Constitution
- common law
- statutes (legislation)
- international standards.

Constitution

The Australian Constitution limits the extent to which the Commonwealth can enact laws affecting employment. The Commonwealth Parliament is empowered to make laws that concern conciliation and arbitration for the prevention and settlement of industrial disputes which are interstate in nature. In effect, this prevents the Commonwealth from directly legislating on industrial disputes, and setting minimum legislative standards on, for example wages or occupational health and safety (Creighton and Stewart, 1994). The Commonwealth, therefore, exerts its influence on the nation, as a whole, indirectly through its establishment of an arbitration and conciliation tribunal, the Australian Industrial Relations Commission (AIRC). This also means that the six States have enjoyed significant autonomy in developing their own employment law and the machinery to administer it: hence seven different employment relations systems. The Constitution also confers commercial and external affairs powers on the Commonwealth as a means for legal intervention in the employment arena, but there is little evidence of strong activity in this domain.

Common Law

The common law of employment is judge-made law, developed by the courts through the resolution of cases and the application of a body of rules, originally developed by the English judiciary (and subsequently by the Australian judiciary), to regulate the employment relationship. The common law establishes a set of obligations and duties on both employer and employee, for example, the employer duties of payment of agreed remuneration, taking reasonable care for the health and safety of employees; and the employee duties of fidelity, and carrying out duties with reasonable care and skill. According to Creighton and Stewart (1994) the influence of common law is a significant force in the legal employment relationship through the interpretation of statutes and tribunal awards.

Statutes

Both federal and State legislation have a pronounced effect on the employment relationship. Federal legislation has a direct effect on this relationship through, for example, anti-discrimination law (see the subsection on anti-discrimination law and equal opportunity law below). It also has a significant indirect impact on employment both at the federal level and in the State jurisdictions through the decisions and awards of its legislated conciliation and arbitration tribunals, chiefly the Australian Industrial Relations Commission. The Workplace Relations Act 1996 is the main piece of legislation in the federal arena (see subsection on workplace/industrial relations below).

At the State level, there is a wide array of legislation that creates minimum conditions of employment and obligations in areas such as long service leave, annual leave, workers' compensation (refer to Pay and Benefits section) and in occupational health and safety (see subsection below). The States, except for Victoria, also have their own industrial relations laws and institutional arrangements for dispute resolution through conciliation and arbitration. It should be noted, however, that all State jurisdictions have sought to restructure their systems to emphasise workplace/enterprise bargaining over terms and conditions of employment.

Awards

Awards are legally enforceable documents that typically determine the minimum wages and conditions of employment for employees who come under the scope of that award. They are usually made through the arbitral process by industrial tribunals either in the federal or State jurisdictions, following input from employers, employees, trade unions, employee associations and government. Despite legislated shifts towards enterprise and workplace negotiation of these employment terms, awards continue to be a major source of legal employment rights and obligations (see Table 7).

Agreements

Both collective and individual agreements between employer and employee(s) or unions are made pursuant to federal or State workplace/industrial relations legislation. As a source of legal rights and obligations, these are growing in number and importance in line with shifts towards enterprise or workplace bargaining (see Table 7).

International Standards

As at March 1998, Australia had ratified 57 International Labour Organization (ILO) Conventions. Although these have not played a major direct role in influencing Australia's employment law, the Commonwealth government has in recent years begun to shape aspects of its federal legislation in conformance with ILO conventions and recommendations. By using its Constitutional external affairs powers, the Commonwealth government arguably has the capacity to impose uniform national employment legislation, although it has not done so to date.

Multiple Sources in Action - Wage Determination

There is probably no better example than wage determination of the extent to which multiple sources of law affect employment in Australia. As a central component of any employment relationship, wage determination has attracted significant attention from legislators and the judiciary, not to mention employers, employees and their representatives. Table 7 below maps the extent to which the various sources of employment law cover the Australian workforce in wage determination.

Source	Explanation	Federal Jurisdiction	State Jurisdiction	Proportion of Employees Covered
Common Law	Applied by the Federal or Supreme Courts and interpreted by the High Court; underpins all aspects of employment law and is particularly important for those not covered by awards such as managers or contractors. Statutory law overrides common law.	Federal Court and High Court	Supreme Courts; but the Federal jurisdiction takes precedence.	100%; estimated 25 - 35% of employees have wages determined only under common law.
Constitutional Law	The Constitution determines the capacity of Parliament's powers to write laws. Main constitutional clauses for employee relations are: the industrial relations power, the external affairs power, and the corporations power.	High Court	The Constitution specifies that Federal laws and awards take precedence over State laws and awards, but the Constitution limits the Federal sphere on employee relations so the States have control over certain categories of employment. State governments have no constitutional constraints on how they regulate employee relations but tend to follow patterns set at the Federal level.	100%
Legislation (statutes)	Determine the objectives and scope of the employee relations system and sets rules for tribunals and registered bodies such as unions.	Workplace Relations Act 1996 (Cwth) (WRA) applies to areas of employment (i) which have been specifically been involved in interstate industrial disputes; (ii) to 'constitutional' corporations; and (iii) to all employees in those sections which the Act draws on international treaty power to enforce ILO Conventions.	Relevant State Act, eg. Industrial Relations Act 1996 (NSW) - applies to all employees in particular States who have not been drawn into the Federal jurisdiction. Legislation by the Victorian Parliament has transferred the State system over to Federal regulation.	Award coverage is the main indicator of whether an employer or workplace belongs to the Federal or a State jurisdiction. 51% of workplaces are covered by Federal awards and 63% are covered by State awards (8% of workplaces are covered by both State and federal awards).
Awards	Awards detail minimum wages and working conditions for particular industries or occupations. They are an outcome of compulsory arbitration and are legally binding. However, in practice, awards are often varied by consent of the parties after the parties reach agreement independently or following conciliation by a tribunal. Over the 1990s, the award system has come to be known as the 'safety net' of wages and working conditions, which implies that awards set minimums while enterprise bargaining and individual contracts are to be the main vehicles of wage determination. 'Over-award' rates of pay and conditions occur where by management prerogative, individual agreement or following union bargaining, some or all workers receive pay and benefits in excess of those specified in the award. This relatively informal process usually involves only pay.	Australian Industrial Relations Commission (AIRC). The AIRC may only make awards in order to 'prevent and settle industrial disputes extending beyond the limits of any one State'; therefore, employers (or employer associations) and unions must be in a 'dispute' in order for the award to be in force. The parties often make very large claims on each other in order to ensure a long lasting dispute to have access to the Federal jurisdiction. The coverage of particular awards by industry or occupation, or a mix of both, has developed over the history of the AIRC's operation from 1904. If an employer is named in an industrial dispute concerning particular classes of work, then the employer becomes a respondent to the award and employees carrying out that work are covered by the award. If an employer association is a respondent to an award, members of that association are also covered by the award.	State tribunals, for example, the Industrial Commission of NSW. State tribunals do not have limitations on their powers to make awards but tend to follow the style of the Federal system in creating awards as a product of dispute resolution. State tribunal awards apply to every employer and employee in a particular industry or occupation regardless of whether they are named respondents to the award or not ('common rule'). The exception is to those employers who have been drawn into the Federal jurisdiction.	Of workplaces with more than 20 employees, 96% are covered by at least one award. The workplace average is 2.5 awards. About 35 - 45% of all employees have wages and working conditions determined predominantly by awards. In private sector workplaces with more than 20 employees, 60% of workplaces pay over-awards. Only one-quarter of workplaces pay all employees over-awards; another one-quarter pay over-awards to fewer than 10% of employees. Male-dominated workplaces are more likely to pay over-award than female-dominated workplaces.

Table 7 A Summary of the Legal Sources of Wage Determination

Source	Explanation	Federal Jurisdiction	State Jurisdiction	Proportion of Employees Covered
Certified Agreements (CAs)	These agreements (sometimes referred to as enterprise agreements) work on top of awards. The terms may differ substantially from awards but generally, CAs are not allowed to leave employees worse off than they would be under the award. Unions are usually party to CAs but there are provisions for non-union collective agreements in most jurisdictions including the Federal jurisdiction.	CAs at the Federal level are regulated and reviewed by the AIRC. The AIRC cannot arbitrate to determine the content of agreements but may conciliate if both parties request such assistance. The 'no disadvantage' test under the WRA is that, as a group, employees can not be left worse off than they would be under the award. Individual employees, or a sub-group of employees may experience a reduction in pay and conditions. The AIRC also regulates the 'bargaining period' in which unions are allowed to strike or take other 'protected' industrial action and the employer may 'lock out' the workforce. There are five types of CAs under the WRA (mostly due to efforts to work around jurisdictional limits).	Most States have similar provisions for agreements but enterprise bargaining has been taken up more slowly in the State jurisdictions. This may be related to firm size: larger firms are more likely to belong to the Federal jurisdiction and have a greater capacity to bargain and perhaps more to gain from bargaining.	It is estimated that 25 - 35% of all workers are covered by collective CAs. In workplaces with more than 20 employees, 44% of employees are covered by CAs. Non-unionised workplaces are less likely to have collective agreements than unionised workplaces, but the number of non-union certified agreements within the Federal jurisdiction are increasing rapidly under the Workplace Relations Act.
OR Workplace Agreements	Workplace agreements are often referred to as 'individual contracts' because each employee covered by the agreement is a direct party and must sign the agreement for it to be legally enforceable. Nevertheless, in practice such agreements generally apply to groups of employees. The individualisation of wages and conditions is limited by equal pay for equal work legal principles.	Australian Workplace Agreements (AWAs) - regulated and filed with the Office of the Employment Advocate. These agreements are private documents. Unions may act as a bargaining agent for one or more employees but cannot be direct parties to the AWA. Constitutional constraints mean that AWAs are only available to corporations (except for Victoria where the Federal system can use the State's powers to regulate employee relations). AWAs also have a 'no disadvantage test' relative to the award where a reduction in wages and working conditions is only allowed if such a reduction does not contravene the 'public interest'.	Queensland, Tasmania and Western Australia have similar provisions for individual contracts as found in the Federal jurisdiction.	Of workplaces with 20 or more employees, 26% had at least some non-managerial employees on individual contracts (only 5% of these workplaces had all employees on contracts. These statistics include common law contracts as well as State or Federal workplace agreements. Individual contracts are more likely to be found in large, private sector workplaces particularly in Mining and Property & Business Services. As at March 1998, the EA had received AWA applications covering 18,800 employees.

Sources: Morehead et al. (1997), *Changes at Work: the 1995 Australian Workplaces Industrial Relations Survey*, Addison Wesley Longman; Melbourne; J. Buchanan (1998), *Wages Policy: Where Next?*, Evening Briefing Seminar, Corr Chambers Westgarth/Australian Centre for Industrial Relations Research and Training (ACIRRT), 3 June; Australian Industrial Registry (1997), *Australian Industrial Relations Commission: General Information*, 2 June; ACIRRT (1998), *Agreements Database and Monitor*, Numbers 15 and 16, University of Sydney.

Table 7 A Summary of the Legal Sources of Wage Determination (Cont)

Contracts of Employment

A contract of employment has been defined as 'an agreement between an employer and an employee by which legal rights and obligations are created which the law will enforce' (Macken, O'Grady and Sapideen, 1997:75). There is no single piece of legislation in Australia that deals with contracts of employment, although the provision for Australian Workplace Agreements (AWAs) under the Workplace Relations Act 1996 goes some way to providing the scope for establishing such a contract, albeit to a limited number of employees.

It is necessary to look to the various sources of the contract. These sources include those identified in the preceding section. In addition, there are express terms of the contract of employment that the employer and employee agree to between them either in writing or orally. There are also implied terms in the employment contract which may be sourced from workplace documents (eg. employee handbooks, human resource policies and procedures), as well as from industry custom and practice. There is uncertainty over the relationship between awards and contracts of employment due to a recent High Court decision that established that award terms and conditions were not implied in the contract of employment.

Workplace/Industrial Relations Law

It is widely held that one of the most significant changes in the human resources field in Australia over the last 10 years has been the increasing devolvement of industrial relations from a relatively centralised system emphasising arbitration to one which promotes workplace bargaining over wages and conditions of employment. This change has been facilitated through successive legislative initiatives in the federal and State spheres. Set out below are key elements of the most recent federal legislation which represents the most significant shift towards workplace or enterprise agreements on industrial relations matters. Following this, the federal industrial relations regulatory structures are examined.

The Workplace Relations and Other Legislation Amendment Act 1996

This Act, more commonly referred to as the Workplace Relations Act 1996, (WRA), was presented as a major priority of the then newly elected Federal Government to reshape the Australian industrial relations system. The overall purpose of this reshaping was to create a framework that 'supports a more direct relationship between employers and employees, with a much reduced role for third party intervention and greater labour market flexibility' (Department of Workplace Relations and Small Business, 1998: 3). Since the Act came into force only at the beginning of 1997, it is still rather early to assess its effect, although early evidence suggests significantly increased workplace based activity in a number of areas directly affected by the legislation.

Objects of the WRA

In summary, the espoused objects of the WRA focus on giving primary responsibility for industrial relations and agreement-making to employers and employees at the enterprise and workplace levels, with the role of the award system focused on providing a safety net of fair and enforceable minimum wages and conditions; ensuring freedom of association; avoiding discrimination; assisting employees to balance their work and family responsibilities effectively; and assisting in giving effect to Australia's international obligations in respect of labour standards (Department of Workplace Relations and Small Business, 1998a:3).

The Federal Award System

The WRA guides the Australian Industrial Relations Commission's (AIRC) regulation of the award system. Awards are a major component in the determination of pay and conditions for many employees in Australia. Under the WRA, the award system is to be simplified and the AIRC's award-making role is to be on setting a safety net of minimum wages and conditions that are simplified as compared to existing awards some of which contain more than 100 clauses. The WRA stipulates 20 allowable award matters to which the AIRC's jurisdiction is to be confined. These are:

- classifications of employees and skill-based career paths
- ordinary time hours of work and the times within which they are performed, rest breaks, notice periods and variations to working hours
- rates of pay (such as hourly rates and annual salaries), rates of pay for juniors, trainees or apprentices, and rates of pay for employees under the supported wage system
- piece rates, tallies and bonuses
- annual leave and leave loadings
- long service leave
- personal/carer's leave, including sick leave, family leave, bereavement leave, compassionate leave, cultural leave and other like forms of leave
- parental leave, including maternity and adoption leave
- public holidays
- allowances
- loadings for working overtime or for casual or shift work
- penalty rates
- redundancy pay and notice of termination
- stand-down provisions
- dispute settling procedures
- jury service
- type of employment, such as full-time employment, casual employment, regular part-time employment and shift work
- superannuation
- pay and conditions for outworkers, but only when compared with those specified in a relevant award or awards for employees who perform the same kind of work at an employer's business or commercial premises
- provisions incidental to the allowable matters and necessary for the effective operation of the award (for example, date and period of operation of the award, and facilitative provisions).

The above list leaves out provision for matters such as occupational health and safety, disciplinary matters, grievance handling, training or matters pertaining to particular industries. The Government considers these are more appropriately handled at the enterprise or workplace but in some cases may be retained in awards if the AIRC finds them to be necessary for the operation of the award. The award simplification process to meet the above listing of allowable matters has proceeded slowly with few instances of such simplification in the 18 months following the introduction of the WRA, and stripped-back awards contain many more than the 20 allowable matters. For example, the Metal Industry Award was stripped-back from over 140 clauses to just over 50.

Agreements

The Workplace Relations Act provides choice and flexibility primarily for employers in determining arrangements for reaching agreement on pay, conditions and work organisation at the enterprise and workplace levels through Australian Workplace Agreements (AWAs) and Certified Agreements (CAs). AWAs are individual agreements between an employer and his or her employees. While they may be reached collectively, they must be signed individually. Employees are able to appoint a bargaining agent (including a union) to negotiate on their behalf but there will be no uninvited union involvement.

AWAs are to be approved by the Employment Advocate, a new statutory office established under the Act (see subsection on Federal regulatory structures below). To approve an AWA, the Employment Advocate will need to be satisfied that:

- it meets the no-disadvantage test, that is, that when considered as a whole, the agreement is no less favourable to the employee concerned than the relevant award and any relevant laws (unless a such a reduction accords with the 'public interest'); and
- the employer explained the effect of the AWA to the employee and that the employee genuinely consented to the making of the AWA.

As at 31 March 1998, 18,800 AWAs had been received by the Employment Advocate; 10,790 of these had been approved covering 425 employers, and 2,280 had been either refused or withdrawn. 43 complaints of breaches of the WRA provisions relating to AWAs had been received (Department of Workplace Relations and Small Business, 1998b:4).

Certified Agreements (CAs) are regulated by the AIRC. These agreements are usually between an employer and a union, but can also be made between between an employer and employees, for example, where workplaces have few or no union members. The AIRC may conciliate to help the parties reach agreement but can no longer arbitrate on the content of agreements. 'In these cases a union must have a member in the enterprise concerned (whose interests it may represent) to be able to make an agreement or to participate in negotiations. In the case of agreements made between an employer and employees directly, a union will be able to represent its member(s) in negotiations and become bound by the final agreement only if a member so requests (although the union may choose not to be bound). Such agreements may cover all the employees in a single business, or the employees in part of a single business' (Department of Workplace Relations and Small Business, 1998a:21).

Before the AIRC will certify a certified or enterprise agreement, it must be satisfied, among other things, that: the agreement meets the no-disadvantage test; that the majority of employees genuinely approve the agreement (excluding greenfield sites); that employees had the agreement explained to them and provided to them for their consideration for at least 14 days; and that the agreement is not discriminatory on a range of grounds. Agreements are to be for a fixed term for a maximum of 3 years from the date of certification. Industrial action (but not secondary boycotts) and lock-out are allowable during bargaining for single-business agreements, but not for multiple-business agreements. Industrial action is not permitted during the period of an agreement's operation. Between 1 January 1997 and 31 March 1998 6,204 CAs were made under the federal system. 393 of these were non-union certified agreements in a number of industry sectors, the largest numbers were in Other Services (30%), Electricity Gas and Water (29%), and Non-metals Manufacturing (14%) (Departments of Workplace Relations and Small Business, 1998b:3).

Freedom of Association and Organizations

The WRA includes provisions that make membership of all organisations voluntary. Compulsory unionism or discrimination based on membership or non-membership of a union or an employer association is prohibited, as are preference clauses (favouring union members) in awards or agreements. The WRA facilitates the establishment of new unions, including enterprise unions. The minimum registration requirement has been lowered from 100 to 50 members. There are also provisions for the disamalgamation of federally registered unions, subject to membership support (refer to the Employee Relations section). Union rights of entry, both to investigate suspected award or other breaches and for the purposes of discussions with employees, are contingent on the union obtaining a permit from the Industrial Registrar. From 1 January 1997 to mid April 1998 there had been 5 applications (including one withdrawal) for registration of enterprise unions. As at end March 1998, there had been two applications to withdraw from union amalgamation (Department of Workplace Relations and Small Business, 1998b).

Industrial Action

Under the WRA, industrial action is permitted in certain limited situations. As indicated earlier, industrial action or locking out employees is permissible during the bargaining period in relation to negotiation of a single business certified agreement or an AWA. Such permission is made on condition that: the party initiating the industrial action provides 72 hours' written notice to each other party and to the Australian Industrial Relations Commission of the intention to take industrial action; and any industrial action must be preceded by a genuine attempt to reach agreement. The AIRC is empowered to suspend or terminate a bargaining period and the protected status of industrial action for a number of reasons eg. where genuine bargaining is not occurring, or where industrial action causes significant damage to the Australian economy or threatens/endangers life, health, safety and welfare of people.

There is no legal protection for industrial action in pursuit of variations to awards, since such awards are made through the arbitral process, and access to arbitration through the AIRC is considered to obviate the need for such action. In the event of such action, the Federal Court is empowered to issue an injunction, award damages for losses suffered, and impose a maximum monetary penalty of \$10,000. Secondary boycotts such as picketing (action directed at third parties with whom the targeted employer has dealings) are unlawful. It is also unlawful for an employer to pay strike pay, for a union to make a claim for such pay and for an employee to accept it. From 1 January 1997 to 30 March 1998, the Department of Workplace Relations and Small Business reported 332 applications to the AIRC for orders to cease industrial action, of which 38 resulted in such an order, 3 led to a return to work order, 240 were withdrawn, adjourned or settled, 24 were refused and 27 were still not finalised. Of the 332 applications, 23 were brought by unions (Department of Workplace Relations and Small Business, 1998b).

Unfair Dismissal

Where an employee (who comes under federal coverage or is in a State jurisdiction which does not provide adequate protection), is dismissed, for reasons which he/she considers harsh, unjust or unreasonable, that employee may apply to the AIRC for the claim to be heard and dealt with. The employee is required to pay a claim filing fee, and may also be represented. In the first instance, the AIRC must attempt to conciliate a settlement. If unsuccessful it must arbitrate on the claim. The AIRC must take account of the following factors in deciding whether

the dismissal was unfair:

- 'whether there was a valid reason for the dismissal, concerning the capacity or conduct of the employee or the operational requirements of the employer's undertaking, establishment or service;
- whether the reason for the dismissal had been given to the applicant;
- whether the applicant had been given an opportunity to respond to any reason related to the applicant's capacity or conduct; and
- whether there was any warning as to unsatisfactory performance'. (Department of Workplace Relations and Small Business, 1998a:37).

Remedies available to the AIRC where the dismissal is considered unfair include: reinstatement, payment in lieu of reinstatement (a maximum of 6 months remuneration but no higher than an indexed A\$32,000).

Except in cases of serious misconduct, employees must be given a minimum statutory notice of termination of employment (or payment in lieu of that notice), as follows:

Length of Continuous Service with employer	Period of Minimum Notice paid
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks.

The above notice increases by 1 week for an employee who is over 45 years of age and has completed at least 2 years' continuous service.

From 31 December 1996 to 27 March 1998 9,318 federal applications for unfair dismissal had been filed with the AIRC. Of these, 23% were still pending for conciliation. Of the remaining 7,179 (77%) applications: 3% had been dismissed; 14% had been withdrawn or discontinued prior to conciliation; 53% had been settled through conciliation; 25% were not settled by conciliation. Furthermore, the number of federal applications regarding termination of employment for the first three months of 1998 increased by 28% compared to the same period in 1997 (Department of Workplace Relations and Small Business, 1998b).

Harmonisation of Federal and State Industrial Relations Systems

In an attempt to overcome the inherent complexities of the Commonwealth, State and Territory industrial relations systems caused by jurisdictional duplication and overlap, the Workplace Relations Act contains provisions to promote the harmonisation between these systems. These focus on:

- complementary legislation
- a cooperative approach to administrative arrangements and service delivery.

Since December 1996, Victoria has agreed to a referral of its industrial relations powers to the Commonwealth. This means that Victorian employers and employees may determine their industrial relations through the federal system. Further, the Department of Workplace Relations and Small Business reported on advances in harmonisation of the industrial relations compliance framework through State based compliance organizations in Queensland and Western Australia being contracted to delivery inquiry and compliance services for the Commonwealth.

Other Matters

The WRA contains many other provisions. Some of these are referred to elsewhere in this profile; for example, refer to the Anti-Discrimination and Equal Opportunity subsection below, the Pay and Benefits and Employee Relations sections.

Anti-Discrimination and Equal Opportunity Law

There is legislation in place at the federal and State/Territory levels to ensure that on a number of grounds employees are not discriminated against through less favourable treatment than other employees. At the federal level the principal laws dealing with anti-discrimination are: the Racial Discrimination Act 1975, the Sex Discrimination Act 1984, the Disability Discrimination Act 1992, the Affirmative Action (Equal Opportunity for Women) Act 1986, the Racial Hatred Act 1995, and the Workplace Relations Act 1996. Under these laws, it is unlawful for an employer to discriminate against a person on the grounds of: sex, marital status; pregnancy; potential pregnancy; family responsibilities; race; colour; national or ethnic origin; physical or mental disability; palliative and therapeutic devices and auxiliary aids; interpreters, readers and assistants; guide dogs, hearing assistance dogs and trained animals; age; sexual preference; trade union activity; political opinion; temporary absence from work because of illness injury. Discrimination on the above grounds can be direct or indirect. 'Direct discrimination is treating A less favourably than B because of particular attributes of A, such as race, sex, marital status, pregnancy...' 'Indirect discrimination is treating everyone the same but in a way that ends up being unfair to more people with any of these particular attributes' (Department of Workplace Relations and Small Business, 1998c: 10). In general, the discrimination against employees and job applicants is unlawful in relation to:

- 'the arrangements the employer makes to decide who will be offered employment;
- the decision on who will be offered employment;
- the terms and conditions of employment offered and provided;
- access to opportunities for promotion, transfer, or training or other benefits associated with employment;
- dismissing an employee;
- subjecting an employee to some other detriment' (Department of Workplace Relations and Small Business, 1998c: 11).

The above federal legislation applies concurrently with State and Territory anti-discrimination laws. For example, New South Wales has the Anti-Discrimination Act 1977 which has similar grounds to those covered by Commonwealth laws. Where there is an inconsistency between the laws of federal and State jurisdictions, the federal law prevails. Employees have access to anti-discrimination laws in both jurisdictions in the event that they wish to make a complaint.

Discrimination Complaints

Employees who consider they have been unlawfully discriminated against by an employer can make a complaint in writing under the relevant Act. In the federal sphere, such a complaint is made to the Human Rights and Equal Opportunity Commission (HREOC); in New South Wales, the equivalent is the Anti-Discrimination Board. The general approach to complaint handling usually involves an investigation of the complaint by the statutory authority, an attempt at conciliated settlement between the two parties, and finally if conciliation fails, then the matter may be referred to a tribunal for an inquiry and compulsory arbitration.

In terms of remedies, the most commonly used is an award of damages for economic and non-economic loss (eg. hurt, humiliation), although alternatives such as transfer, or promotion may be considered (Macken, O'Grady, Sappideen, 1997). As things stand, the HREOC does not have the power to enforce its remedies for actions taken pursuant to Federal anti-discrimination laws; it can only recommend remedies which are not binding. On the other hand, the Anti-Discrimination Board has the power to determine damages to a complainant up to A\$40,000.

Occupational Health and Safety Law

The main forms of occupational health and safety (OHS) regulation are comprised of: common law, statutes, regulations, codes of practice, and industrial awards and agreements. Most prominent among these are statutes; these will be the primary focus of this analysis. The architecture of OHS statutes is essentially the same in each jurisdiction. Largely based on enabling self regulatory British OHS law, the principal Australian statutes define the rights and obligations of those involved with the workplace. They also provide for various forms of employee participation through safety committees and/or safety representatives. The primary concern of the 15 statutes in Australia dealing specifically with OHS is the prevention of work-related injury and disease. These 15 statutes have 70 sets of regulations amounting to a further 1180 pages of law. These figures do not include the codes of practice or the 200 Australian standards referred to in the law or the codes. In addition, there are another 129 statutes containing provisions on OHS (Industry Commission 1995). Despite attempts to 'streamline' OHS legislation, its volume has continued to grow creating a situation which Industry Commission (1995) considered to place an unreasonable burden on business with unnecessary duplication, unhelpful codes of practice and unclear rights and duties.

At the federal level, the key OHS statute is the Safety, Rehabilitation and Compensation Act 1988; however, it is limited to Commonwealth employees. The agency charged with its administration is Comcare Australia. Comcare also administers workers' compensation. In New South Wales, the Occupational Health and Safety Act 1983 is the main OHS statute. The WorkCover Authority is the agency responsible for its administration. In a similar fashion to Comcare, the NSW WorkCover Authority administers workers' compensation in the State. This pattern of a single statutory authority administering preventive OHS statutes and workers' compensation (including rehabilitation) legislation is generally repeated in the other States and territories.

In addition to the above OHS statutory and agency arrangements, the Commonwealth government established the National Occupational Health and Safety Commission (NOHSC) in 1985. The NOHSC is not an enforcement agency. Rather, its purpose is to lead and coordinate national efforts to prevent or reduce the incidence and severity of occupational injury and disease by providing health and safety working environments (National Occupational Health and Safety Commission, 1998a). Acting as a consultative, international, research and advisory body, NOHSC exercises no formal authority over States/territories in the OHS domain. OHS is an employment domain where there is little overlap between federal and State jurisdictions.

Enforcement

Enforcement of OHS rests with inspectorates in the statutory authorities in the various jurisdictions. The approach taken is more likely to be persuasive than deterrent as a means of securing compliance through advice, education and direction - and then improvement and

prohibition notices, followed by prosecution. The Industry Commission's (1995) findings from its review of OHS in Australia suggests that enforcement is not working. Maximum penalties, including the criminal penalty of gaol, are never used (New South Wales has a current maximum corporate penalty of A\$550,000). Prosecutions were found to make up less than 5% of formal sanctions. The expected financial consequences facing a workplace in breach of OHS legislation is A\$33 on average (see Table 8).

Occupational health and safety continues to be an issue of national concern, despite the fact that many organizations have sound OHS performance and some that matches world's best practice.

Jurisdiction	Probability of inspection ^a (per cent)	Probability of a penalty ^b (per cent)	Average penalty ^c (\$)	Expected penalty ^d (\$)
New South Wales	20.8	12.8	1175	31
Victoria	17.9	2.0	8004	29
Queensland	25.0	21.8	2914	159
Western Australia	17.9	1.7	3207	10
South Australia	18.5	12.3	5422	123
Tasmania	36.0	3.1	1207	14
Australian Capital Territory	22.7	0.7	3983	6
Northern Territory	35.7	4.7	1976	33
National Average	22.0	6.1	2480	33

a The number of inspections divided by the number workplaces.

b The number of convictions and on-the-spot fines divided by the number of sanctions imposed (improvement notices, prohibition notices and convictions).

c The total of on-the-spot and court-imposed fines, divided by the number of fines and convictions.

d The expected financial consequences facing a workplace which is in breach of OHS legislation.

Notes: The national average is the weighted average for all jurisdictions.

Data averages from 1990-91 to 1993-94 have been used (see Appendix M, Attachment M2).

Source: Industry Commission, 1995.

Table 8 Expected Penalty Levels by State & Territory

Workers' Compensation Law

Refer to workers' compensation in the section 'Pay and Benefits'.

Recruitment and Selection

Overview

A key indicator of the prospective state of recruitment in the Australian economy is the Morgan and Banks Job Index. The Index is a three monthly report of the hiring intentions of over 3,500 employers for the following quarter. It represents the employment intentions of employers of over 1.5 million employees in every major industry group. For the November 1998 - January 1999 quarter overall, employers continued to be optimistic about their recruitment intentions. Strong levels of job optimism were reported by employers in the information technology, legal, and telecommunications sectors. Over a third of all the employers surveyed expect to increase the number of permanent staff they employ in the next three months, compared with only 14.4% predicting a decrease. Most of this increased optimism about permanent employment opportunities comes from SMEs. As Morgan and Banks (www.morganbanks.com.au, 1998) indicate: 'for small business, 37.9% of those surveyed indicated that they were planning an increase of staff in the next quarter, whereas only 5.1% of employers plan to decrease current levels. A similar pattern was evident in medium sized businesses with 38.7% of employers planning to increase staff and only 11.4% planning to decrease'. With respect to contract/temporary staff a slight improvement (+2.6%) in employment expectations for the November 1998 - January 1999 period is reported by employers. The industries most optimistic about contract/temporary employment were tourism, information technology, electronics and retail.

Recruitment Sources and Methods

Generally, there has been little systematic research into recruitment (and selection) policy and practice in Australia. Recently, however, findings from the 1995 AWIRS Survey (1997) provide some insights into recruitment and selection practices of 2001 workplaces with 20 or more employees. In addition, an even more focused study of trends in recruitment and selection was commissioned in 1996 by the Federal Department of Employment, Education, Training and Youth Affairs. This study reported findings from semi-structured interviews with 24 employers followed by a nationwide survey of 1448 nongovernment organizations. The following discussion on recruitment sources and methods draws primarily on these two studies.

Table 9 shows the responses by manager in the 1995 AWIRS Survey when asked about their usual recruitment methods for a range of occupational groups. Recruitment through advertising in newspapers and specialist journals was the most commonly used method, followed by combined internal and external advertising.

	Advertised in newspapers & specialist journals	Advertised internally	Advertised internally & in newspapers & specialist journals	Used recruitment agencies or management consultants	Word of mouth	Common- wealth Employment Service
Occupation	% wps	% wps	% wps	% wps	% wps	% wps
Managers	31	23	23	13	7	1
Professionals	37	13	27	19	4	0
Para-professionals	36	15	34	9	4	1
Tradespersons	50	9	21	3	7	9
Clerks	36	10	24	9	14	8
Sales & personal service workers	36	10	24	9	14	8
Plant & machine operators & drivers	35	10	19	5	16	15
Labourers & related workers	32	9	18	3	18	19

Population: Workplace with 20 or more employees where the occupation was present. Figures are weighted and based on responses from a maximum of 1925 workplaces.

Source: Morehead et al. (1997).

Table 9 Usual Method of Recruitment, by Occupation, 1995

Internal advertising was the third most popular method of recruitment for managers, professionals, para-professionals, tradespersons and clerks. Between 59 and 85 per cent of workplaces recruited employees in the various occupations by using internal or external advertising or a combination of the two. Word of mouth was more frequently used by workplaces in the recruitment of sales and personal service workers, plant and machine operators and drivers, and labourers and related workers when compared with other occupations. In the year prior to AWIRS95, 45 per cent of small businesses (5 to 19 employees) recruited new staff by advertising and 34 per cent by work of mouth. 33 per cent of small businesses recruited through the Commonwealth Employment Services (CES), until recently the government funded job matching agency; this is almost twice the level of usage by workplaces with 20 or more employees. Those employers seeking to recruit labourers and related workers, and plant and machine operators and drivers were more likely to use the CES.

Workplaces were more likely to use recruitment agencies (other than CES) or management consultancies in filling manager (13%) or professional (19%) vacancies than any other occupational group (Morehead et al., 1997). Following a survey of its members in 1994-95, the National Association of Personnel Consultants found that it had placed 69209 people in permanent and 372685 in non-permanent positions (National Association of Personnel Consultants, 1996).

Until 30 April 1998, the CES was the federally funded and operated recruitment and unemployment benefits agency. From 1 May 1998, the CES was replaced by the Job Network, a national network of more than 300 private, community and government organizations to provide the unemployed and employers with a range of services including job matching, job search training, intensive assistance eg for the long term unemployed, entry level training support services and new enterprise incentives. Job Network, with its computer linked network, has Australia's largest national database of job vacancies. Access to the Job Network is through Centrelink, a recently formed agency point of contact for end use 'customers' that provides information and help previously delivered by several Commonwealth Government agencies. The Federal Government expects in the first 19 months of Job Network (that is, by end 1999):

- to match 840,000 unemployed job seekers to suitable vacancies
- to provide 88,000 job seekers with training and support in job search techniques
- to give 540,000 persons intensive assistance in finding jobs

- to assist 10,400 persons in establishing a viable small business
- to help 200,000 job seekers enter either apprenticeships or traineeships.

Early evidence on the operation of Job Network indicates that many employers are reluctant to pay for services which they did not have to previously, and a number of Job Network providers have experienced difficulties in attracting sufficient 'customers' to remain viable.

The 1995 AWIRS survey findings on the demand side recruitment methods were largely confirmed in a later study of trends in recruitment and selection carried out on behalf of the Department of Employment, Education, Training (Wooden and Harding, 1997). They found that:

- i advertising in newspapers is the most common method of recruiting for all job vacancy types, with the exception of the less skilled blue-collar job vacancies;
- ii use of advertising is relatively more common when attempting to fill white-collar vacancies as compared with blue-collar vacancies, and when attempting to fill more skilled positions as compared with semi-skilled and unskilled job vacancies;
- iii newspaper advertising is not only the most frequently used method, but is the most successful (though again this conclusion does not apply to less skilled blue-collar vacancies);
- iv after advertising, the next most frequently used recruitment method is informal networks (ie contacts and friends), with around 40 per cent of establishments with vacancies reporting use of this type of method;
- v informal networks are relatively more important for less skilled blue-collar job vacancies;
- vi the CES has relatively good vacancy penetration at most workplaces, especially as compared with private employment agencies, but the incidence of its use is clearly much greater for blue-collar jobs, especially the less skilled positions;
- vii private employment agencies are of large importance in placement of skilled white-collar positions, but are of relatively minor significance with respect to other types of vacancies;
- viii there are clear occupational patterns in the success of many of the other methods used (eg the success of private employment agencies is highest for white-collar job vacancies and declines with skill level, while conversely, the success of the CES and reliance on 'cold-calling' is greatest for blue-collar job vacancies, and especially for the less skilled jobs).' (Wooden and Harding, 1997).

Recruitment Law

As discussed in the section on employment law, legislation that impacts on employment activities, such as recruitment (and selection) is present at both the federal and State levels. These laws tend to follow a similar pattern in terms of legal principles and approaches. Anti-discrimination laws, which are complaint based, prohibit direct and indirect discriminatory behaviour in recruitment and selection on the grounds of sex, marital status, pregnancy or potential pregnancy, family responsibilities, race, disability, sexuality, age, trade union activity, political or religious beliefs (Macken, O'Grady, Sappideen, 1997). The main anti-discrimination legislation in the Federal sphere includes the Racial Discrimination Act, 1975, the Sex Discrimination Act, 1984, and the Disability Discrimination Act, 1992. In New South Wales, the key state law is the Anti-Discrimination Act, 1978 (as amended).

For recruitment and selection, the above laws mean that employers must take care in how they word their job advertisements, how they organize and conduct recruitment and selection procedures so as to avoid complaints of discrimination. Means of redress for the resolution of

complaints is usually through a process of conciliation between the parties presided over by an independent statutory authority. At the State level, failure at the conciliation stage will tend to lead to court proceedings which may set down enforceable orders (eg fines, change in recruitment procedures). At the federal level, complaints may be referred to the Human Rights and Equal Opportunity Commission, which unlike its State equivalents does not have the power to make enforceable orders.

Shortages and Surpluses

In May 1998, the unemployment rate in Australia was 8.0% (8.1% seasonally adjusted). From a high point of 11.0% in 1992 unemployment has fallen steadily to its current rate (ABS, 1998). Despite these figures shortages exist for a number of occupations. According to the Skilled Vacancy Survey conducted by Department of Employment, Education, Training and Youth Affairs (May, 1998) skilled vacancies rose by 23.3% for the year to May 1998. Of the major occupational groupings, Associate Professionals experienced the highest rise (100.3%), then Trades (20.8%) and professionals (17.9%). More specifically, the highest rises were for Medical and Science Technical Officers (138.0%), Construction Trades (103.9%) and Chefs (98.0%). Regionally, the strongest growth in skilled vacancies over the year to May 1998 were in Queensland (61.3%), South Australia (25.3%) and New South Wales (24.4%). Overall, movements in skilled vacancies in Australia tend to follow the pattern of national movements in total employment.

Recruitment of Foreign National/Immigrant Workers

Australia's immigration policy is non-discriminatory in that anyone from any country may apply to migrate irrespective of ethnic origin, sex, colour or religion. However, applicants are required to satisfy the criteria for the relevant categories of immigrants in accordance with the Migration Regulations made under the Migration Act 1958. Immigration law and policy are administered by the federal Department of Immigration and Multicultural Affairs (DIMA). Australia is placing increased emphasis on its specific Skilled Stream Migration Program which is designed to target individuals who have skills or abilities that will contribute to the country's economy. The number of skilled migrants as a proportion of the total intake was 38.2 per cent in 1996-97, compared with 36.6 per cent in 1995-96 (DIMA, 1998). There are five main categories of skilled migrants: independent migrants, employer nominated, business skills, distinguished talent, and skilled-Australian linked. Migrant entry into Australia under the two largest skilled stream categories (independent and skilled-Australian linked) is contingent on passing a points test based on criteria including skill, experience, age, relationship with an Australian (where relevant) and English language competency (for 80 per cent of all occupations) (DIMA, 1998). Of the above categories, independent migrants (people selected on the basis of their capabilities, as opposed to being sponsored by an employer or relative) is the largest. 15,000 persons migrated to Australia under this category in 1996/97 and 14,000 in 1997/98, respectively 54.4 per cent and 40 per cent of the total skilled stream intake. In 1996/97 the main source countries for the independent category were the United Kingdom (21 per cent), South Africa (9.8 per

cent), India (4.3 per cent), Hong Kong (8.4 per cent) and China (7.6 per cent).

Australia also allows overseas people to gain temporary residence for business skills purposes. In 1996-97, 31689 visas were issued to people in this category. Temporary business entry for up to four years is available to:

- personnel (executives, managers and specialists) for companies operating in Australia;
- personnel from offshore companies seeking to establish a branch in Australia to participate in joint ventures; or fulfil a contract awarded to an offshore company;
- independent executives seeking to establish a new business or joining existing businesses in Australia;
- personnel coming under a labour or Regional Headquarters agreement.

However, labour market testing (eg job search, job advertising) may be necessary to establish that the required skills are not already available in Australia.

Selection

In their survey of 148 non-government business organizations (weighted for size and industry representation), Wooden and Harding (1997) found that employers look for 'good attitude/motivation, experience and skills when hiring', where experience gained in 'real jobs' is valued. Except in the skilled white collar area, firms do not place much value on paper qualifications. The most common approach used to select from the pool of candidates was found to involve some of the following selection devices: short listing (on the basis of written applications and resumes); formal interviews; reference checks, and psychometric and/or skills testing. The selection process was reported as significantly less formal and more rapid when filling blue collar job vacancies. Additional results from semi-structured interviews with employers found that:

- 'While the characteristics of successful and unsuccessful applicants tend to vary across different occupations and industries, two common characteristics stand out: (i) the importance of a high degree of work motivation and commitment; and (ii) the ability to contribute positively to work teams.
- Recruitment and selection methods tend not to vary much with the business cycle, but the quality of hires do.
- A gradual shift has taken place which has seen greater contracting out of recruitment (and selection) functions by firms.
- Firms are increasingly opting for the use of highly formalised selection procedures when filling positions, irrespective of what the job involves'. (Wooden and Harding, 1997).

In the 1995 AWIRS survey 64 per cent of workplaces reported that they used a formal, written selection procedure when recruiting or promoting employees (see Table 10). Larger workplaces were more likely to employ formal selection procedures, as were those that had a union presence and those workplaces in the public sector.

	<u>Workplaces</u>	<u>Employees</u>
	Yes %	Yes %
All Workplaces	64	74
Number of Employees		
20-49	59	60
50-99	61	62
100-199	74	75
200-499	79	79
500+	85	88
Sector		
Private	51	63
Public	94	95
Organisational Status		
Part of a Larger Organisation	70	77
Single Workplace Organisation	39	55
Industry		
Mining	53	73
Manufacturing	46	57
Electricity, Gas & Water Supply	89	95
Construction	47	56
Wholesale Trade	61	61
Retail Trade	55	64
Accommodation, Cafes & Restaurants	49	54
Transport & Storage	53	69
Communication Services	97	99
Finance & Insurance	77	71
Property & Business Services	43	66
Government Administration	95	93
Education	93	94
Health & Community Services	76	88
Cultural & Recreational Services	44	60
Personal & Other Services	81	89
Union & Delegate Presence		
No Union	41	47
Union, No Delegate	60	70
Union And Delegate	77	81

Notes

Population: all workplaces with 20 or more employees.

Estimates were based on management responses to the following questions:

For most jobs here, when recruiting or promoting employees at this workplace, is a formal, written selection procedure required to be used?

Unweighted n+2—1

Source: AWIRS 95 main survey employee relations management questionnaire (C2)

Table 10 Workplaces where Formal, Written Selection Procedures were Required to be used when Recruiting or Promoting Employees, 1995

A number of large employers and recruitment consultants use assessment centres as a means for selecting predominantly managerial staff either from internal sources but also from the external labour market. In these centres candidates' performance is monitored and evaluated by observers across a wide range of techniques including in basket exercise, leaderless group discussions and various business games.

Training and Development

Overview

This section describes training activity from the perspective of employers. Hours of training provided per employee, training expenditure as a percentage of gross wages, types and methods of training undertaken and the management of training are discussed. This section builds on the discussion of national policies on training and education covered under Labour Markets above.

Employer Expenditure on Training

Australian employers invest in training at similar levels to employers in other OECD countries, if the greater presence of small business in Australia is taken into account (small businesses tend to invest little in training) (Fraser, 1996). Reliance on immigration, government-funded training and apprenticeships in a limited number of industries in the context of an economy sheltered from competition by tariff barriers over many years has shaped Australia's training traditions. Interpreting national data and even industry data on training is difficult because of the variability of practices between firms. Firm size is important, but innovative management, competition, organisational change and other factors also shape the training effort. Training in Australia is more reactive than proactive, and there is little evidence that training is monitored for effectiveness or regarded as a high priority (Gardner & Palmer 1997: 316). Kane, Abraham and Crawford's (1994) survey of top managers found that these managers did have a long-term view on the importance of training, but that this attitude did not flow through to training practices and that training activity within large firms tends to be isolated from other human resource activities and corporate strategy - that is, training is treated as a stand alone activity. However, some leading organisations are working towards an alternative approach emphasising organisational learning and transformation. Such an approach emphasises collaboration, values learning and employee involvement, and recognises the integration of work design and work organisation with individual and organisational development.

Table 11 below summarises Australian employers' training effort in the period 1 July to 30 September 1996. This data in particular refers to provision of 'structured training' which is defined by the ABS as "all training activities which have a predetermined plan and formal design to develop employment-related skills and competencies" (ABS 6353.0). This definition includes planned and systematic on-the-job training and covers both in-house and external training courses. In 1996, 70% of expenditure was for in-house training and 30% for external training. Training expenditure is made up of wages costs of employees (40%), course fees and external and in-house training providers (40%) and sundries such as materials, equipment and travel.

Measure of Training Effort:	1993	1996
Total Training Expenditure	\$1,102.7m	\$1,178.8m
Expenditure per Employee	\$191	\$185
Hours of Training per Employee	5.55 hr	4.91 hr
Training Expenditure as a % of Gross Wages	2.86%	2.54%
Employers Providing Structured Training	22.6%	17.8%

Source: ABS 6353.0 *Employer training expenditure Australia, July - September 1996*, Table 1.1

**Table 11 Training Expenditure by Employers
(September Quarter, 1993 & 1996)**

When unstructured training is included, the provision of training is more widespread. Unstructured training is defined as 'all training activities which do not have a specified content or predetermined plan' (ABS 6356.0: vii). The latest Training Practices Survey (which focuses on practices rather than expenditure and looks at a 12 month period rather than one quarter) is for the year to February 1997. In this period, 61% of all employers provided some training for employees; 53% provided unstructured training, 35% provided structured, and 27% provided both structured and unstructured training. Whilst only 61% of employers provided training,

92% of employees worked in these organisations (because larger firms are more likely to provide training than smaller firms). Unlike the trend suggested by comparing 1993 and 1996 data above on training expenditure, employers in this survey reported that, on balance, training effort was on the rise (ABS 6356.0). The AWIRS also found that training had increased between 1990 and 1995 (Morehead et al., 1997: 113).

Fields of Training

Table 12 shows time spent by employees in various types of training. 'Professional and management training' and 'trade and apprenticeship training' attracts the most effort, despite there being many more employees employed in the sales, clerical and service areas. 'Trade and apprenticeship training' is the only field of training which is provided mostly through external means rather than in-house as apprentices are required to attend TAFE to achieve their trade certificates (ABS 6353.0: 4).

Field of Training	1993	1996
Management & Professional	0.93	0.88
Trade & Apprenticeship	1.07	0.85
Sales, Clerical/Office and Service	0.70	0.61
Technical & Associate Professional	0.59	0.49
General Computing	0.52	0.42
Induction	0.35	0.37
Health & Safety	0.34	0.36
Personal Development	n.a.	0.30
Plant & Machinery	30.8	0.27
General Supervision	0.30	0.26
Other Training	0.38 ¹	0.10
Total	5.55	4.91

Source: ABS 6353.0 *Employer training expenditure Australia, July - September 1996*, Table 1.4.

Note 1. The 'Personal Development' category was categorised as 'Other Training' in 1993.

Table 12 Training Hours by Field of Training (September Quarter, 1996)

Training Effort by Firm Size

Training effort rises with firm size. Most firms are small (where 'small' refers to firms with fewer than 20 employees) but they only account for 10% of total training expenditure. "On average, employees in large businesses receive more than two and a half times the amount of structured training (6.45 hours) as their counterparts in small businesses (2.42 hours)..." (ABS 6353.0: 7 - 10).

	Number of Employees			
	1-19	20 - 99	>100	All
Proportion of Gross Wages	1.20%	1.91%	3.18%	2.54%
Hours of Training per Employee	2.42 hr	3.79 hr	6.45 hr	4.91 hr
Proportion of Employers Providing Training	13.4%	50.5%	88.3%	17.8%

Source: ABS 6353.0 *Employer training expenditure, Australia, July - September 1996*, Tables 2.2 and 2.3

Table 13 Training by Size of Employer (September Quarter, 1996)

In the year-to-February 1997, 100% of large employers, 94% of medium employers and 57% of small employers provided structured and/or unstructured training (ABS 6356.0). Not only do

small firms train less, this group also accounts for most of the decline in training expenditure observed between the 1993 and 1996 surveys. Training in medium firms also declined. Large employers slightly increased expenditure over the period (ABS 6353.0: 9).

AWIRS95 found that small businesses (from 5 - 19 employees) facing strong competition were more likely to provide formal training (53%) than small business facing moderate competition (44%) or weak/no competition (39%). This pattern was also true for larger private sector firms (Morehead et al., 1997: 308). Nevertheless, the impact of competition on training is difficult to assess. Whilst private sector firms facing strong competition tended to invest more in training, only 10% of employers nominated competition as a factor that encouraged them to increase their training expenditure.

Distribution of Training

Distribution of Training by Sex and Status of Employees

Organisations that employ predominantly women and organisations that employ a high level of casual staff spend less on training, as shown in Table 14. The lower wages received by these types of employees contributes to the lower rate of expenditure but these employees also spend fewer hours in training. Women workers and casual workers overlap as two-thirds of casual workers are women. There are also correlations by industry and occupation due to the high rate of occupational segregation in Australia. For example, the Mining industry has the highest training effort and this industry is almost completely male. Also, there are high rates of casual employment in the Retail and Hospitality industries as well as high rates of female employment.

Hours of Employers with:	% of Gross Training	Wages on Training
75% or more male employees	6.68 hr	2.58%
75% or more female employees	3.26 hr	2.06%
less than 25% casual employees	5.64 hr	2.66%
25% or more casual employees	3.23 hr	2.03%

Source: ABS 6353.0 *Employer training expenditure, Australia, July - September 1996*, Tables 1.8 and 1.9

**Table 14 Distribution of Training by Sex and Status
(September Quarter 1996)**

AWIRS95 found that 65% of employees received training in the year prior to the survey. This survey confirms the difference between casual and permanent workers reported by the ABS. AWIRS data shows that 66% of permanent employees received training compared with 57% of casual employees (Morehead et al., 1997: 113). Casuals are also much less likely to receive employer support for training or study. In 1993, 85% of permanent employees who undertook study or training received support from their employer compared with 33% of casuals. Part-time workers (permanent or casual) also receive lower levels of support (Fraser, 1996: 39).

The impact of short-term employment and high rates of turnover on training is not straightforward. Whilst employers of high levels of casual workers tend to invest less in training, the Training Practices Survey also found that employers with a relatively stable workforce invest less in training compared with employers with high rates of turnover (ABS 6356.0).

This appears to fit with common sense - new staff need to be trained - but it also suggests that skill-based career paths within Australian industry are not highly developed.

Distribution of Training by Industry and Occupation

In terms of the average hours of structured training undertaken by each employee in the July to September 1996 quarter, the industries with the highest rates of training are: Mining (17 hours), Air and Space Transport (13 hours), Utilities (10 hours), and Personal and Other Services (9.7 hours). The industries with the lowest levels of training are: Hospitality (2.4 hours), Printing, Publishing and Recorded Media Manufacturing (2.7 hours), Textiles, Clothing and Footwear Manufacturing (2.8 hours), Retail Trade (3.4 hours), Wholesale Trade (3.5 hours), Building Construction (3.5 hours) and Health Services (3.8 hours). This pattern is influenced by industry structure, for example, around 80% of employment in the construction industry is within small business (Fraser, 1996: 118). AWIRS95 found that 68% of workplaces (with 20 or more employees) had formal training programs. Mining, Finance & Insurance; Government Administration; Utilities; Communication Services; and Personal & Other services workplaces were more likely to provide formal training (above 80%) and industries which were least likely to provide formal training were Hospitality (45%) and Retail Trade (57%) (Morehead et al., 1997: 444). On the whole, public sector training effort is much higher than that in the private sector. In the year-to-February 1997, 84% of public sector organisations provided structured or unstructured training compared with only 61% of the private sector (ABS 6356.0: 1). Location also affects training expenditure. Employers in regional areas outside of major cities spend less on training (1.7% of gross wages compared with 2.3%). There was no evidence that these employers found that costs or availability of training were the basis of this lower expenditure (Fraser, 1996: 68).

In AWIRS95, workplace managers were asked which occupational groups had been given training and the results are reported in Table 15 below.

Managers	47%
Professionals	60%
Para-Professionals	62%
Tradespersons	41%
Clerks	48%
Sales & Personal Service Workers	44%
Plant & Machine Operators & Drivers	46%
Labourers & Related Workers	30%
<i>Workplaces that Provided Training</i>	68%
<i>Employees who Received Training</i>	65%

Note: Training refers to 'formal training programs' in workplaces and on-the-job training, attendance at conferences and apprentice training are specifically excluded.

Source: A. Morehead et. al. (1997), *Changes at Work: The 1995 Australian Workplaces Industrial Relations Survey*: Table 6.8. Addison Wesley Longman: Melbourne.

Table 15 Formal Training by Occupation, 1995 (% of Workplaces)

Methods of Training

Table 16 shows data on the methods of structured training delivery.

	Percentage of Employers
Traditional Classroom Style	74
Facilitated Discussions	56
Training by Correspondence	13
On-line Computer Services	9
Other Computer Based Training	25
Video/Audio Conferencing	9
Television Based Training	20
Practical Exercises	45
Structured On-the-Job Training	43

Note: Employers may use more than one method.

Source: ABS 6356.0 *Employment Training Practices, Australia, February 1997*, Table 2.19.

**Table 16 Method of Training Structured Training Delivery
(Year-to-February 1997)**

This data includes both external and in-house training. Classroom training is the most common form of external training delivery but it is also a significant method of in-house training. The most common form of in-house training is structured on-the-job training. Practical exercises and facilitated discussions are significant methods of training for both external and in-house training delivery. From an employee's perspective, more employees were satisfied with job-related training (45%) than dissatisfied (28%) (Morehead et al., 1997: 113). Further, the ABS in 1993 found that three-quarters of employees believe they had received adequate training. However, there were variations amongst occupational groups. Those groups who were provided with the most training also tended to report that their training was inadequate (Fraser, 1996: 50).

The ABS (6356.0: 40) also investigated methods of unstructured training delivery. In descending order of importance, these methods were:

1. employees showing or explaining to other employees how to perform a task on-the-job;
2. training employees to perform a job mainly through on-the-job experience;
3. rotating employees into different jobs to train them to perform a range of tasks;
4. employees acquiring knowledge/skills relevant to performing a job through reading manuals, journals, etc; and
5. employees acquiring knowledge/skills relevant to performing a job through group discussion.

Convenience, effectiveness, cost considerations and the hire of new employees were nominated as the main reasons for providing unstructured training (ABS 6356.0: 40 - 41).

The use of external training providers (for both in-house and external training) is common. In the year-to-February 1997, 89% of employers who provided structured training used an external training provider. The use of Colleges of Technical and Further Education (TAFE) was common. Amongst small firms, 41% had used TAFE, and TAFE was the external provider used most often by 30% of employers. 68% of large employers reported using TAFE but they also reported that private training providers were used more often. Other providers of training in order of

importance were professional associations, equipment manufacturers, industry associations and universities (ABS 6356.0: 31). Only 5% of organisations employ a dedicated trainer (that is, an employee who works full-time on delivering or administering training) (ABS 6353.0: 6).

Management Development

An investigation into the skills and attributes required by Australian managers in the twenty-first century concluded that Australia's approach to management development is overly ad hoc, untied to corporate planning and strategy and neglects frontline managers. It is estimated that around 45 percent of frontline managers have not been trained at all for their role and that many others only experience ad hoc training (Karpin Report, 1995: 281). Further, research shows that managers in small to medium size firms undertake very little purposeful management development activities. Too many organisations depend on the external labour market for management skills instead of participating in management development (Midgley, 1995: 1401). Managers report that on-the-job experiences are the main source of their knowledge and skill. Further, the report argues that management ranks do not sufficiently reflect the diversity in the community. Australia has the lowest representation of women in senior management of all industrialised market economies (Burton, Ryall & Todd, 1995: 773, 780).

The above is based on research and findings from the Industry Task Force on Leadership and Management Skills. This task force was commissioned in 1993 and in 1995 released Enterprising Nation: Renewing Australia's Managers to meet the challenges of the Asia-Pacific century (known as the Karpin Report). Consideration of management skills is a natural extension of workplace and industrial relations reform (including 'best practice' demonstration programs) of the 1980s and recognises the crucial role of managers in economic development. The task force's report emphasised identifying the ideal model of competencies, attributes, and roles of managers and leaders required in the 21st century compared to where managers and management development are placed now, and the measures the task force believe are required to bring Australian managers and management development into the new century. The report found that Australian managers are behind their international counterparts in a number of respects and that even with significant changes to education and training, support for management development and new cultural attitudes to enterprise and diversity, Australian managers would still be behind in 2010. Areas where Australian managers require improvement the most are in 'people skills' (leadership, communication and managing diversity), in entrepreneurship, in strategic skills, and in possessing a global outlook. To some extent, these weaknesses may be related to the predominance of short-term thinking and short-term pragmatism (Karpin Report Executive Summary, 1995: 7).

The Karpin Report also researched management development practices. A survey of existing managers found that they obtained their skills and knowledge from a variety and combination of methods: "But in particular, managers learn best at work" (Karpin Report Executive Summary, 1995: 32). Relationships with co-workers and challenges arising in their work were ranked as particularly important sources of development. In terms of organisational practice, performance appraisal and management development planning were seen to be more important than sponsoring external study. Current trends within management development are to increase the specificity and customisation of training and education; alternatively, some firms are leaving development to individuals in the face of financial pressures and also in response to increase flexibility and mobility in working patterns (Karpin Report, 1995: 266). Nevertheless, with some exceptions, Australian management development practices are not producing world-class managers and particular weaknesses are:

- low participation rates in education and training (especially in small to medium enterprises) including ranking behind other countries in terms of possessing formal qualifications and university degrees;
- over-reliance on ad hoc, short courses; and
- over-emphasis on current rather than future skill requirements, including not developing a global orientation (Karpin Report Executive Summary, 1995: 33).

In the small to medium firm sector, managers are rated more highly in terms of entrepreneurship and people skills but they tend not to be tertiary qualified, many do not undertake management development, the majority are not globally orientated, and they lack long-term strategic skills (Karpin Report, Executive Summary: 8). Universities and TAFE, the main providers of management education, are regarded as not catering for small business managers, or potential small business managers. Further, small business managers have particular needs which are not being met: a preference for specific and tailored training (for example, training related to problems and opportunities facing their business) and flexible delivery including use of new technology. Further, because of the recognition of the importance of new business starts to future employment growth (the impact of small business failure on employment does not appear to have been considered by the task force) and the lack of financial resources of most small business, the Karpin Report advocates government support for small business management development - from formal education to short courses to networking and advisory services.

Pay and Benefits

Overview

Explanation of pay and benefits in Australia usually begins with a discussion of the country's distinctive system of centralised conciliation and arbitration. Whilst the arbitration system is still very important, focusing on the institutions of arbitration and other structural features can sometimes lead to insufficient consideration of workplace policies and of the variations between workplaces, industries and occupational groups. This description of Australian pay and benefits considers structural features as well as practices in both large organisations and SMEs.

Types of Payment Systems in Australian Workplaces

Employers have substantial choice in designing remuneration policies but the legal context is complicated. There are a number of sources of law and avenues for bargaining that determine wage and working conditions as discussed in the section on Employment Law. In addition to the legal sources of regulation there are also unregistered verbal or written agreements (collective or individual) as well as adoption of HRM policies through 'managerial prerogative'.

The application of particular forms of wage determination and choices of payment systems was investigated by AWIRS95. Payment systems were defined as awards, over-awards, collective agreements, individual contracts and performance-based pay (including employee-share ownership). The survey found that 25% of workplaces (with more than 20 employees) had only one payment system (such as award rates of pay), 34% had two systems operating and 27% had three systems operating. The remainder had four or five systems. Larger workplaces tended to have more payment systems than smaller workplaces, and private sector workplaces and non-unionised workplaces tended to have a greater mix of payment systems (Morehead et al. 1997: 222 - 223). The mix of payment systems within workplaces may in part

stem from the occupational emphasis of awards. On average, workplaces are covered by 2.5 awards (down from 3.3 in 1990) and large workplaces (more than 500 employees) are covered by an average of 6.5 awards (Morehead et al. 1997: 521). The history of an occupational focus to wage determination may still encourage different arrangements for different groups of workers despite the 'enterprise' focus suggested by the introduction of enterprise bargaining in 1991. Tables 17 and 18 below show the dominant types of payment systems by workplace, by number of employees and then by industry and unionisation status. A 'dominant' payment system covers more than 60% of non-managerial employees within a workplace.

	State Award	Federal Award	Over-awards	Collective Agreements	Individual Arrangements	Mixed
All workplaces	25	14	16	31	6	8
<i>By Size:</i>						
20 - 49	26	15	20	25	7	7
50 - 99	28	14	15	31	4	9
100 - 199	22	15	8	38	5	11

Source: A. Morehead et al. (1997), *Changes at Work: The 1995 Australian Workplace Industrial Relations Survey*, Melbourne: Addison Wesley Longman, Table 10.13, p.224.

Table 17 Dominant Payment System at the Workplace by Employment Size (% of Workplaces)

	Federal Award	State Award	Enterprise Bargaining	Federal Over-award	State Over-award	Individual
All workplaces	12	21	44	6	7	9
<i>By Industry:</i>						
Mining	8	0	45	14	7	25
Manufacturing	5	5	57	12	7	13
Utilities	4	20	73	1	1	0
Construction	7	18	47	6	10	11
Wholesale Trade	3	12	31	11	19	20
Retail Trade	35	25	25	7	6	2
Hospitality	26	44	10	4	9	5
Transport & Storage	15	10	54	5	9	4
Communication S.	0	0	98	0	1	1
Finance & Insurance	2	2	48	19	7	22
Property & Business S.	4	16	20	2	14	41
Government Administration	4	24	62	0	8	2
Education	10	36	44	0	3	2
Health & Community S.	18	32	43	1	1	1
Cultural & recreational S.	17	24	23	7	7	17
Personal & Other S.	13	36	39	6	2	4
<i>By Unionisation</i>						
Non-union	9	13	13	13	22	27
Unionised	12	22	49	6	4	7

Note: 'S.' is an abbreviation for 'Services'.

Source: A. Morehead et al. (1997), *Changes at Work: The 1995 Australian Workplace Industrial Relations Survey*, Melbourne: Addison Wesley Longman, Table A10.16, p.535.

Table 18 Dominant Payment System at the Workplace by Industry (% of Employees)

The tables reveal that, despite the policy emphasis on enterprise bargaining and individual contracts, the award system is still the most important source of wage determination in the SME sector and in some industries such as Retail Trade, Hospitality, Health & Community

Services, Education and Personal & Other Services. In the large workplace sector, collective workplace or enterprise agreements are the dominant form of wage determination. Individualised arrangements are most common in Property & Business Services and Mining, and rare in the public sector. Unionised employees are much more likely to be covered by a collective agreement, whilst non-unionised employees are more likely to be covered by an individualised arrangement.

High wage workplaces are more likely to be covered by collective agreements, and low wage workplaces are more likely to be covered by awards. Employees with individual arrangements are much more likely to be found in high wage workplaces than low wage workplaces (Morehead et al. 1997: 226). Nevertheless, some employees who receive a small over-award wage may in fact be better off than employees who are covered by agreements. Some agreements, particularly in private sector services, require employees to trade away working conditions in return for quite low wage increases (Buchanan 1998).

National Wage Determination Policy and the AIRC

Australian centralised wage determination evolved in the 1890s and 1900s, with the institutionalisation of arbitration and conciliation to resolve industrial disputes federally with the Conciliation and Arbitration Act 1904. Since the first decade of the twentieth century until 1991, Australia has relied on the Australian Industrial Relations Commission (AIRC) to decide and implement wages policy. The AIRC normally determined minimum pay and benefits for industries or occupations; above minima, there has always been substantial scope for the parties to make their own arrangements through over-award bargaining.

The Constitutional limitations on the AIRC have created all sorts of technicalities in pay and benefits practice. For example, unions issue 'logs of claims' on all employers in an industry to demand enormous pay rises in order to ensure that the parties remain 'in dispute' across State boundaries in order to have access to Federal conciliation and arbitration. Another example is the lack of a general minimum wage. Those employees who fall outside Federal or State awards have no set minimum standards. There are also technicalities about the relationship between the federal and State systems and complications arising from efforts of the Federal government to expand its powers with new interpretations of the Constitution.

Throughout its history, decisions by the AIRC on wages policy have become to be known as 'national wage cases' (NWCs) and these decisions have been based on a range of wage fixing principles. The AIRC has no direct power to determine wages policy, so NWCs are decisions to resolve an industrial dispute concerning a particular award, and then the principles are applied to other awards following applications by unions. The wage fixing principles are derived in light of the AIRC's objectives (as determined by legislation and the Constitution) and from hearing arguments from government, unions, employer associations and community groups. The same process is used in 'test cases' for conditions other than wages. For example, in 1994 the Australian Council of Trade Unions (ACTU) encouraged by the inclusion on provisions in the Industrial Relations Act 1988 based on the ILO's convention on workers with family responsibilities, made application for the creation of Family Leave and Personal/Carer's Leave clause in an award; the subsequent decision of the AIRC was then transmitted to other awards and also adopted in some certified agreements. The State tribunals have tended to follow the lead taken by the AIRC in terms of wage fixing policy.

Perhaps the AIRC's influence was greatest during the Accord years, 1983 - 1996. The Accord was an incomes policy agreement between the Federal government and the ACTU. Under these agreements, the union movement committed to making 'no extra claims' outside the wage rises granted through the AIRC. There were eight agreements in total (the eighth was never implemented); the first was quite specific but later agreements became more general. The Accord allowed for a negotiated approach to wage, tax and social welfare policies so that wages growth could be moderated whilst providing tradeoffs to workers in other ways. Each version of the Accord made recommendations to the AIRC on wages for endorsement and implementation (only one Accord agreement was ever rejected outright by the AIRC). In the first half of the 1980s, the Accord was directed at reducing unemployment and inflation. In the latter part of the 1980s, the Accord became more concerned with micro-economic issues, such as workplace change, training, career paths, working hours etc. Wage rises were tied to agreements between unions and employers on improvements in productivity, flexibility and efficiency at the industry and/or workplace levels. Such micro-economic reform was regarded as a pathway to improving Australia's international competitiveness. In 1991, the workplace emphasis was further strengthened when the AIRC endorsed the shift to enterprise bargaining requested by the Accord partners (and by employers' associations). Between 1991 - 1993, the parties were much freer to decide their own arrangements but were still guided by national wage fixing principles.

Under the current legal emphasis on enterprise bargaining, the AIRC no longer controls wages policy. Since 1993, the AIRC has been reduced to devising a 'safety net' for low paid workers (workers who are regarded as unable to take advantage of enterprise bargaining). Awards are now varied by NWCs only to the extent that the increases granted will not discourage bargaining. In 1996, the ACTU put forward a 'living wage' claim requesting three instalments of \$20 over three years for workers who are not covered by enterprise agreements. The ACTU also proposed the adoption of a new minimum wage (in three installments) of \$12 per hour (or \$456 per week) as well as arguing for the maintenance of relativities. In response, the AIRC in April 1998 increased award wages by \$10 per week and created an adult, full-time minimum wage of \$359.40 per week (OSIRIS, 1998). By contrast, employers opposed any safety-net adjustment as it would discourage bargaining, and the government advocated an amount of \$8. The arguments used by the ACTU, referring to the cost of living and the difficult circumstances in low-wage households, and indeed the use of the term 'living wage', return wage fixing back to the first wage fixing principle adopted by the AIRC in 1907: the needs principle.

From 1996, the capacity of the AIRC to arbitrate over any industrial matter in dispute has been reduced with the object of encouraging parties to manage their own affairs at a workplace level. The Workplace Relations Act (WRA) specifies 20 'allowable matters' plus facilitative clauses over which the AIRC may arbitrate (as discussed in the Employment Law section). In some industries, unions and employers have moved non-allowable award clauses into their certified agreements. However, the AIRC cannot arbitrate over any matter that may arise in a dispute outside of these allowable matters and facilitative clauses.

Union and Non-Union Certified Agreements

Certified agreements at the workplace or enterprise level were introduced federally in 1991; non-union certified agreements were first provided for in the Industrial Relations Reform Act

1993. The number of non-union agreements has risen more quickly under the WRA which removed requirements for unions to be notified of registration proceedings of non-union agreements. Under enterprise bargaining, workplaces are still governed by awards, but can repackage terms and conditions of employment and introduce new work arrangements to suit the particular workplace as long as, overall, employees as a group are not left worse off than they would be under the award (which means that particular individuals and sub-groups may experience a reduction in pay and conditions). Certified agreements are reviewed by the AIRC and registered with the Australian Industrial Registry. Non-union agreements must be endorsed by a vote of a majority of employees to be covered by the agreement. Most certified agreements operate in conjunction with the relevant Federal award (AIR 1997a; ACIRRT 1997: 15).

Issues in Agreements

Enterprise bargaining was introduced in order to improve workplace productivity, efficiency and flexibility but also to improve the working lives of employees through increasing access to training, career paths and flexibility. However, there is evidence that flexibility in agreements is driven by the needs of employers and recent trends actually work against employees' need to balance work and family lives (Charlesworth 1997; ACIRRT 1998). Table 19 below shows the range of provisions in certified agreements and the data indicates that most agreements are fairly detailed (note, wages are not listed because almost every agreement contains a pay rise). Despite this level of detail, based on analysis of agreements across 500 variables, it has been suggested that most agreements are pedestrian in their approach to bargaining and workplace change and there is little evidence of improvements in the quality of employees' working life (ACIRRT 1997: 22). The award provisions that workplaces wish to alter the most are concerned with hours of work including eliminating higher rates of pay for working non-standard hours, 'annualising' hours to increase flexibility of work between peak and trough demand, and increasing the span of ordinary hours of work.

	1994/5	1996/7
Hours Arrangements	75.3	72.9
Training	28.6	46.3
Consultation	30.4	50.7
Performance Indicators	18.7	35.5
Health and Safety	19.5	39.1
Teamwork	8.7	11.1

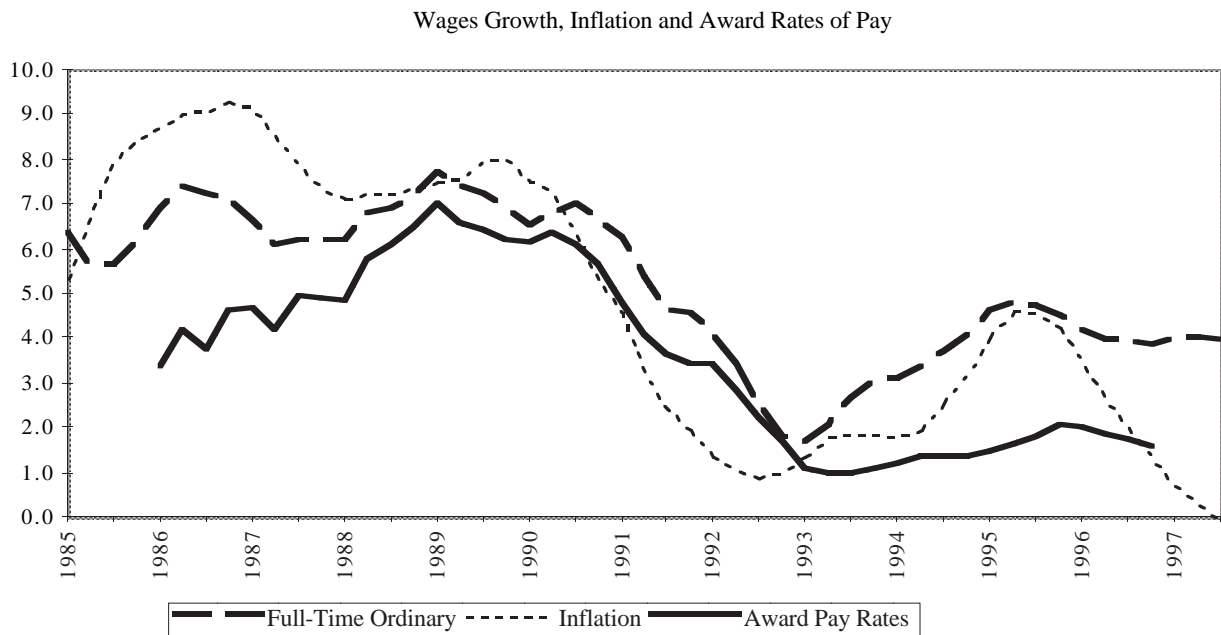
Source: J. Buchanan (1998), *Wages Policy: Where Next? Evening Briefing Seminar*, Australian Centre for Industrial Relations Research and Training/Corrs Chamber Westgarth, 3 June.

Table 19 Major Provisions in Certified Agreements (% of Agreements)

Pay Rises

At the end of 1997, wage rises obtained through enterprise bargaining were running at around 4.4% per annum and have fluctuated between 6.5% and 4.1% since the December quarter 1995 to the December quarter 1997. As expected within a decentralised system, there are variations by industry and enterprise. For example, the average wage rise in the public sector was almost a full percentage point below the average in the private sector. Mining, construction, manufacturing and transport and storage have had higher wages settlements than in the public sector and private sector services. Within industries, some agreements provide for wage rises well above average, but usually as a result of significant concessions by the workforce, such as flexible start and finish times in response to work volume variations (ACIRRT 1998: 8 - 10).

Figure 4 shows movements in wage rises since the mid 1980s. Full-time ordinary earnings includes earnings of all full-time workers excluding overtime. The award rates of pay index is calculated from increases in award rates as reported by State and Federal wage fixing tribunals. The chart shows that inflation is more volatile than movements in wages, and that wage rises lag movements in inflation. It also shows that in most of the Accord years, wage rises and award rates of were less than the rate of inflation. Over the 1990s, the gap between award rates of pay and growth in wages has widened which is evidence of the downgrading of the award system as the main vehicle of wage determination. It also supports the argument that workers who rely on the award system rather than enterprise bargaining (mostly amongst SMEs) are becoming increasingly worse off in relative terms.



Source: ABS (1994), Time Series Data, Labour Market Statistics, gopher://gopher.statistics.gov.au

Figure 5 Rates of Growth in Full-time Ordinary Earnings, Inflation and the Award Rates of Pay Index

Pay and Benefits in Practice in Small and Medium Size Enterprises (SMEs)

Regardless of the various forms of legislation over the twentieth century and the various policies of the AIRC, informal practices and unregistered agreements have always been a more important avenue of wage determination than the formal legal system as long as these agreements have not gone below the minima specified in the relevant awards. Many employees receive over-award pay. Further, the number of unregistered agreements is greater than registered. As is the case in many other countries, SMEs generally have less formal and legalistic work rules than large firms. There is a gap between specifications found in awards and written agreements and actual workplace practices, especially in SMEs. For example, AWIRS95 found that in workplaces which do not have specific employee entitlements for absences to care for family members, only 1 per cent of managers reported that there was no leave available for this purpose and employees reported that they use annual leave or unpaid leave for such absences (ACIRRT 1998). The approach to work rules is partly related to unionisation (unionised workplaces tend to have more formal and transparent approaches to employee relations and human resource management).

Despite the many legislative changes over the 1990s and calls for reform from employer associations, AWIRS95 shows that the award system was not a constraint for most employers. Indeed, there is evidence that employers support the award system as it protects them from unfair domestic competition and both employers and employees have a benchmark to judge the fairness of wages and conditions. Table 20 below shows employers' view of the award system in Australia in 1995. Only 9% of small businesses and 17% of private sector workplaces indicated dissatisfaction with the award system.

	Small Business	Private Sector Workplaces (>20 employees)
Strongly agree	24	16
Agree	52	44
Neither agree nor disagree	16	23
Disagree	8	13
Strongly disagree	1	4

Source: Morehead et al. Table 13.17, p.318

Table 20 Whether Management Thinks the Award System Worked Well in the Past (% of Workplaces)

Performance-Related Pay

Performance-related pay (PRP) may reduce the need for close supervision of employees or improve employee satisfaction but schemes are often bedevilled by difficulties in measuring performance and devising schemes that are perceived as equitable. AWIRS95 found that 33% of workplaces had some form of PRP which is 1% less than in 1990.

Larger, private-sector, non-unionised workplaces are more likely to have PRP. Only 12% of public-sector workplaces have some form of PRP. There are also variations by industry. PRP is rare in Education and Health and Community Services but quite common in Finance and Insurance. 79% of workplaces with PRP used individual performance as the basis of PRP, 32% used workgroup performance, 15% used workplace performance and 23% used organisational performance (a workplace may have more than one scheme in operation or may used different measures within a scheme) (Morehead et al. 1997: 220 - 221). Of workplaces that have PRP, only 16% have all employees receiving PRP; and 65% had less than half receiving PRP. Managers were the occupational group most likely to receive PRP. Men were more likely to receive PRP than women (24% to 15%) (Morehead et al., 1997: 269).

Performance appraisal or evaluation is often used as a basis for PRP. AWIRS95 found that 68% of workplaces carry out appraisals annually for at least some non-managerial employees compared with 61% in the 1990 survey. Most of the increase came from public sector workplaces including utilities. More than 90% of workplaces in the Finance and Insurance industry carry out performance appraisals. Work studies, job redesign and time studies were undertaken in the year to the survey in 48% of workplaces (Morehead et al. 1997: 104). Twenty percent of employees surveyed reported they received bonuses or incentives associated with job performance.

Variations in Pay and Equal Pay

Table 21 shows variations in pay and indicates that occupational group is a major determinant of relative pay levels. Employee characteristics are also influential. Young workers get paid less than older workers, and women get paid less than men. The pervasiveness of low pay for women still exists within occupational groups as well as between occupational groups. For example, 79% of male managers are located in the top quartile but only 58% of female managers are in this quartile. Para-professionals require more vocational and educational training than

trade occupations, but male tradespersons (19%) are more likely to be in the top earnings quartile than female para-professionals (16%). There are more female tradespersons in the bottom earnings quartiles (44%) than male labourers (42%) (Morehead et al., 1997: 268). The data from AWIRS95 shows that equal pay wage fixing principles first adopted in 1969 (and strengthened by legislation in 1993) are not overcoming bias against women and the traditional undervaluing of women's work. Full-time women workers in Australia receive on average 80% of male average pay rates. If pay rates for all employees are included, then women earn on average around two-third men's average wages. This is because women are more likely to be working part-time hours and they therefore have fewer financial resources and very different career opportunities to men. Nevertheless, there is a smaller gender gap in Australia than in countries which rely on more decentralised methods of wage fixation. The introduction of enterprise bargaining since 1991 and the failure of award rates of pay to keep up with pay rates in certified agreements has seen an end to women closing the gap on men in terms of pay (ABS 1994).

	First Quartile (low pay)	Second Quartile	Third Quartile	Fourth Quartile (high pay)
All Full-time Employees	20	30	26	25
Male	16	27	26	31
Female	26	36	25	13
15 - 20 years	81	17	3	0
21 - 29 years	24	42	23	10
30 - 39 years	14	28	28	30
40 - 49 years	16	24	28	33
50 + years	16	30	24	29
Managers	2	8	16	74
Professionals	2	12	38	49
Para-Professionals	5	20	43	31
Tradespersons	18	38	25	18
Clerks	20	50	26	4
Sales and personal S. W.	37	32	20	11
Plant & Machine Operators	25	35	20	20
Labourers & Related W.	49	35	11	5
Mining	3	5	11	81
Manufacturing	25	31	22	22
Utilities	8	38	33	21
Construction	18	40	23	19
Wholesale Trade	23	33	23	21
Retail Trade	46	33	9	12
Hospitality	34	41	18	7
Transport & Storage	14	37	28	22
Communication S.	11	34	26	28
Finance & Insurance	10	31	25	34
Property & Business S.	13	21	26	40
Gov't Admin.	14	38	30	17
Education	12	17	35	36
Health & Community S.	22	32	27	19
Cultural & Recreational S.	16	31	34	19
Personal & Other S.	16	21	36	27

Source: Morehead, A., Steele, M., Alexander, M., Stephen, K. and Duffin, L. 1997. *Changes at work: the 1995 Australian workplace industrial relations survey*: Table 12.3 and Table A12.1b. Melbourne: Addison Wesley Longman.

Note: Full-time employees are not evenly distributed across quartiles because the survey collected banded data; hence, the exact cut offs points were not calculated.

Table 21 Total Weekly Pay for Full-time Employees by Sex, Age and Occupation (% of Employees in each Quartile)

Overtime and Working Hours

	August 1993		August 1997	
	Persons	Males	Females	Persons
Fixed start and finish times	34	40	33	37
Entitled to a rostered day off	28	28	17	23
Worked overtime on a regular basis	33	40	25	34
Works shift work	14	15	13	14
Able to work extra hours to take time off	34	38	38	38
Usually works Monday to Friday	64	65	53	60

Source: ABS 6342.0 *Working Arrangements, Australia, August 1997*: Table 1. Canberra: Commonwealth of Australia.

Note: A 'rostered day off' refers to an arrangement where usually an employee works an extra 20 minutes per day in order to have a scheduled paid day off per month.

Table 22 Working Arrangements (% of Employees)

Table 22 shows that working arrangements are becoming more flexible and that many employees work overtime. For most workers, their employer determines working hours to suit the needs of the business. Of those full-time employees whose start and finish times were fixed, 81% had not negotiated their working hours with their employer. A lot of employers also achieve flexibility through employee working extra hours without pay. Overtime is regularly worked by 34% of employees. For the most recent period of overtime, 38% of employee were paid for extra hours, 35% were not paid and for 23% overtime is included in their salary package (ABS 6342.0).

Income, Benefitsd Payroll Taxation

Taxation arrangements increase the complexity of pay and benefits management and it is not unusual for specialists to be used in this area. Salary packaging (such as including a car or some other sort of benefit into total compensation to reduce taxation) is becoming more widespread. Superannuation and allowances are also becoming increasingly subject to regulation.

Income Taxation

The principal laws governing the raising and collection of income tax are the Income Tax Assessment Act 1936 and the Income Tax Assessment Act 1997. Under these statutes employers are required to deduct tax from salaries and wages paid (including bonuses and allowances) to employees and send it to the Australian Taxation Office (ATO). These deductions are known as 'pay-as-you-earn' (PAYE) tax deductions. At the end of the financial year (30 June) employers must provide each employee with a group certificate which contains details of the amounts deducted and paid to the ATO. All employees are, in turn, required to file an individual tax return to the ATO to determine if they are eligible for rebates or if they must pay additional tax.

The tax payable on taxable income is set out in Table 23 below:

Taxable Income	Tax
\$1 to \$5400	Nil
\$5401 to \$20 700	20 cents for each \$1 over \$5400
\$20 701 to \$38 000	\$3060 plus 34 cents for each \$1 over \$20 700
\$38 001 to \$50 000	\$8942 plus 43 cents for each \$1 over \$38 000
\$50 001 and over	\$14 102 plus 47 cents for each \$1 over \$50 000

Source - Australian Taxation Office (ATO), 1998a

Table 23 - Tax on Taxable Income for Resident for Full Year

Fringe Benefits Tax

Under the Fringe Benefits Tax Assessment Act 1986, employers are required to pay tax on the non-cash benefits they provide to their employees or their employees associates. Examples of such benefits include: providing a company car, assistance in non-employment costs such as rental accommodation, payment of children's school fees, cheap loans and subsidised meals.

Payroll Tax

All States and Territories have enacted their own laws to levy a tax on the payroll paid to employees in their jurisdiction. For example, in New South Wales the Pay-roll Tax Act 1971 requires employers to pay payroll tax at the rate of 6.85 per cent of the payroll (6.7 per cent from July 1999) to the Office of State Revenue, over and above a tax free threshold of \$600,000 in wages they are liable to pay each year Australia wide (Department of Workplace Relations and Small Business, 1998c).

Social Security

Australia has a well developed social security system delivering a wide range of services and benefits to individuals subject to various eligibility conditions and residential requirements under the Social Security Act 1991. Policy in this field is managed by the Department of Social Security while Centrelink, a federal statutory authority, administers the various services directly to social security recipients through its nationwide office network. The social security portfolio programs include: income security for the retired (see subsection on retirement pension and superannuation schemes below), income security for people with disabilities and the sick, income security for the unemployed, income security for families with children, a housing program, and special payments and services (Department of Social Security, 1998).

Under the program to provide income security for people with disabilities and the sick, the objective is to ensure that people with a disability, their carers and those temporarily incapacitated for work have adequate levels of income (<http://www.dss.gov.au/disabil/disabil.htm>). Included among a number of allowances and payments is the sickness allowance. The sickness allowance for the period 20 March 1998 - 20 June 1998 would provide an eligible single person, aged 21 years or over with a maximum basic rate of A\$321.50 per fortnight. Similarly, in the program providing income security for the unemployed, there is a range of allowances including: Newstart allowance, mature age allowance, partner allowance and youth training allowance. The first of these, the Newstart allowance, an unemployment benefit more widely referred as the 'dole', would provide the same maximum level of benefit given under the sickness allowance for an eligible single person aged 21 or over. As mentioned earlier, there are stringent eligibility and residential criteria to meet before such benefits are paid.

Age Pensions and Superannuation Schemes

Under its income security for the retired program, the federal Department of Social Security provides eligible persons that have reached age pension age, and pensioners' wives with income support. For men, the relevant age is 65 years and over; for women, it is 61 or over. The basic rates, from 1 July 1998 - 30 September 1998, are \$357.30 per fortnight for a single person; for a couple they are \$298.10 per fortnight for each member. Faced with an aging population, successive governments in Australia have since the early 1980s tightened the eligibility criteria for the age pension, particularly in terms of income and assets means testing. The underlying intention has been to reduce the financial and tax burden of government providing social welfare to this section of society. At the same time, the Australian Government has sought to ensure that retired people are still able to enjoy income security in their retirement years through the progressive introduction of occupational superannuation schemes through the Statutory Superannuation Guarantee. The Superannuation Guarantee (Administration) Act 1992 extends coverage to all employees (with some limited exceptions). It requires employers to make contributions at the nominated rate for their employees into a complying superannuation fund. These funds are preserved until the employee retires from work. For the 1998-99 financial year the rate of contribution is 7 per cent of ordinary earnings, increasing to 9 per cent by the 2002-2003 financial year and beyond. The Superannuation Guarantee complements any existing superannuation arrangements in that such arrangements will count towards meeting statutory requirements (Australian Taxation Office, 1997). In 1993-94, 91.5 per cent of employees were covered by statutory superannuation (Australian Bureau of Statistics, 1997).

Leave

There are a number of leave entitlements which for the majority of employees are set down in State or federal legislation, or in industrial awards and agreements. Some of the more significant leave entitlements are discussed below.

Annual Leave

Employees are usually entitled to four weeks' paid annual leave (20 working days for those who work a 5 day week) on completion of 12 months' continuous service. In New South Wales, for example, the Annual Holidays Act 1944 specifies the minimum entitlement in line with the above norm. In Tasmania there is no statutory entitlement to annual leave; in that State the right to annual leave is to be award or contractually based.

Long Service Leave

Long service leave is paid entitlement over above annual leave and is intended to reward employees for long and continuous service with a single employer. Generally, employees are entitled to 13 weeks' paid leave after 15 years' service, although South Australia, Northern Territory and various industrial awards provide more generous entitlements. In New South Wales, the Long Service Leave Act 1955 provides that after 10 years of service a worker is entitled to two months' paid leave for 10 years of service and an additional month's leave for each subsequent five years of service. Other States and territories have similar legislative provision.

Public Holidays

Public holidays are usually gazetted by the government in the various States. They are also a paid entitlement for employees. The standard public holidays in Australia are: New Years' Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, and Boxing Day. Some states have additional local paid public holidays eg. Melbourne Cup Day in Victoria.

Sick Leave and Family Leave

Paid sick leave entitlement is commonly found written into industrial awards and agreements often underpinned by State legislation. For example, in Queensland, the Industrial Relations Act 1990 provides employees in that state with a minimum of one week of paid sick leave for each year of service. In Western Australia, the Minimum Conditions Of Employment Act 1993 provides workers with a minimum entitlement of 10 working days or 80 hours' paid sick leave, whichever is less. Also, in this State, there is no right to accrue such leave.

In recent years there has been an increased adoption of paid family/carer leave within awards which, in drawing upon aggregated sick leave and bereavement leave entitlements, allows employees more flexibility in using such leave to look after members of the family.

Parental Leave

Under the federal Workplace Relations Act 1996 the minimum maternity, paternity and adoption leave entitlement for parents is up to 52 weeks' unpaid leave, on completion of 12 months' continuous employment. Most States have legislated for parental leave broadly in line with the federal Act. There are a number of conditions that surround such entitlements including: provision of notice to take such leave and the right of the employee to return to his/her former position on completion of parental leave or the nearest equivalent if the former position is not available.

Workers' Compensation

In Australia there is workers' compensation legislation in each State and Territory, and covering Commonwealth employees. Under this legislation, a 'worker' (or if the worker dies, the worker's dependents) may recover limited no fault compensation for injuries 'arising out of or in the course of employment', work related disease and also for accidents occurring on specified journeys including journeys between the place of employment and the worker's home (Macken, O'Grady and Sapideen, 1997:127). All employers are required to take out insurance to cover their liability for workers' compensation. In some situations, employers may be able to self insure. The insurance premiums paid by employers vary according to industry (the more hazardous the industry, the higher the premium) and the employer's prior claims experience. Employees, whose workers' compensation claims are accepted, are entitled to payment in lieu of wages/salary they would have received, and to have their medical, hospital and related expenses covered.

In 1993-94, workers' compensation amounted to 1.8% of total labour costs (Australian Bureau of Statistics, 1997). Considered by governments, employers and unions to represent unacceptable social and economic costs, much effort has been directed at preventing occupational injury and disease, and where it does arise, mitigation attempts through rehabilitation are increasingly emphasised. Despite these efforts, in 1995-96, the total financial costs of work-related injury and disease was estimated at A\$27 billion. A\$5 billion was the estimated cost of workers' compensation premiums to employers and A\$2 billion in lost productivity; the balance was carried by employees, their families and society. Further, more than 8.9 million working days were lost during this period. (National Occupational Health and Safety Commission, 1998b).

Other Benefits

In addition to the statutory entitlements discussed above, many employees (particularly those in the private sector) are provided with a range of benefits by their employer. Examples include staff discounts for proprietary goods and services, superannuation benefits above the statutory limits, medical allowances, company credit cards, private medical insurance, subsidised housing, pre-paid holidays and company cars. Typically, the range of benefits widens the higher the position held by the employee. A number of firms also give their employees flexibility in selecting their preferred benefits as part of their salary packages. Such benefits are often subject to fringe benefits tax (see above), which is borne by the employer.

Employee Relations

Overview

An employee relations system consists of wage determination and dispute resolution processes and institutions plus collective representative bodies (trade unions and employer associations). Wage determination and legal aspects were described in previous sections. Up to the end of the 1980s, Australia has had a relatively centralised system with substantial government intervention in the form of tribunals and awards, and with unions rather than employees having rights of access to tribunals and as parties to awards and agreements. Nevertheless, the 1990s have also seen a significant transition away from the predominant arbitral model introduced with the Conciliation and Arbitration Act 1904 (Gardner and Palmer 1997: 44).

Justice Higgins, the first Federal arbiter, saw arbitration as ‘a new province for law and order’ to replace the ‘rude and barbarous processes of strike and lock-out... all in the interest of the public’ (Higgins 1922 in Gardner and Palmer 1997: 16). As suggested by this quote, tribunals are primarily dispute-settling bodies. It also meant that strikes and lock-outs were illegal as all disputes were meant to be arbitrated in the interests of law and order. The 1904 legislation provided for penalties against industrial action although these were rarely used despite the fact that at various times over the last century, Australia was relatively strike prone by international standards. The conciliated or arbitrated resolution of disputes are codified into awards which set the terms and conditions of employment for particular occupations and industries (though not all dispute settlements result in award variations). The Commission’s wage determination powers arise from its dispute settling duties.

Employer Associations

The great majority of Australia’s employers are members of employer associations. Membership has been encouraged by the arbitration system through the Australian Industrial Relations Commission’s (AIRC) preference for dealing with groups of employees and groups of employers. Further, award responsiveness (that is, the application of particular sets of conditions for industries or occupations as contained in awards) rests with employer associations registered in accordance with the relevant legislation as well as with individual employers. More practically, membership is encouraged by the complexity of Australia’s system. Employers need the services and expertise of an employer association to stay up to date with changes in laws and awards, as well as assistance with negotiations with trade unions and more recently with preparing individual contracts. Table 24 shows workplace membership of employer associations by size of workplace and union status and Table 25 shows the range of services provided by these associations to their members.

Private Sector Workplaces		74
By workplace size	5 - 19	68
	20 - 49	70
	50 - 99	79
	100 - 199	73
	>200	87
Union Presence	Non-unionised workplaces	73
	Unionised workplaces	74
Public Sector Workplaces		31
All Workplaces		62

Source: Morehead et al. (1997), *Changes at Work: the 1995 Australian Workplaces Industrial Relations Survey*, Addison Wesley Longman: Melbourne.

Table 24 Membership of Employer Associations (% of Workplaces)

The data in Table 25, showing that the main service utilised by members is provision of information on awards and pay rates, suggests that the day to day informational role of associations is more important to members than their industrial or political role. However, employer associations have had substantial influence over the design of the new, more decentralised employee relations approach and the hurdles raised for union organising within the Workplace Relations Act 1996.

Advice on award rates of pay	69
Representation in negotiations with unions	30
Advising management when negotiating with unions	28
Advising management when negotiating directly with employees	27
Preparing Model Contracts	18
Representing workplace before industrial tribunals	25
Information on award standards and variations	62
Advice on dismissals	52
Provision of employee relations training	26
Updates on employee relations changes	27
Advice on equal employment opportunity and affirmative action	22
Advice on occupational health and safety	41
Legal advice	32
None of the above	10

Source: Morehead et al. (1997), *Changes at Work: the 1995 Australian Workplaces Industrial Relations Survey*, Addison Wesley Longman: Melbourne.

Table 25 Employer Association Services Used by Members (% of Workplaces)

Recent developments match the emphasis of reforms pushed by the Business Council of Australia (BCA) from the late 1980s (Dabscheck 1995; Bennett 1994).

Unlike the union movement, employers have more than one national peak body, and associations combine and federate at local, regional, State and national levels. Perhaps the body with the widest representation is the Australian Chamber of Commerce and Industry (ACCI). Employer associations from each State are affiliated with the ACCI as are a number of industry associations. The ACCI represents over 350,000 small, medium and large businesses through its network. The Australian Business Chamber is affiliated to the ACCI. It operates in two States but has affiliations with equivalent bodies in every State. In NSW, it has around 3,500 member companies and has 9 regional offices. It bills itself as a business improvement

resource as well as carrying out industrial relations functions (Australian Business Chamber 1998). The BCA, referred to above, consists of the Chief Executive Officers of Australia's largest public companies. Whilst it has been a key player in shaping Australia's system of employee relations, its focus extends beyond employee relations to industry policy, tax issues and the relationship between government and business. The Metal Trades Industry Association (MTIA) (covering mostly metal manufacturing firms) has also played an important role in the shift from centralised wage determination to enterprise bargaining, but unlike the BCA, the MTIA has taken a more collectivist approach. It has participated in industry-level bargaining over the wages and conditions that are codified into enterprise bargaining agreements and issues such as creating new training and classification clauses in the Metal Trades Industry Award. More recently, it actively opposed multi-employer bargaining (Gardner and Palmer 1997: 143 - 144).

These peak employer associations represent their members during arbitration hearings including National Wage Cases which determine movements in the 'safety net' of minimum wages and conditions. Regional or industry-level associations may also participate in conciliation and arbitration hearings to resolve industrial disputes involving one or a number of their members as well as assisting members with union negotiations at the enterprise or workplace level.

Trade Unions

The Australian union movement is relatively strong and unions are regarded by most as having a legitimate role in Australian society. The union movement is associated with, but independent from, the Australian Labor Party (ALP). The relationship between the 'industrial' and 'political' wings of the labour movement has not always been smooth. From 1983 until 1996, when the ALP held Federal government, the unions entered into a series of written agreements with the government referred to as the Accord. The Accord may have given the union movement more influence over the Federal government but many argue that the direction of influence was in the opposite direction and that the cooperative approach was to the unions' detriment. Critics point to the loss of union members over this period and the worsening in wages and conditions at least for some workers and work intensification for most workers. Given the significant economic and labour market restructuring occurring over this period including the recession in the early 1990s, it is a difficult argument to assess.

With the change in government in 1996, the political and legislative climate for unions has also changed. The government argues that individual employees should have the right to negotiate with their employers without 'third party intervention'. Further, unions no longer have the right to participate in the scrutiny of non-union agreements and have no right to be respondent to Australian Workplace Agreements even if agreements covers union members.

Union membership figures listed in Table 26 show the strength of Australia's union movement over the last half of the twentieth century but also that employees join unions at a lower rate than employers join employer associations. The data also shows the decline in union membership in recent years. Membership has fallen steadily, particularly in the private sector, and in some industries, occupations and types of work, unions have been unable to organise workers; for example, only 14% of casual workers are union members and this category of employment has been growing much more rapidly than permanent employment (ABS Yearbook 1997: 141).

Year	Total Union Membership ('000s persons)	Male Union Density (%)	Female Union Density (%)	Total Union Density (%)
1946	1284.3	56	37	51
1956	1811.4	66	42	59
1966	2123.5	60	40	54
1976*	2800.0	56	43	51
1986	3186.2	50	39	46
1990	3053.2	45	35	41
1992	2822.6	43	35	40
1994	2524.0	38	31	35
1996*	2194.0	34	28	31

** Union density refers to the percentage of the labour force that belong to unions.

* From 1976, union density percentages, and from 1996 total membership, are calculated from surveys of individuals rather than union membership records.

Source: Gardner, M. and Palmer, G. (1997), *Employment Relations: Industrial Relations and Human Resource Management in Australia*, Second Edition, Macmillan, Melbourne.

Table 26 Trade Union Membership and Density**

The figures above are drawn from general labour force surveys but more information about unionisation in workplaces is available from AWIRS95 (based on workplaces with more than 20 employees). A 'unionised workplace' is defined as having at least one union member present. As shown in Table 27, most employees work in unionised workplaces. However, only around 51% of employees in workplaces with more than 20 employees are union members.

The data shows that SMEs are much less likely to be unionised than large workplaces. Whilst 64% of all private sector workplaces are unionised, only 17% of small businesses (5 - 19 employees) are unionised (Morehead et al. 1997: 140 - 141, 319). Looking at employees (rather than workplaces), AWIRS95 reports that men are more likely to be members than women (53% to 46%). Blue-collar workers are more likely to be unionised than white-collar workers (outside of the public sector) but para-professionals also have high union membership. In some unionised workplaces, a closed shop exists. A closed shop is where all workers are required to be union members. In workplaces with more than 20 employees, 32% of union members believed that they had to belong to a union to do their job. Compulsory union membership may be conceded by employers and implemented through union-management agreements at the industry or workplace level even though such arrangements are prohibited under the Workplace Relations Act 1996. Closed shops are most common in construction, wholesale trade, mining, transport and storage and manufacturing (Morehead et al. 1997: 152).

The fall in membership in recent years constitutes a crisis for unions. Researchers have identified a number of reasons for declining union membership. In a review of research on this issue, Griffin and Svensen (1996) conclude that a variety of factors are working in combination to reduce union density. For example, some of the decline can be accounted for by the shift of employment towards the services sector. However, declines have also occurred within particular industries such as manufacturing and utilities.

		No Union at Workplace	Work in Unionised Workplace
All Workplaces		14	85
Workplace Size	20 - 49	35	67
(no. of employees)	50 - 99	22	79
	100 - 199	12	87
	200 - 499	7	93
	500+	2	98
Sector	Public	21	79
	Private	1	99
Industry	Mining	19	81
	Manufacturing	13	87
	Utilities	0	100
	Construction	16	85
	Wholesale Trade	50	51
	Retail Trade	25	75
	Hospitality	25	75
	Transport & Storage	10	90
	Communication	1	99
	Finance & Insurance	21	78
	Property & Business S.	43	58
	Government Administration	0	100
	Education	2	97
	Health & Community S.	2	98
	Cultural & Recreation S.	18	82
	Personal & Other S.	11	89

Source: Morehead, A., Steele, M., Alexander, M., Stephen, K. and Duffin, L. (1997), *Changes at Work: The 1995 Australian Workplace Industrial Relations Survey*, Melbourne: Addison Wesley Longman, Table 7.1b, p.467

Note. The columns do not add to 100% because 'don't know' responses have been excluded.

Table 27 Union Presence at Workplaces
(% of Employees, Workplaces with more than 20 Employees)

Other factors considered include: changing occupational patterns; declining firm size; persistently high unemployment; insufficient attention to recruitment drives; a lack of union activity at the workplace level; and growth in atypical employment. Some managers hold that the reduction in union membership may be associated with improvements in the management of employee relations associated with employee participation, information sharing and a recognition of the value of employees' contributions. There have also been examples, most notably in the mining industry, of employers pursuing what they call a 'direct relationship' with their employees through individual contracts (offering significant wage rises) in place of union-negotiated collective agreements.

Recently, unions have devoted more time and resources to recruitment and are adopting more innovative approaches to providing services. In a strategy and planning conference involving the participation of many union officials in 1995, a model of union strength was developed: a small number of well-led national unions, one united national trade union centre, strong activist membership base and democratic semi-autonomous workplace organisation (Evatt Foundation, 1995: v). AWIRS95 found that unions have had some success in increasing union activity at the workplace level albeit in the context of falling membership overall. In 1990, 66% of unionised workplaces had a union delegate rising to 70% in 1995. Workplaces with a delegate were more likely to maintain or increase union membership (Morehead et al. 1997: 140, 142). However, union recruitment drives occurred in only 35% of workplaces and these drives were more likely to be in unionised workplaces than non-unionised workplaces (Morehead et al. 1997: 144 - 145).

In 1990, there were 295 registered unions (ABS 6323.0), all allocated jurisdiction over particular kinds of work. From 1990, unions went through an amalgamation process led by the peak body, the Australian Council of Trade Unions (ACTU). The Federal Government and employers

supported the amalgamations as a way of improving workplace productivity by reducing the range of unions an employer had to negotiate with, and by reducing demarcations between unions. The original design was to move to 20 industry super-unions. The pattern of amalgamations that resulted following negotiations between unions and membership elections did not completely result in one union per industry, but has significantly reduced the number of unions in each workplace. In 1995, there was an average of 2.0 unions per unionised workplace compared with 2.5 in 1990. In large workplaces (more than 500 employees), there was an average of 3.8 unions per workplace in 1995 compared with 6.3 in 1990 (Morehead et al. 1997: 147). There are now around 142 unions operating nationally or in a particular State. They vary greatly in size with 108 unions having fewer than 10,000 members and only 11 with more than 100,000 members. Nevertheless, 68% of union members belong to these large unions and only 6% belong to small unions (ABS 6323.0). Australia's largest union is the Community and Public Sector Union with around 270,000 members.

Unions operate at a number of levels from the workplace through to the international level. Delegates (shop stewards) are active at the workplace level. They are employees of the workplace and are elected by workplace union members. Each union will have its own delegate or delegates. The delegate acts as the conduit for information from management and the union to members, ensures that terms and conditions comply with awards and agreements, negotiates working conditions (such as health and safety) and negotiates informal agreements and formal enterprise bargaining agreements to determine wages and conditions. The delegate normally represents individual workers in any grievance procedure or disciplinary hearing or brings in a full-time union organiser to deal with more difficult issues. Delegates spend most time on handling communications between the union office and members, handling individual grievances, handling queries about award conditions, and negotiating agreements are the activities (Morehead et al. 1997: 167).

Union organisers are paid employees of the union (in some unions these positions are elected). They visit workplaces to recruit new members, to support union delegates, to negotiate formal and informal agreements, and to solve particular disputes at the workplace or in tribunal hearings. Unions also employ industrial and research officers to deal with issues or disputes that affect many of their members. Table 28 reports on the activities undertaken by union organisers.

	Always Involved	Sometimes Involved	Occasionally Involved	Never Involved
Issue:-				
Interpretation of an award	32	26	28	15
Interpretation of an existing workplace agreement	31	26	25	18
Negotiation of a workplace agreement	47	15	19	19
Pay rates	26	16	34	24
Dismissals	32	14	22	33
Redundancies	32	11	20	37
Rosters or shift arrangements	8	14	26	52
Overtime	7	14	26	53

Source: Morehead, A., Steele, M., Alexander, M., Stephen, K. and Duffin, L. (1997), *Changes at Work: The 1995 Australian Workplace Industrial Relations Survey*, Melbourne: Addison Wesley Longman, Table 8.7, p.173

**Table 28 Frequency with which Union Organisers become Involved in Discussions about Different Issues at the Workplace
(% of Workplaces with Delegates)**

Union governance comes from an elected Executive, which may contain delegates, organisers and industrial officers as well as ordinary members. The Executive determines policy and oversees the running of the union (like a Board of Directors) but most control resides with the

Secretary of each union (equivalent to a CEO). The positions Secretary and President are also elected. Unions consist of Branches which are usually represented in each State any may also have regional offices. These Branches may federate to create a national office of the union, with a National Secretary and national industrial officers, but the majority of activity and control remains with the Branches. Legally, State branches are autonomous bodies. National offices represent unions in the Federal tribunal system on matters such as award variations which affect members in more than one state, and also represent the union within the Australian Council of Trade Unions (ACTU).

The ACTU, established in 1927, represents unions in major Federal tribunal hearings, such as National Wage Cases and test cases, negotiates with the government on employee relations legislation and policy, represents the view of members in policy development on, for example, social security and industry policy, and advises and coordinates industrial disputes (particularly when more than one union is involved). The ACTU also represents Australia in national bodies such as the ILO and is a part of the international union movement. There are also peak union bodies in each State and region which carry out the same sorts of activities at a lower level.

Table 29 shows that employee attitudes to unions are more positive than would be suggested by the rate of decline in union membership in Australia with only 33% of employees in workplaces with more than 20 employees reporting that they prefer not to be a union member (Morehead et al. 1997: 153).

	Agree	Neither Agree Nor Disagree	Disagree	Don't Know
<i>% of Union Members</i>				
Union here do a good job improving members' pay and conditions	37	34	22	7
Union here take notice of members' problems and complaints	46	28	17	9
Union here give members a say in how the union operates	28	32	24	16
Unions here do a good job representing members when dealing with management	40	29	17	14
Management unions at this workplace do their best to get on with each other	40	28	15	18
Overall I am satisfied with the service unions here provide to members	42	31	20	7
<i>% of all employees</i>				
If I were totally free to choose, I would rather be in a union than not in one				
- All employees	38	21	33	9
- Union member	61	19	15	5
- Ex-union member	17	23	55	5
- Never union member	14	23	50	13
If you want to get on at this workplace, it isn't a good idea to be in a union	9	27	48	16

Source: Morehead, A., Steele, M., Alexander, M., Stephen, K. and Duffin, L. (1997), *Changes at Work: The 1995 Australian Workplace Industrial Relations Survey*, Melbourne: Addison Wesley Longman, Table 7.10, p.155

Table 29 Employee Attitudes to Trade Union Activities and Membership

Federal Regulatory Structures

The other 'actor' in the Australian industrial relations system is the government, as represented by various agencies and tribunals. As discussed in previous sections, there are five bodies that regulate the Federal industrial relations system: the Australian Industrial Relations Commission

(AIRC); the Australian Industrial Registry (AIR); the Federal Court of Australia; the Department of Workplace Relations and Small Business; and the Office of the Employment Advocate. This structure is replicated in most of the States (apart from Victoria) with some variations.

The AIRC is a specialist industrial relations tribunal established in 1904. It facilitates agreements between employer and employees and/or unions, it manages the award system and the 'safety net' of minimum wages and conditions; and it conciliates to settle industrial disputes or arbitrates (on matters limited in scope by the Workplace Relations Act 1996) once conciliation is exhausted. The AIRC also has responsibility for equal pay for equal work, unfair dismissal claims and the operations of registered bodies (trade unions and employer associations). The AIRC is an influential body and is independent from the government and from the parties which it regulates. Commissioners are appointed based on their experience in industrial relations but positions above this level (the President and Deputy Presidents) require legal qualifications as well as industrial relations experience and have the same status and independence as judges of the Federal Court. Most matters are dealt with by sittings of single Commissioners but more important matters, such as national wage cases or 'test' cases on particular award clauses, are dealt with by Full Bench hearings (with more than three Presidential members). Decisions by the AIRC are legally binding. (AIR 1997a).

The AIR is the administrative arm of the AIRC. It maintains records, publishes decisions and awards, oversees the registration of unions and employer associations, and ensures that unions and employer associations operate in accordance with the Workplace Relations Act and their own rules of operations. Once registered, unions and employer associations are 'body corporates' and have specific rights and obligations. Non-compliance with legislation or with AIRC decisions can lead to deregistration which means a loss of representation rights and award responsiveness.

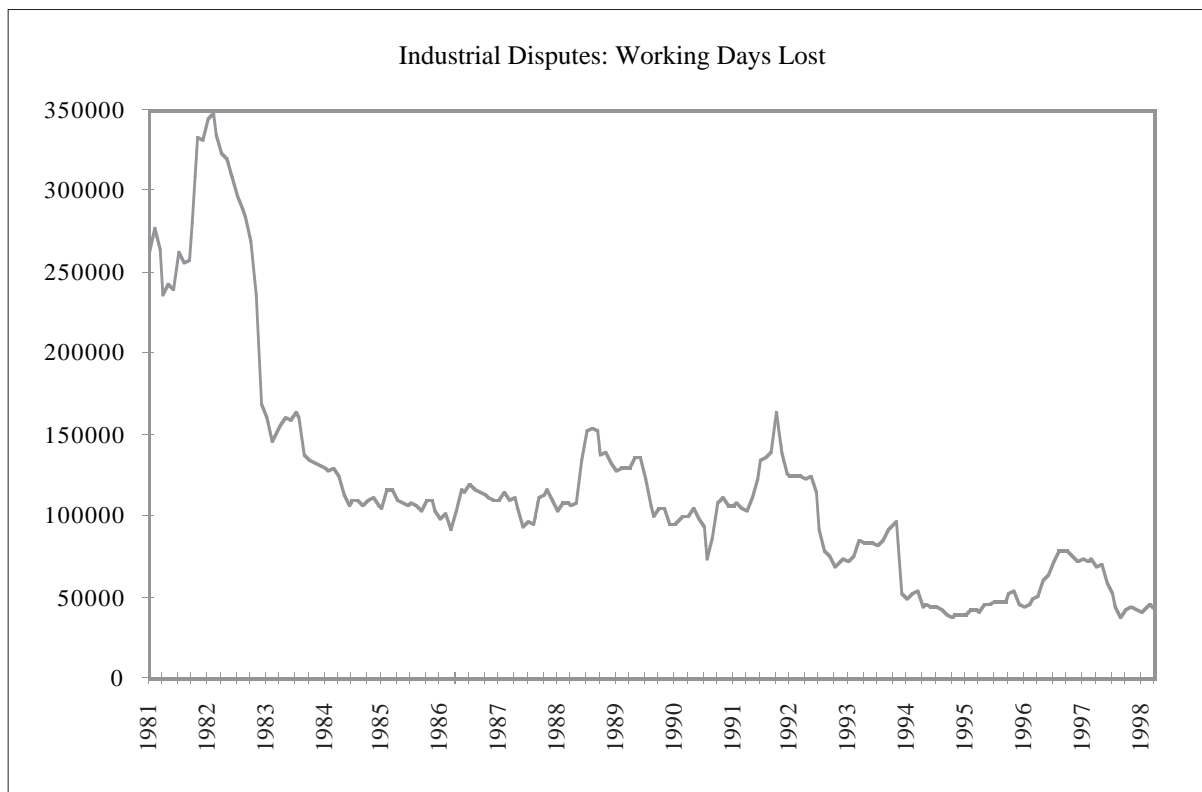
The Federal Court of Australia carries out the judicial functions arising from the Workplace Relations Act and other aspects of the industrial relations system, such as the interpretation of awards and penalties for non-compliance with legislation or AIRC decisions. The fourth federal regulatory body is the Department of Workplace Relations and Small Business (formerly the Department of Industrial Relations). The Department provides advice to employers and employees on the application of awards and their rights and obligations. It also runs an inspectorate to ensure observance of awards, agreements and legislation or investigation and prosecution of breaches (AIR 1997a). The Department also provides information to the government and is responsible for research and reports such as AWIRS95 often referred to in this Profile.

The Office of the Employment Advocate is the newest piece of the regulatory framework established in 1997. The Employment Advocate has the role of providing assistance and advice to employers and employees (especially SMEs) on the WRA and Australian Workplace Agreements. The Employment Advocate is responsible for approving, registering and enforcing Australian Workplace Agreements while the AIRC undertakes this role for other forms of certified agreements (AIR 1997a).

Employee Relations Indicators

Industrial Disputes

In the early 1980s, there were almost 4,000 disputes per year. Since then, disputation has fallen steadily and in 1995, there were 643 disputes (ABS 1997: 138). Figure 6 shows declining trends in industrial disputes since the early 1980s.



Source: ABS (1994), Time Series Data, Labour Market Statistics, gopher://gopher.statistics.gov.au

Figure 6 Working Days Lost to Industrial Disputes, 1981 - 1998

Stop work meetings are more common than strikes and overtime and other types of bans are significant forms of industrial action. AWIRS95 found that 22% of workplaces experienced some form of industrial action in the year prior to the survey and that 10% of workplaces experienced strikes. Strikes were most common in mining, education and transport and storage and on the whole the public sector is three times as dispute prone as the private sector. The public to private sector difference is partly related to larger workplaces being more likely to have experienced some form of industrial action than smaller workplaces. 68% of workplaces surveyed reported that they had never experienced any industrial action (Morehead et al. 1997: 77 - 78, 421, 615).

In comparison to other industrialised countries, Australia is a medium-to-high dispute prone country (Ross, Bamber and Whitehouse 1998). In contrast to most of the post-war period, the number of disputes is not currently regarded as a significant problem. Data on disputes and working days lost (WDL) are collected by the Australian Bureau of Statistics. A dispute is counted if it involves the loss of more than 10 working days (for example, 10 workers on strike or locked out for 1 day or 20 workers who stop work for half a day) at a particular workplace.

WDLs include days not worked by workers directly or indirectly involved in disputes in strike-affected organisations. In 1995, there were 643 strikes or lockouts, affecting 344,300 employees with 547,600 WDL (ABS 1997: 138). Most strikes are short in duration; around 55% last one day or less and just over 1% last for more than 20 days (Fox, Howard and Pittard 1995: 53). There are substantial variations between industries in terms of WDL. For example, coal mining experienced 4,660 WDL per 1,000 employees in 1995 compared with only an average of 79 WDL per 1,000 employees in all industries. Private sector service workplaces rarely experience stoppages (ABS 1997: 138 - 139).

The reduction in disputes has been attributed to the Accord agreement between the Federal government and the union movement between 1983 and 1996. However, difficult economic circumstances, a decline in union membership and the introduction in 1996 of harsher penalties against strikes and secondary boycotts (associated with picketing) means that it is unlikely that disputation will rise even though the Accord is finished. Stoppages associated with enterprise bargaining are legal if they occur within the specified bargaining period and after providing 72 hours' notice to the other party. The AIRC may end a bargaining period and encourage a conciliated settlement but can only arbitrate on matters associated with the allowable award matters and the safety-net. Legislative changes in 1993 and 1996 reduced the dispute-settling powers of the AIRC in order to encourage decentralised bargaining. Restricted access to specialist, tribunal based, third-party dispute resolution will require new approaches to dispute handling by employers and unions. The bitter waterfront dispute in 1998 (from April to August) between the Maritime Union of Australia and Patricks Stevedores is an example. Arguing that union intransigence was hindering productivity improvement, the employer locked out the workforce. The dispute had to be resolved through the parties taking legal action against each other (and the government) in the Federal Court. Resolution was drawn out, legalistic and expensive, and there are still questions over the quality of the final agreement between the parties.

Voluntary Turnover and Dismissals

Of the 8.2 million people working in February 1996, 77% had been in their job for the year prior to the survey; 15% had changed jobs (changed their employer, industry and/or occupation); and 9% joined or re-joined the workforce. 24% of persons employed had been employed for less than one year (ABS 6209.0). Table 31 shows reasons for job mobility.

Job Losers	41%	
Retrenched		57%
Job ended (temporary or seasonal)		33%
Own ill health or injury		10%
Job Leavers	59%	
Unsatisfactory work conditions		20%
Job ended and returned to study		6%
Retired, Found Better Job or Family Reasons		74%

Source: ABS 6209.0, Labour Mobility Australia, Year ended February 1996, Canberra: Commonwealth of Australia, Table 9.

**Table 31 Reasons for Ceasing a Job During the Year to February 1996
(% of Persons Ceasing a Job Excluding Employees
who Changed Locality only)**

Both retrenchments and job leavings due to unsatisfactory work conditions were lower in 1996 in comparison with the results of the 1992 and 1994 labour mobility surveys.

AWIRS95 investigated voluntary turnover from the workplace perspective. The number of resignations over the number of permanent full-time and part-time employees is calculated to produce the turnover rate. In 1995, the rate was 19% for workplaces with 20 or more employees compared with 29% in 1990. There are variations between workplaces. In education, the turnover rate is only 4% compared with 35% in hospitality and 34% in retail trade (Morehead et al. 1997: 71).

Employee job loss may be the result of retrenchment (when work is no longer available due to insufficient demand or workplace restructuring) or it may be a dismissal associated with an employer being dissatisfied with an employee's performance. In the year prior to the AWIRS95 survey, the average annual dismissal rate was 2.1% compared with 4.4% in 1990. 60% of workplaces covered in the 1995 survey had no dismissals in the year to the survey (Morehead et al. 1997: 73). Larger workplaces have a lower dismissal rate but are likely to have dismissed at least one employee in any one year. Dismissal rates are higher in the private sector than the public sector, and are highest in hospitality (5.9%) and retail trade (4.5%) and lowest in education (0.1%) (Morehead et al. 1997: 418). Dismissal rates were lower in workplaces which were unionised with a union delegate present (1.2%) compared with non-unionised workplaces (3.8%) even once size and sector were taken into account (Morehead et al. 1997: 74, 418). The decline in dismissals between 1990 and 1995 may be associated with the introduction of unfair dismissal legislation in the Federal jurisdiction which was accompanied by substantial publicity and controversy even though unfair dismissal protection has been available in State jurisdictions for many years.

Absence from Work

In workplaces with 20 or more employees, around 2.7% of employees per day will be on an unapproved or unplanned absence including sick leave. About 20% of workplaces have more severe absenteeism with more than 4% of employees absent on any one day. Absenteeism rises with workplace size from 2.4% absenteeism in workplaces with 20 - 49 employees compared with 3.5% in workplaces with 200 - 499 employees. By industry, utilities, transport and storage and communication services have the highest rates of absenteeism, and on the whole the public sector has an absenteeism rate of 3.0% per day compared with 2.6% for the private sector (Morehead et al. 1997: 417).

The usefulness of absenteeism and turnover data as indicators of the quality of workplace relations or the working conditions from a national perspective is limited. For example, public sector absenteeism is higher than the private sector but turnover rates in the public sector are much lower. Further, turnover rates appear to be strongly linked to external labour market conditions, and absenteeism rates are linked with whether employees are paid for unplanned absences and custom and practice on the acceptability of taking a 'sickie' within an industry or workplace.

Accident and Illness Rates

Worksafe Australia estimates that there are 2,900 work-related deaths in Australia each year; 430 are accident fatalities and the remainder are attributable to work-related diseases, primarily occupational cancer. The rate of work related deaths is one and one-half times the number of deaths from car accidents. Further, one in twelve workers (around 650,000 people) suffer an

injury or illness per year and 170,000 of these injuries or illnesses are of sufficient severity to require the employee to be away from work for five or more days (Worksafe Media Release, 1996). According to AWIRS95, 17% of employees in workplaces with 20 or more employees had experienced one or more work-related injuries or illnesses in the year prior to the survey. Dislocations, strains and sprains were the most common injury, followed by stress, bruising/ crushing and open wounds. The average number of days off work for an employee's injury or illness was 7.3, and 35% received workers' compensation. Whilst stress was the second-highest reported injury or illness reported, only 10% of workers' reporting stress received workers' compensation (Morehead et al. 1997: 123 - 128). Worksafe estimates that the total cost of OHS per year is \$27 billion and 8.9 million working days lost (1.3 days per employee). Worksafe put this statistic into context by noting that only 0.1 days per employee are lost due to industrial disputes (Worksafe Media Release 1996).

AWIRS95 found that 82% of workplaces have a written occupational health and safety policy and 25% of workplaces have a manager with OHS in his or her job title. Larger workplaces are more likely to have a written policy than smaller workplaces. There appears to be a relationship between unionisation and having a written OHS policy with 90% of unionised workplaces having such a policy compared with 59% of non-unionised workplaces. 70% of workplaces have either an OHS committee or elected employee representatives.

Management of Employee Relations

AWIRS95 suggests that the management of employee relations is becoming more structured and formal, as shown in Table 32.

	1990	1995
Disciplinary procedure	73	92
Formal monitoring of employees	42	46
Frequently used grievance procedure	42	47
Training for Supervisors	39	72
Joint Consultative Committee	14	33
OHS Committee	41	43
EEO/AA Policy	58	67

Source: Morehead et al., Table 14.1, p.325

**Table 32 Structured Management Indicators, 1990 and 1995
(% of Workplaces with more than 20 Employees)**

A number of these aspects of management are associated with legislation. For example, employers are liable to be open to unfair dismissal claims and discrimination claims if they do not have procedures in place. The use of grievance procedures is encouraged by industrial relations legislation specifying that they must be used in awards. The decentralisation of industrial relations may also be associated with a more structured approach to management. Rather than relying on centrally determined awards, enterprise or workplaces increasingly make their own arrangements, and therefore require more infrastructure at the enterprise or workplace level. Regardless of the source of such practices, the data indicates that employee relations is becoming more sophisticated.

Employee Relations in SMEs

SMEs differ in a number of respects from larger businesses on industrial relations indicators. They are less likely to be unionised and they are more likely to be located in private-sector services. Small businesses are also more likely to employ workers on a casual basis. They are

more likely to recruit new employees through word-of-mouth, tend to rely less on standard procedure for discipline and grievances, train less, and are more likely to have individualised over-award and are much less likely to have a verbal or written collective agreement. Small businesses also feel that they are unable to make efficiency changes. AWIRS95 found that financial/economic factors are the most significant constraint on small business (39% of small businesses compared with 32% of private sector workplaces with 20 or more employees), and then management, head office or government policy was the next most reported constraint. Small business face less employee/union resistance to making changes (7% to 17%) but feel that unfair dismissal laws prevent them from making efficiency changes more so than larger business (10% to 2%) (Morehead et al. 1997: 313). Employees in small businesses are also much less likely to be covered by awards or registered agreements. Only 16% of employees in larger private sector workplaces are award or agreement-free compared with 26% of small business employees. This may in part relate to small business employers being unaware of the application of State awards to their workplaces. On the other side of the coin, small businesses are more likely to pay for overtime worked and to pay over-award rates of pay, which is associated with their greater reliance on the award system for pay determination. Only 19% of small business have collective verbal agreements and 10% have collective written agreements. Only around one-quarter of these agreement are registered with tribunals (Morehead et al. 1997: 299 - 321).

Current HRM Issues and Trends

Overview

An important source for identifying major issues and trends in HRM is the large scale structured AWIRS95 Survey (Morehead et al, 1997). The findings point to a number of current issues that have emerged during the first half of the 1990s and that have continuing salience for the near future. Key among these are: intensification of competitive pressure on workplaces, continuous organisational change, the devolvment of the centralised industrial relations and wages system, the pervasive decline in union membership, the shift to non-standard employment and flexible working hours, and increased structuring of employment relations. These are discussed in more detail below.

Increasing Competitive Pressure

It was noted that workplaces were experiencing increasing pressure to become more competitive. This was seen to be largely due to two major structural changes in the Australian economy: increasing internationalization through reduction of tariff protection for manufacturing, and the introduction of a number of microeconomic reforms including industry deregulation and privatisation, reconfiguration of the labour market and the introduction of new competition policy. The above found employers engaged in continuing efforts to increase productivity through workplace change initiatives often involving restructuring and downsizing.

Continuous Organisational Change

Both managers and employees independently testified to continuous organisational change in the workplace. At 51 per cent in 1995, major re-organization of the workplace structure was the type of organizational change most frequently reported by managers. This particular type of change was considered the most likely to lead to a reduction in workforce numbers. In view of the pressing need for constant reinvention and adaptation, a number of organizations are

increasingly promoting learning and transformation. Some of the 'learning organization' characteristics that HR managers in a prominent Australian firm are directing their attention to include: learning collaboratively and openly, value what and how 'we' learn, enabling all employees to feel every action or experience is an opportunity to learn, promoting sharing of experience, creating and supporting 'conversations'. In addition, constant redesign and review of work practices and work arrangements involving employees are considered essential to securing responsive and successful change.

Devolution Of Industrial Relations To The Enterprise Level

Through significant legislative reform of industrial relations in the federal and state arenas, there has been a growth in the extent of enterprise bargaining, both with and without union involvement. Managers have become more involved in negotiating terms and conditions of employment locally. Further, AWIRS95 has pointed to the emergence of increasing individualization of the employment relationship. For example, 'negotiations over pay and conditions occurred between workplace managers and at least some individual non-managerial employees at nearly half of all workplaces. Even workplaces that had union members commonly had managers negotiating individually over pay with at least some non-managerial employees' (Morehead et al, 1997:328).

Decentralisation began a decade ago. Decentralisation was promised to increase productivity by improving flexibility and efficiency, but also through training and creation of career paths. The leading researchers into enterprise bargaining outcomes, ACIRRT, argue that over the past decade, these promises have not yet been fulfilled. Productivity has increased, but mostly through downsizing and other forms of restructuring which has resulted in work intensification. Agreements focus on the traditional industrial relations issues of pay and working hours. Whilst 70% of agreements made changes to working hours, only 10% included family-friendly initiatives (ACCI RT 1998).

Despite the move to an enterprise or workplace focus, third party determined awards continue to play a major role in determining pay and conditions for many employees. Thus, following the Full Bench of the Australian Industrial Relations Commission handing down its decision on a living wage claim by the unions in late April 1998, which was estimated to affect between 25% to 30% of the workforce, a number of employer groups (notably in hospitality and tourism) claimed that the awarded increases would have a negative impact on jobs, especially given the downturn in business arising out of the Asian financial crisis. The tensions between central and decentralizing forces will continue to unravel in the coming years.

Declining Union Membership

AWIRS95 and ABS data report a substantial and pervasive impact of the decline in unionism in Australian workplaces. Comparing the 1990 with the 1995 AWIRS data, the proportion of workplaces with active unions fell from 24 per cent to 18 per cent respectively. Between the two survey periods, union density dropped from 64 to 51 per cent and was found to occur in all industries and employment sizes. In the face of industrial relations legislation considered by many unions to restrict their freedom to act, and with increasing trends towards enterprise bargaining on key issues and individualization of the employment relations, the future role of the unions in human resource matters is unclear.

Shift to Non-Standard Employment and Flexible Working Hours

As described in the Labour Market and Employee Relations sections, Australia's working arrangements are becoming more flexible. Less-regulated part-time, casual and temporary jobs account for an increasing share of employment and restrictions on employers' use of non-standard employment are being removed through the WRA and within certified agreements. Further, permanent employees are less likely to be employed to work the normal '9 to 5, Monday to Friday'. Not only are working hours becoming more flexible, employees are working more hours. In most industries, the ordinary working week is 38-hours, but full-time employees work above 40 hours.

Increased Structuring of Employment Relations

39 per cent of workplaces indicated they had structured management in 1990; this rose to 59 per cent in 1995. (Structured management is defined as where a workplace has four of the following seven elements: disciplinary procedures; frequently used grievance procedures; training in employee relations for any first-line supervisors; a joint consultative committee; and a written policy on equal employment opportunity/affirmative action). There were increases across all structured management indicators, in particular in disciplinary procedures, training for supervisors and joint consultative committees. There were also concomitant rises in the proportion of specialist employee relations managers, and the formal involvement by employees in workplace matters through task forces and ad hoc committees (Morehead et al, 1997: 325-6).

Human Resource Management Changes

In 1997, the Lyncroft Consulting Group, a national recruitment and human resource consulting firm, conducted an exploratory survey of human resource managers and chief executives in 37 organizations ranging in size from 100 to more than 10,000 employees. A key objective was to identify current and future HRM issues facing Australian business. HR managers currently considered the following activities to be of highest importance and highest effectiveness: HR strategy, organization development and employee relations. They considered the following current HR activities to be of high importance but with low effectiveness: performance management, building flexibility and building trust and commitment. Currently, the most commonly outsourced HR activities were reported to be training and development, outplacement, developing insight (employee research), and recruitment and selection.

With respect to future HRM challenges in up to the year 2003, the Lyncroft survey found that the HR function was predicted to be more decentralised and networked; there would be a concentration on tailoring HRM to meet the organization's local needs. Outsourcing HRM activities was expected to continue into the future; CEOs/senior managers considered that this would be the case to a greater extent than HR managers. The proportion of temporary contract staff was expected to increase over the next five years. Once again CEOs/senior managers expected the level to be higher than their HR managers.

Overall, the most important HR activities for assisting organizations to fulfil their future goals were reported to be training and development, building flexibility and creating focus (HR strategy).

Professional Association

The Australian Human Resources Institute (AHRI), founded in 1943 as the Institute of Personnel Management Australia, is the major HR professional body. The Institute has in excess of 10,500 individual members drawn from HR specialist, academics, consultants, senior managers, line

managers in non-HR areas, small business owners/managers, students, unionists and public sector employees. It is governed by a national board and run through regional councils, several regional offices and a number of local branches and active member networks. Special interest networks cover areas such as occupational health and safety, HR information and technology, training and development, benefits and remuneration, international HR workforce diversity, career management development, industrial/employee relations, strategic HR advising and performance appraisal.

There are several categories of membership: fellow, associate fellow, chartered member, member and student members. Membership is open to individuals with an interest or involvement in human resources, although access to certain levels for example chartered member and above, is contingent upon satisfaction of certain professional competence criteria. The professional services available to AHRI members include access to professional special interest networks, regular HRM journal and monthly publications, and access to a central set of information and research services. In addition to individual member services, AHRI also accredits a number of tertiary education courses in HRM. It also has strong international links with other HRM professional associations around the world.

AHRI's five year vision is:

1. AHRI is the largest people management member organization in the Asia Pacific focusing on improving members' abilities to perform people management.
2. Foremost authority on consolidating, delivering and disseminating people management knowledge and issues essential to the competitive advantage of industry.
3. Strong international presence, recognised as leaders in knowledge capabilities. ('Our Vision', AHRI Brochure, 1998).

Key Organisaon Addresses

Australian Bureau of Statistics
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Fax: 02 - 62516009
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Australian Chamber of Commerce & Industry
24 Brisbane Avenue
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Tel: 02 - 62732311
Fax: 02 - 62733196
Web: <http://www3.abol.net/acci>

Australian Council of Trade Unions
ACTU House
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Australian Institute of Management
PO Box 112
ST KILDA VIC 3182
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Web: <http://www.aim.com.au>

Australian Institute of Training and Development
National Office
PO Box 5452
WEST CHATSWOOD NSW 2057
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Web: <http://www.aitd.com.au>
Business Council of Australia
GPO Box 1472N
MELBOURNE VIC 3001
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Fax: 03 - 96104223
Web: <http://www.bca.com.au>

Centrelink
Box 7788
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Department of Employment, Education, Training and Youth Affairs
GPO Box 9880
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Department of Immigration and Multicultural Affairs
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Web: <http://www.immi.gov.au>

Department of Social Security
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Department of Workplace Relations & Small Business
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Web: <http://www.dwrsb.gov.au>

Metal Trades Industry Association
(Australian Industry Group)
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Tel: 02 - 62472233
Fax: 02 - 62486157
Web: <http://www.mtia.asn.au>

National Occupational Health & Safety Commission
92 Parramatta Road
CAMPERDOWN NSW 2050
Tel: 02 - 95779555
Fax: 02 - 95779202
Web: <http://www.worksafe.gov.au>

Useful Government Web Sites

Australian Commonwealth Government (Federal)
<http://fed.gov.au>

New South Wales State Government
<http://www.nsw.gov.au>

Queensland State Government
<http://www.qld.gov.au>

South Australia State Government
<http://www.sa.gov.au>

Victoria State Government
<http://www.vic.gov.au>

Tasmania State Government
<http://www.tas.gov.au>

Western Australian State Government
<http://www.wa.gov.au>

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Chinese Taipei

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Economy Context

Geography

Chinese Taipei is situated in the Pacific Ocean about 160km off the southeastern coast of the Chinese mainland. Located midway between Korea and Japan to the north and Hong Kong and the Philippines to the south, Chinese Taipei is a natural gateway for travellers to Asia. Areas under the jurisdiction of Chinese Taipei include Taiwan proper, Kinmen (Quemoy), Matsu, Penghu (the Pescadore Islands), and dozens of other small islands. Chinese Taipei and its adjacent islands have an area of approximately 36,000 sq. km. The main island, slightly smaller than the Netherlands, is about 394 km long and 144 km at its broadest point. Chinese Taipei is largely mountainous. The Central Range, with a length of 270 km from north to south, and a width of 80 km near the middle, forms the island's backbone and occupies almost half of the total land area. Other important physiographic divisions include dormant volcanic mountains, foothills, tablelands, terraces, coastal plains and basins. The climate is subtropical in Chinese Taipei, with temperatures of 35°C (maximum) and 20°C (minimum). Summers last from May through September. Winters last from December through February and are short and mild; snow only falls on the higher mountains. The population of Taiwan numbered over 21.5 million in 1997. The population density was 598 people per square kilometre. The official language is Mandarin, and dialects including Southern-min, Hakka and Formosan languages (languages spoken by aborigines) are also spoken among different ethnic groups.

Political Context

Governmental Structure

There are three distinct levels of government in Chinese Taipei: central, provincial and local. The central level comprises the presidency, the five Yuan (governing branches), and the National Assembly. The provincial/special municipality level in the Taiwan area consists of the Taiwan and Fujian provincial governments, the Taiwan Provincial Assembly, and the governments and councils of the special municipalities of Taipei and Kaosiung. At the local level, under the Taiwan Provincial government there are five provincial municipality governments and 16 county governments along with the governments of their subordinate cities. In accordance with the fourth constitutional amendment completed on July 23, 1997, provincial government will be downsized and its internal structure reengineered.

Central Government

The structure of the government has been configured with a horizontal system of checks and balances in which the five highest organs of the central government, which are under the leadership of the president, and the National Assembly jointly administer the country. The five branches of the national government are the Executive Yuan, the Legislative Yuan, the Judicial Yuan, the Examination Yuan, and the Control Yuan.

The President is the highest representative of the nation. All acts of state are conducted in his name. In the past, he was elected by the National Assembly. However, since March 1996, the President and the Vice President have been directly elected by citizens in Chinese Taipei. The current President is Lee Teng-hui. The National Assembly is empowered to amend the Constitution, to recall the President or the Vice President, to hold a referendum on constitutional amendments proposed by the Legislative Yuan, and to confirm or reject political appointees nominated by the President of the republic.

Headed by the premier, heads of the various ministries and commissions under the Executive Yuan constitute the Cabinet. There are three levels of subordinate organizations under the Executive Yuan: the Executive Yuan council; the executive organizations, ie., the eight ministries (interior, foreign affairs, national defence, finance, education, justice, economic affairs, and transportation and communications), the Mongolian and Tibetan Affairs Commission and Overseas Chinese Affairs Commission; and subordinate departments, including the Directorate General of Budget, Accounting, and Statistics, the Government Information Office, and other special commissions and ad hoc committees such as the Council for Cultural Affairs, the Council for Economic Planning & Development, the Council of Agriculture, the National Science Council, the Atomic Energy Council, the Central Elections Commission, and the Council of Aboriginal Affairs.

The Legislative Yuan is the highest legislative organ of state. It exerts legislative power on behalf of the people, confirms emergency orders, examines budgetary bills and audit reports, and oversees the operation of the Executive Yuan. The Judicial Yuan is the highest judicial organ of state. The subordinate organs of the Judicial Yuan are the Supreme Court, the High Courts, the District Courts, the Administrative Court, and the Committee on the Discipline of Public Functionaries. The Judicial Yuan supervises and administers the Chinese Taipei court system while enforcing compliance by court personnel with constitutionally mandated strictures for juridical independence from the other branches of government.

The Examination Yuan is responsible for the examination, employment, and management of all civil service personnel in Chinese Taipei. Specifically, the Examination Yuan oversees all examination-related matters; all matters relating to the qualification screening, security of tenure, pecuniary aid in case of death, and retirement of civil servants; and all legal matters relating to employment, including discharge, performance evaluation, salary scales and promotion. The Control Yuan is the highest control body of the state, exercising the powers of impeachment, censure, and audit. The Control Yuan exercises the power of audit through its National Audit Office. The Auditor-General is nominated by the President of the republic and appointed with the consent of the Legislative Yuan. He is responsible for auditing central government expenditures.

Political Parties

As of December 1996, a total of 82 political parties had registered with the Ministry of the Interior; however, most are insignificant in electoral politics. The three most prominent parties are the Kuomintang, the Democratic Progressive Party, and the New Party.

The current ruling party of Chinese Taipei is the Kuomintang (KMT). Having celebrated its one-hundredth birthday on November 24, 1994, the KMT today boasts approximately 2.1 million members. The Congress is the highest authority of the party. It amends the party charter, determines the party platform and other important resolutions, elects the party chairman and the 210 Central Committee members, and approves vice chairmen and members of the Central Advisory Council nominated by the chairman. When the Congress is in recess, the supreme party organ is the Committee, which holds a plenary session every year.

The Democratic Progressive Party (DPP), formed on September 28, 1986, has approximately 90,000 members. It closely resembles the Kuomintang in organizational structure. The DPP's annual Congress elects 31 members to the Executive Committee, who in turn elect a Central Standing Committee of 11 members. The party chairman is directly elected by the Congress, but only members of the Central Standing Committee are qualified for candidacy. The chairman nominates a secretary-general, two deputy secretaries-general, and a number of department directors. These nominations are subject to the approval of the Central Standing Committee. The DPP consists of five major factions: the Formosa Faction, the Justice Alliance, the Welfare State Alliance, the New Tide Faction, and the World United Formosans for Independence.

In August 1993, a group of the KMT members broke away from the ruling party to establish the New Party (NP). The NP claimed a registered membership of 71,700 in December 1996. A small party though it is, the New Party always nominated many candidates for the elections of public representatives. At the head of the party is the National Campaign and Development Committee.

Economic Context

Foreign trade

Foreign trade increased from US\$139 billion dollars in 1991 to US\$218.3 billion in 1996, the 14th highest in the world. Chinese Taipei's exports topped US\$111.7 billion in 1995, up 20 percent from 1994. The United States, Hong Kong, and Japan absorbed nearly 60 percent of Chinese Taipei's exports. In 1995, exports to the United States rose by 8.5 percent to US\$26.41 billion. For decades, the US market has been the most important export destination, and this has resulted in huge trade surpluses in Chinese Taipei's favour.

Chinese Taipei's exports to Hong Kong also continue to climb, growing by 22.9 percent in 1995 to US\$26.1 billion. Due to burgeoning trade with China (which is carried out via third areas such as Hong Kong), Chinese Taipei enjoyed a US\$24.3 billion trade surplus with Hong Kong in 1995, 23 percent higher than in the previous year.

Industry

In 1997, industry accounted for 34.9 percent of GDP. The food processing, textile and garment industries, as well as traditional products of wood, bamboo, and leather once dominated Taiwan's exports, but have declined over the years. These labor-intensive industries have

gradually been replaced by capital and technology-intensive industries, such as chemicals, petrochemicals, information, electrical equipment, and electronics.

Investment

Since July 1993, when the “Economic Promotion Scheme” was implemented, investment has improved significantly. In 1995, the growth rate of domestic investment increased by 9.4 percent over the previous year. From 1992 to 1996, there were 966 significant investment projects.

Small and Medium-Sized Enterprise (SMEs)

In 1996 there were a total 1,003,325 SMEs (SME is a term denoting an enterprise whose business capital is less than US\$120,000), which was 11,710 more than in 1995 (an increase of 1.18 percent). SMEs have mainly focused on commerce, followed by manufacturing. In 1996, employee numbers in SMEs were 7,131,000 persons, an increase from 7,123,000 persons in 1995. Since Chinese Taipei opened its markets to foreign labor in the 1980s, the ratio of employed persons in SMEs from total employed persons has declined from 79.75 percent to 78.64 percent. In 1996 the grand total of SME exports was US\$11 billion higher than the previous year, amounting to 57.7 billion U.S dollars. The growth rate was 1.97 percent higher than in 1995.

Recent Trade Policy

At present, Chinese Taipei industry is transforming from a labor intensive to a high technology base. This has led to changes in trade policy. As an active participant in the World Trade Organization, Chinese Taipei seeks to develop an open economic relationship with other economies. It wants to set itself up as the Asia-Pacific Regional Operations Center. There will be a removal of obstacles to domestic investment to supply enterprises with an environment for substantial growth. Policies will be developed to attract investment by multinationals. There is also to be implementation of steady cross-strait economic exchange to create double-win mutual benefits with the People’s Republic of China.

Infrastructure

Transportation

Railways

Public railways in Chinese Taipei are operated by the Taiwan Railway Administration. As at December 1995, the railway network totaled 2,363 kilometres and transported 30.1 million tons of freight. This is a decrease of 3.6 percent from the previous year.

Highways

At the end of 1995, the total length of highways in Chinese Taipei was 20211.5 kilometres. This includes national highways, provincial highways, county highways, rural highways, and exclusive highways. The capacity of passenger traffic is declining due to the increase of vehicles, low-price competitiveness among illegal tour buses, and traffic jams on highways.

Urban Transportation

Construction of Chinese Taipei’s mass transit systems began in July 1988 when the French contractor MARTRA started work on the Mucha line, one of six lines being built in Taipei. Totalling 88 km, the Taipei Mass Rapid Transit Systems are scheduled for completion in 1999 at a projected cost of US\$18 billion. After many delays, the Mucha line officially opened in March 1996.

Air Transportation

There are currently two international airports in Chinese Taipei: Chiang Kai-shek International Airport in the north, and Kaoshiung International Airport in the south. In addition, there are 14 domestic airports.

Sea Transportation

Chinese Taipei has five international harbours, Keelung, Kaohsiung, Hualien, Taichung and Suao. Waterborne imports and exports handled by these ports totaled 141.2 million metric tons in 1995. Marine transportation is vital to the trade-oriented economy. As of December 1995, the shipping industry had a fleet of 245 vessels over 100,000 gross tons, for a total of 9.15 million dead weight tons. The fleet of cargo containers is one of the largest in the world. There are two major shipping corporations, Yangming Marine Transport Corp. and Chinese Taipei Navigation. Economy-owned and private corporations handled over 123.6 million metric tons of freight in 1995.

Telecommunication

Before July 1996, telecommunications service in Chinese Taipei fell under the jurisdiction of the Directorate General of Telecommunications (DGT), which is supervised by the Ministry of Transportation and Communication. However, the trend toward economic liberalization in recent years revealed that the original telecommunications structure could no longer meet social and consumer needs. Consequently, a regulatory reform process was initiated, resulting in the promulgation of an amended Telecommunications Act on February 5, 1996. The new legislation mandates a privatization monopoly within five years and empowers the DGT to approve telecommunications companies. In accordance with the Communications Act, Chunghwa Telecom Co. Ltd. (CHT), a fully economy-run enterprise, was inaugurated to assume all the functions of providing telecommunication services. As a step toward globalization, the CHT has set up a Global Development Business Group to coordinate domestic resources and speed up efforts to cultivate telecommunication markets abroad. A mobile telephone service in Chinese Taipei has been growing at a tremendous pace since its inauguration in July 1989. DGT started a new Global System for Mobile Communication (GSM) cellular telephone service in July 1995 to accommodate the pressing demand.

Social - Cultural Context

Religion

Age-old religious customs, icons, and beliefs are evident in Chinese Taipei. Almost all adults, even those not formally subscribing to a religious belief or worshipping regularly at a particular temple, engage in religious practices, stemming from one or a combination of traditional Chinese religions. Polytheistic and syncretic, Chinese society is active in ancestor worship, religious Taoism, and Buddhism, but has never excluded the addition and development of other indigenous and foreign religions. Currently, there are 12 legally recognized religions: Buddhism, Taoism, Catholicism, Protestantism, Hsuan-yuan Chiao, Islam, Li-ism, Tenrikyo, Baha'ifaith, T'ien Dih Chiao, T'en Te Chiao, and I-kuan Tao.

Indigenous peoples

There are nine aboriginal peoples in Chinese Taipei: the Atayal, Saisiyat, Bunun, Tsou, Paiwan, Rukai, Pyuuma, Ami, and Yami. In 1997, their total population numbered 381,204 (see Table 1). Aboriginal culture and lifestyles are changing as the descendants of Chinese Taipei's earliest

inhabitants adjust to rapid modernization. Young people are leaving such traditional occupations as farming, hunting, and fishing to take up jobs in the cities. Aboriginal languages are still spoken, but native speakers are dwindling in number. The Council of Aboriginal Affairs helps to preserve the cultural heritage of Chinese Taipei's aborigines.

	Individuals	Households
Plain Dwellers	178,326	43,985
Mountain Dwellers	202,878	49,389
Total	381,204	93,374

Source: Ministry of the Interior of Executive Yuan, 1997

Table 1 Indigenous Tribe Population in Taiwan, 1996

Labor Market

Workforce Characteristics

Labor Status

The labor force in 1996 totaled 9.31 million persons, an increase of 1.09 percent over the preceding year. The labor force included the employed (9.068 million persons) an increase of 0.26 percent over the preceding year, and an unemployed total of 242 thousand persons, an increase of 46.93 percent over the preceding year. The sharp increase in unemployment can be attributed mainly to business closure, reductions in business operations, and dissatisfaction with previous occupations. In 1996, participation in the labor force was 58.44 percent, having decreased from the preceding year (see Table 2). This was because growth in the labor force was slower than growth in the civilian population aged 15 and older. By sex, male employment increased by 73 thousand persons. Male and female unemployment have both increased yearly. However, while the labor force participation rate for males dropped 0.90 percentage point from the preceding year, the rate for females grew by 0.42 percentage point. Both unemployment rates for male and female rose to 2.72 percent and 2.42 percent respectively.

Year	Population above 15	Labor Force (in thousands)									Labor Force Participation Rate (%)			Unemployed Rate (%)		
		Grand Total			Employed			Unemployed								
		Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
1994	15402	9081	5595	8939	8939	5511	3428	142	84	58	58.96	72.44	45.40	1.56	1.51	1.65
1995	15687	9210	5659	3551	9045	5558	3847	165	101	64	58.71	72.03	45.34	1.79	1.79	1.80
1996	15932	9310	5662	3648	9068	5508	3560	242	154	88	58.44	71.13	45.76	2.60	2.72	2.42

Source: Council of Labor Affairs of Executive Yuan, 1997

Table 2 Labor Force Statistics

Employment Population

As shown in Table 3, the service sector accounted for an increasing proportion of total employment in the economy. The share of the service sector was 52.39 percent in 1996, which was 14 percent higher than that of the industrial sector. Agriculture declined to 10.12 percent,

and that of the industrial sector fell to 37.49 percent of total employment. In the sub-sector of manufacturing, the transfer off shore of labor-intensive industries, and production automation efforts caused employment to fall to 2.422 million persons. In 1996, employment in the construction sub-sector fell by 7.48 percent when compared with 1995. Employment in the agriculture, forestry, fishery and animal husbandry sector has also been steadily falling. In 1996, employment in the service sector totaled 4.751 million persons, increasing by 3.58 percent over the preceding year. The finance, insurance and real estate sub-sector reported the highest growth of 7.4 percent in employment, and the social and personal service sub-sector had the second highest growth of 4.83 percent.

Year	Agriculture		Industry						Services					
					Manuf- acturing		Construction				Finance, Insurance & Real Estate		Social & Personal Services	
	1000 persons	%	1000 persons	%	1000 person s	%	1000 persons	%	1000 person s	%	1000 persons	%	1000 persons	%
1994	976	10.9 2	3506	39.22	24.85	27.80	967	10.82	4456	49.86	290	3.2 5	1288	14.41
1995	954	10.5 5	3504	38.74	2449	27.08	1003	11.09	4587	50.71	311	3.4 4	1347	14.90
1996	918	10.1 2	3399	37.49	2442	26.71	928	10.23	4751	52.39	334	3.6 8	1412	15.57

*proportion of total employment population

Source: Council of Labor Affairs of Executive Yuan, 1997

Table 3 Employment by Industry

As shown in Table 4, more occupational groupings reported an increase in employment than a decrease in 1996 when compared with 1995. Service workers and sales persons reported the highest growth of 51 thousand persons. Office workers came in with the second highest growth of 45 thousand persons. Production workers, machine operators, and laborers reported the largest drop of 111 thousand persons. Agricultural, forestry, fishery, and husbandry workers reported the second largest fall of 36 thousand persons.

Yearly Average	Total	Elected Assemblymen , Business Executive & Managerial Personnel	Professionals	Technicians & Assistants	Office Workers	Services Workers & Sales Persons	Agriculture, Forestry, Fishery, & Animal Husbandry Workers	Production Workers, Machine Operators & Laborers
1994	8939	436	479	1296	839	1438	965	3486
1995	9045	436	500	1338	877	1479	942	3473
1996	9068	429	542	1376	922	1530	906	3362

Source: Council of Labor Affairs of Executive Yuan, 1997

Table 4 Employment by Occupation

Table 5 sets out employment by educational attainment categories. It shows decreases in employment at education levels lower than Senior high school. Junior college education show an increase of 9.01 percent in employment in 1996 over 1995. University education and above shows an increase of 7.25 percent in employment for the corresponding period. This suggests that the prevalence of higher educational attainment has improved the quality of labor, which in turn helps upgrade industries and labor productivity.

Unit: In thousands

Yearly Average	Total	Education Attainment						
		Illiterate & Self-Educated	Primary	Junior High	Senior High	Senior Vocational High	Junior College	University & Above
1994	8939	315	2142	1804	774	2151	1019	732
1995	9045	297	2064	1819	767	2232	1066	800
1996	9068	268	1926	1759	786	2309	1162	858

Source: Council of Labor Affairs of Executive Yuan, 1997

Table 5 Employment by Education**Unemployment**

In 1996, the number of unemployed people was 242,000, an increase of 77,000 persons over the preceding year. The number who lost their jobs due to the closure of business or business tightening, increased by 39,000. The number of unemployed dissatisfied with their jobs increased by 3,000. In 1996, the average period of unemployment was 20.5 weeks, which increased by 3.3 weeks over the preceding year. This was the longest average period since 1986 (20.7 weeks). In 1996, when compared with 1995, the construction industry lost totally 20,000 persons in total. 17,000 persons left manufacturing industry and 12,000 and 9,000 persons respectively left the commerce and social service industries. The number of unemployed production operators increased by 38,000 persons in 1996 over 1995 but the number of technicians increased. The average unemployment rate in 1996 was 2.6 percent, which was 0.81 percentage point higher than the preceding year and was the highest unemployment rate since 1986. The unemployment rate of those aged 15-24 and of those aged 25-49 increased in 1996 over the preceding year. As persons aged 25-49 are usually the supporters of the family, unemployment in this category is a significant social problem warranting attention (see Table 6).

Unit: In thousands

Year	Grand total		Age 15~24		Age 25~49		Age 50~64		Age 65~	
	No. of person	Unemploy. rate(%)	No. of person	Unemploy. rate(%)	No. of person	Unemploy. rate(%)	No. of person	Unemploy. rate(%)	No. of person	Unemploy. rate(%)
1994	142	1.56	65	4.75	72	1.15	5	0.41	0	0.13
1995	165	1.79	70	5.28	88	1.37	7	0.51	0	0.12
1996	242	2.60	90	6.93	139	2.12	13	1.03	0	0.15

Source: Directorate General of Budget, Accounting and Statistics of Executive Yuan, 1996

Table 6 The Unemployed and Unemployment Rate by Age

In 1996, the unemployment rate of students who graduated from junior college and above increased, as have the unemployment rates for those graduating from junior high schools and vocational junior high schools (see Table 7). Source: Directorate General of Budget, Accounting and Statistics of Executive Yuan, 1996

Unit: In thousands

Year	Grand Total		Junior High School & Below		Junior High School & Vocational High School		Junior College & Above	
	Number of Persons	Unemployed Rate(%)	Number of Persons	Unemployed Rate(%)	Number of Persons	Unemployed rate(%)	Number of Persons	Unemployed Rate(%)
1994	142	1.56	43	1.00	59	1.98	30	2.23
1995	165	1.79	50	1.18	69	2.25	46	2.42
1996	242	2.60	81	2.02	96	3.00	65	3.13

Source: Directorate General of Budget, Accounting and Statistics of Executive Yuan, 1996

Table 7 Unemployed Persons and Unemployment Rate by Educational Attainment

Employment Law

Overview

The people of Chinese Taipei believe that the right to work should be protected, and those who are able to work should have an opportunity to do so. On 8 May 1992, the Employment Service Law was published and serves as the standard of employment equity. The purpose of the Employment Service Law is to enhance employment, social and economic development. The Employment Service Law has five goals. They are: to protect the freedom of employment quality; to prevent employment discrimination; to enhance employment; to upgrade employment services; and to establish a managerial standard and system for foreign workers.

Sources of Employment Law

Employment Service Law

The Employment Service Law (1992) covers the provision of employment services including the authorization and management of private employment service organizations, employment and management of foreign workers, and the Public Employment Service Organization.

Laws Covering Labor Conditions

The Labor Standards Law (1984), and the Factory Law (1929) cover the areas of labor standards, basic wages, leave-taking, and other terms and conditions of employment.

Individual Contracts of Employment

The Labor Standards Law (1984) sets out regulations regarding individual contracts concerning minimum rates of pay, employment health, safety, holidays, appeals, and so on. The Labor Standards Law comprises 12 chapters and 86 articles. The key provisions are as follows:

Chapter 1 - General Provisions

Article 3

The law is applicable to agriculture, forestry, fishery, pasturage, mining and quarrying, manufacturing, construction, water, electricity, gas, transportation, warehousing, and telecommunication, mass communication, and other businesses as designated by the central competent authority.

Competent Authority Defined

The term “competent authority” used in this law shall denote the Ministry of the Interior at the central level, the provincial/ municipal government at the provincial/ municipal level, and the county/ city government at the county/ city level.

Chapter 2- Labor Contracts and Their Termination

Article 9

Labor contracts are divided into fixed-term contracts and non-fixed term contracts. A contract for temporary, short-term, seasonal or special work is considered a fixed term contract. A contract for continuous work is a non-fixed term contract. A fixed-term contract is deemed a non-fixed term contract on the expiration of the contract when an employer raises no immediate objection when a worker continues his/her work and when a new contract is created. This is when the prior contract and the new contract cover a period of more than ninety days, and the time gap between the expiration of the prior contract and the beginning of the new contract cover a period not exceeding thirty days.

Article 1

Under any of the following circumstances, an employer may, by advance notice to a worker, terminate a labor contract when his business is suspended or assigned, and there is an operating loss or business contraction: if major reorganization necessitates business suspension for more than one month, or when a change in business nature requires a reduction in the number of workers and the particular worker(s) cannot be assigned to other proper positions; or when a particular worker is confirmed to be incompetent .

Article 17

If an employer terminates a labor contract pursuant to the provisions of the preceding article, he shall make a separation payment to the worker in accordance with the terms prescribed below:

- 1 Separation payment, equivalent to one-month's average wage, is paid to a worker who has continuously worked in the business entity of the same employer for each full year of employment.
- 2 In respect of odd month service periods, calculated pursuant to the preceding paragraph, or in respect of a service period of less than one year, the separation payment shall be calculated proportionately. A service period of less than one month shall be treated as one month for calculation purposes.

Chapter 3 - Wages

Basic Wage

Article 21

A worker is to be paid such wages as are determined through negotiations with the employer, provided that they shall not fall below the basic wage. The basic wage shall be prescribed by the central competent authority and submitted to the Executive Yuan for approval.

Overtime Rates

Article 24

An employer shall pay wages to a worker for overtime at the following rates:

- 1 Where the overtime does not exceed two hours, the worker shall be paid, in addition to his regular hourly wage, at least an additional one third of his regular hourly rate.
- 2 Where the overtime is over two hours, but does not exceed four, the worker shall be paid in addition to his regular hourly wage, at least two thirds of his regular hourly rate.
- 3 If the overtime is requested in accordance with the provisions of paragraph 3 of Article 32, the worker shall be paid an overtime wage two times his regular hourly rate.

Equal Pay

Article 25

An employer shall not discriminate in the payment of wages. Workers shall receive equal wages for equal work of equal efficiency.

Allowances and Bonuses

Article 29

After the closing of books at the end of the business year, a business entity shall, after having paid income taxes, covered losses and set aside stock dividends and provident funds, pay allowances or bonuses out of the balance of profits to workers who have committed no misconduct in the preceding year.

Chapter 4 — Work Hours, Time off and Leave of Absence

Regular Hours of Work

Article 30

Regular working hours are not to exceed eight hours a day and 48 hours per week.

Overtime Hours

Article 32

When there is need for work over and above regular work hours to meet seasonal requirements, to cope with the change of shifts, or to perform preparatory or supplemental work, an employer may extend the work hours prescribed in Article 30 after he has obtained prior consent from the labor union or the workers, and approval from the local competent authority. For a male worker, the total amount of overtime shall not exceed three hours a day and 46 hours per month; and for a female worker, it is not to exceed two hours a day and 24 hours per month. Payment of overtime worked is to be in accordance with Article 24.

Rest Breaks

Article 35

A worker is permitted to have time off for at least 30 minutes after working for four consecutive hours. However, such time off may be rescheduled by the employer if a shift system is in operation, or work of a continuous or urgent nature is involved.

Rest Day

Article 36

A worker is to have one regular day off in every seven.

Holidays

Article 37

A worker shall be granted time off for all holidays.

Annual Leave

Article 38

A worker is entitled to be paid annual leave on the following scale:

- 1 Seven days' leave for continuous service of more than one year but less than three.
- 2 Ten days' leave for continuous service of more than three years but less than five.
- 3 Fourteen days' leave for continuous service of more than five years but less than ten.
- 4 One additional day for each year of continuous service over ten years, up to a maximum of thirty days.

Voluntary Overtime

Article 42

An employer cannot compel a worker to work overtime, if the worker is unable to do so on account of health or some other suitable reason.

Child Workers

Article 44

Workers more than fifteen but less than sixteen years of age are considered child workers. No child worker is permitted to do heavy and hazardous work.

Article 47

The normal working hours for child workers cannot exceed eight hours per day. No child worker is permitted to work on a regular day off.

Article 48

No child worker is permitted to work between 8.00pm and 6.00am the following morning.

Female Workers

Article 49

No female worker is permitted to work between 10.00pm and 6.00am the following morning, except under the following circumstances and where the consent of the labor union or worker has been obtained; where a three-shift system is in operation; the safety and health arrangements are sound and suitable; dormitories for women workers are available; there are transportation facilities between the place of work and home; and the approval of the competent authority has been granted:

- 1 If the regular worker hours of the business entity are disrupted by a non-cyclical or emergency matter that is beyond the control or expectation of the entity.
- 2 If there is potential or real damage to production materials or supplies and the avoidance of loss necessitates night work.
- 3 If workers are responsible for technological supervision,
- 4 If there is a national emergency, or it is required to promote national economic interests, and approval has been obtained from the employer's organization, the labor union and the central competent authority.
- 5 If the employer is engaged in transportation, warehousing or telecommunications business designated by the central competent authority.
- 6 If the employer is engaged in sanitation, welfare and public utilities which do not require the use of physical strength by workers.

Maternity Leave and Conditions

Article 50

A female worker is granted maternity leave before and after childbirth for a total period of eight weeks. In the case of a miscarriage after being pregnant for more than three months, the female worker is permitted to discontinue work and is granted maternity leave for four weeks. Where the female worker has been in service for more than six months, she shall be paid wages for the maternity leave. If her service has been less than six months, she is paid wages at half her regular rate.

Article 51

A female worker may apply to be transferred to suitable alternative work, if available, during the period of her pregnancy. The employer cannot reject the application nor reduce her wages.

Article 52

Where a female worker is required to breast-feed her baby of less than one year of age, the employer is to permit her to do so twice a day, each time for thirty minutes, in addition to the rest break prescribed in Article 35.

Chapter 6 - Retirement**Article 53**

A worker may apply for voluntary retirement, if:

- the worker attains the age of 55 and has worked for 15 years;
- the worker has worked for more than 25 years.

Article 54

An employer shall not force a worker to retire unless:

- the worker attains 60 years of age.
- the worker is incapacitated owing to mental or physical disability.

Article 55

Retirement payments shall be made as follows:

- 1 According to years of service: a payment of two units for each year of service, decreasing to one unit per year on completion of fifteen years. The total units shall not exceed 45. Any fraction of a year which is less than 6 months will be counted as half a year, and any fraction of a year which is equal to or more than six months will be counted as one year of service.
- 2 An additional 20 percent of the retirement payments is made to a worker who retires mandatorily in accordance with the provisions of subparagraph 2 of paragraph 1 of Article 54, provided that the mental or physical disability arose from an occupational accident.

Chapter 7 - Compensation for Occupational Accidents**Article 59**

An employer is to pay compensation to a worker who is injured, sick, incapacitated or killed as a result of an occupational accident as follows:

- 1 The employer is to compensate the worker for any necessary medical expenses. The occupational diseases compensable and the scope of medical services covered are determined by various provisions of the Labor Insurance Law.
- 2 If a worker under medical treatment is unable to work, the employer is to pay him compensation according to his original wage rate. However, if after two years of medical treatment the worker has not recovered, and the designated hospital has recognized that he has lost his original ability to work, and if he has not fulfilled the conditions referred to in subparagraph 3 for the entitlement of disability benefit, then the employer may pay him a lump sum allowance of 40 months' average wage, and thence exempted from further responsibilities of wage compensation.

- 3 If on completion of medical treatment, the designated hospital certifies the worker as disabled, the employer is to pay the worker a lump sum based on the employee's average wage, the degree of disability of the worker, and the standard disability compensation prescribed in the Labor Insurance Law.
- 4 When a worker dies as a consequence of occupational injury or disease, an employer shall pay funeral expenses equivalent to five months of average wages and a lump sum survivors' compensation equivalent to 40 months of average wages.

Chapter 8 - Apprentices

Article 65

When recruiting an apprentice, an employer is to sign a written training contract in triplicate with each apprentice. The contract will provide for training subjects, a training period, board and lodging arrangements, living allowances, relevant teaching subjects, labor insurance, certificate of completion of training, the effective date of contract, the conditions for the termination of the contract, and other clauses relating to the rights and obligations of both parties to the contract. One copy of the contract is kept by each party; the remaining copy is forwarded to the competent authority for registration.

Article 68

The number of apprentices is not to exceed one-fourth of the number of workers. The number of workers will be deemed four for calculation purposes even if it is below that number.

Article 69

The provisions of Chapter 4 pertaining to work hours, time off and leave of absence, chapter 5 pertaining to child workers and women workers, and Chapter 7 pertaining to compensation for occupational accidents and other labor insurance matters shall also apply to apprentices.

Chapter 9 - Work Rules

Article 70

An employer hiring more than thirty workers shall set up work rules in accordance with the nature of the business, and shall publicly display the rules after they have been submitted to the central component authority for approval and registration. The rules are to specify the following items:

- 1 work hours, time off, leave of absence, national holidays, special leave of absence and methods for arranging shifts for doing continuous work.
- 2 wage rates, calculation formula and pay day.
- 3 overtime work.
- 4 allowances and bonuses.
- 5 disciplinary measures.
- 6 rules for attendance, leave taking, commendation or discipline, promotion and transfer.
- 7 recruitment, discharge, separation, withdrawal of service and retirement.
- 8 compensation and pension for injury or disease caused by occupational accidents.
- 9 welfare measures.
- 10 safety and health regulations which employers and workers are obliged to observe.
- 11 methods for the promotion of communication and cooperation between an employer and workers.
- 12 miscellaneous.

Chapter 10 - Supervision and Inspection

Article 72

In order to enforce this law and other labor laws and regulations, the central competent authority either establishes a system of labor inspection or delegates this power to the competent authorities in the province or municipalities. In times of necessity, the local authority may also send its personnel on inspection visits.

Article 75

Employers who violate the provisions of Article 5 will be imprisoned for a term not exceeding five years, detained or fined NT \$ 50,000 or both.

Chapter 12 - Supplementary Provisions

Article 83

A business entity will convene a labor-management conference to coordinate the relationship and promote cooperation between management and labor as well as to increase work efficiency.

Collective Employment Law

Laws

The Labor Union Law (1929), the Collective Agreement Law (1930), and the Settlement of Labor Dispute Law (1928) are the collective employment laws.

The Labor Union Law contains 13 chapters. In addition to Chapter 1 of general provisions, the law regulates the establishment, membership, officers, meetings, operational funds, supervision and protection of the labor union, its status as a federated organization, its basic organization including branches and sections, related penal provisions and supplementary provisions.

The Collective Agreement Law designates labor unions as the sole labor representative in the signing of collective agreements. It comprises 5 chapters. Chapter 1 sets out general provisions. The subsequent chapters are concerned with restrictions on employers about hiring and the use of new machinery, work hours, rate of wages, pensions, compensations for injuries and leave of absence; validity, duration of the Collective Agreement Law and supplementary provisions.

The Settlement of Labor Disputes Law consists of 6 chapters. Chapter 1 lists general provisions. Chapter 2 stipulates the application procedure for conciliation by the competent authority (Department of Labor Management Relations, Council of Labor Affairs, Executive Yuan). Chapter 3 is about the necessary items of the application, and arbitration committee if the labor dispute has not been settled through conciliation. Chapter 4 designates the decision procedure on a request for compulsory implementation, if one party refuses to carry out its obligations after conciliatory or arbitrary procedures have been concluded. Chapter 5 specifies the penal provisions in case of violation of the provisions of articles of the preceding chapters. Chapter 6 is concerned with supplementary provisions.

Recruitment and Selection

Methods of Recruitment

In Chinese Taipei, recruitment is conducted internally and externally. Internal recruitment involves promotion and transfers as a means of development. The main methods used in internal recruitment include internal job advertising, use of personnel records and re-hiring ex-employees. External recruitment sources used include career centers at educational institutions, public employment service agencies of the Council of Labor Affairs and private recruitment firms. A popular means of recruitment is through advertising in newspapers and magazines, on posters, through radio and TV, and increasingly via BBS or WWW employment web sites.

In 1997, general statistics from the Department of Budgeting, Accounting and Statistics indicate the primary methods used by employees in obtaining work:

- relatives and friends - 34.55 per cent
- job advertisements and interviews - 22 per cent
- job transfer - 16 per cent
- success in government examinations - 6.18 per cent
- government employment agency - 6.1 per cent
- school/college career services - 6 per cent
- private recruitment firms - 5.1 per cent
- industry associations - 2.4 per cent.

Recruitment of Foreign Workers

Regulations on hiring foreign workers were promulgated by the Legislative Yuan on 27 July 1992. They require that employers apply for permission through the central official institution. Employers must first attempt to recruit from within Chinese Taipei. Following registration of a vacancy with the relevant public employment agency, the employer must advertise it in the newspapers for three days. If there are no suitable applicants, the public employment agency will confirm this to the employer. Then, the recruitment of foreign workers is legal. Applicant employers are required to pay a deposit to the public employment agency, equivalent to the 2 months' basic salary of the relevant position. The deposit is used to pay for the flight ticket and living expenses of the expatriates. Any surplus is returned to the employer.

In applying for an entry visa for foreign workers, the employer must supply the following documents: approval to recruit from the central official institution; an accredited medical health certificate for the candidate; evidence of the worker's educational and professional qualifications; a proof or guarantee of the candidate's good standing; and a labor contract of employment.

Selection Methods

Most companies select employees using written employment applications and interviews. Some firms also investigate an employee's background. This is usually followed up by a confirmation check of the applicant's details. For example, the employer will contact the applicant's relatives, and former companies. Some will ask the applicant to enclose references. References written by former employers or an important person, usually need to include information about education and working experience, working competency and teamwork spirit, and skills.

Training and Development

Education Systems

Education

There are more than 5,190,000 students in education, and a total of 7,357 schools (see Table 8).

School	School Number(s)	Student Number(s)	Proportion of Total Population(%)
Kindergarten	2,660	235,200	1.90
Elementary School	2,519	1,934,756	8.97
Junior High School	717	1,120,716	5.20
Senior High School	217	268,066	1.24
Senior Vocational School	204	520,153	2.41
Junior College	70	412,837	1.91
University & College	67	382,710	1.78
Special School	17	5,203	0.02
Elementary Supplementary School	364	22,611	0.11
Junior High Supplementary School	280	23,272	0.11
Senior Advance Supplementary School	224	204,479	0.95
Junior Supplementary College & Open University	18	60,586	0.28
Total	7,357	5,190,589	24.07

Source: Government Information Office, 1997

Table 8 Schools and Students (1996)

Higher Education

In the 1996 academic school year, there were 24 universities and 113 colleges. The number of university and college students totaled 795,547. 54.41 percent of these students were male, and 45.59 percent were female. The percentages of public and private university students were 44.84 percent and 55.16 percent respectively. There were more students in science and technology than in the other disciplinary fields (see Table 9).

		Total	Public		Private		Humanities	Social Sciences	Science & Technology
			Day	Night	Day	Night			
Numbers of Classes	Total	9,075	4,418	385	3,398	874	2,181	2,588	4,360
	Doctor	619	503	0	116	0	88	122	409
	Master	1,518	982	0	536	0	296	368	854
	Bachelor	6,938	2,933	385	2,746	874	2,098	2,098	3,043
Total		382,710	154,367	17,235	163,806	47,302	82,217	125,612	174,881
Numbers of Students	Male	208,221	89,380	7,330	89,500	22,011	25,458	53,894	128,869
	Female	174,489	64,987	9,905	74,306	25,291	56,759	71,718	46,012
	Doctor	9,365	8,288	0	1,077	0	1,236	1,449	6,680
	Master	35,508	25,424	0	10,084	0	5,289	8,750	21,469
	Bachelor	337,837	120,655	17,235	152,645	47,302	75,692	113,117	148,968

Source: Government Information Office, 1997

Table 9 Numbers of Classes and Students in Universities (1996)

Technological and Vocational Education (TVE)

There are three kinds of technological and vocational schools: senior vocational schools (senior high school level), junior colleges (college level), and institutes of technology (university level).

Table 10 shows that in the 1996 academic school year, in the technological and vocational education system in Chinese Taipei, there were 10 institutes of technology with 30,806 students, made up of 28,672 undergraduate students and 2,134 graduate students. There were 70 junior

colleges with 412,837 students, including 197,230 5-year system students, 214,622 two-year system students and 985 three-year system students. In addition, there were 204 vocational schools with 520,153 students. The total amounts to 963,796 students or 60.9 percent of enrolments in the senior high school system in Chinese Taipei.

Category		General Students	TVE Students	Total	TVE Students	
					Number	Percentage
Senior High (Vocational) School		268,066	520,153	905,213	637,147	66.1%
Junior College (5 Years)	Lower 3		116,894			
	Upper 2		80,236	295,843	295,843	30.7%
Junior College (2 Years)			214,622			
Junior College (3 Years)			985			
University (Institute of Technology)		309,165	28,672	382,710	30,806	3.2%
Graduate		42,739	2,134			
Total		619,970	963,796	1,583,766	963,796	100%
Percentage (%)		39.1%	60.9%			
Ratio		1 : 1.56				

Source: Government Information Office, 1997

Table 10 Comparison of Students Numbers between General and TVE Schools in 1996-97 Academic Year

Vocational Training System

In addition to Technological and Vocational Education (TVE), the Vocational Training System (VTS) is another channel used to develop and supply technical manpower in Chinese Taipei. VTS is different from TVE in three aspects. First of all, the institution in charge of VTS public training is the Employment and Vocational Training Administration of Council of Labor Affairs in the Executive Yuan; while the institution responsible for TVE is the Ministry of Education. Second, VTS offers practical courses that require trainees' to gain hands-on experience; however, TVE gives mostly academic lectures that enhance students' knowledge of overall and specific subjects in a technological field. Third, students are granted a diploma after graduation from TVE schools; on the other hand, VTS trainees' are conferred with certificates ranked in degrees of A, B and C on completion of their course.

Nonetheless, VTS and TVE are not completely unconnected systems. Technicians who obtain a B degree certificate from a public training center's course can be employed as professionals with the equivalent of a diploma from senior vocational high schools. Technicians who obtain A degree certificates can be employed as professionals with the equivalent of a diploma from a junior college. In addition, vocational trainers' wages are computed pursuant to teachers' salaries in vocational schools.

Furthermore, cross boundary, plant-school-vocational training center cooperative education is a common practice in Chinese Taipei. These programs usually take three years to complete. Technical students complete supplementary senior vocational high school courses in three

years and spend two years of the three receiving basic training in class and one as an apprentice in a practice firm. Lastly, vocational training institutes give short-period special training for the undergraduates of technology institutes, technological junior colleges and senior vocational high schools. Training provided by VTS training centers are meant to facilitate students' learning through access to instruction and advanced facilities at these centers.

The three main methods in implementing vocational training include enterprise training, industrial and educational cooperative training, and public training. Enterprise training is mainly short-term on-the-job training. Cooperative training, which involves the central authority, vocational training institutes, schools, and industries, is described in the preceding paragraph. It plays an important role in manpower development because of its economic, practical, and flexible characteristics. Other than the TVE system, technical manpower development comes mainly from public training institutes. In Chinese Taipei, public training, by definition, is that vocational training that is subsidized by the government and held in public training centers. Of the 11 public training centers, one is run by Council of Agriculture of the Executive Yuan, another by National Youth Commission of the Executive Yuan; the others are all affiliated with the Employment and Vocational Training Administration of Council of Labor Affairs of the Executive Yuan. There are two main forms of public training: General training and Special training.

General Training

General training is subdivided into five types. First, there is orientation training which includes trainer training, technician training and service worker training. Second, there is further training which includes further training for schoolteachers, on-the-job trainers and service workers. Third, job-transfer training and second expertise training include unemployed job-transfer training, vocational skill training for soldiers, and short-term skill training for junior college students. Fourth, cooperative education training includes extension courses, combining training by public training institutes and vocational schools. Finally, plant-school-vocational training center cooperative training combines training of public training institutes, theoretical courses of vocational schools, and apprenticeship in industry sectors (as discussed above).

Special Training

Special training is subdivided into three types. First, special vocational training is provided for: the handicapped, the mid-high aged, the aborigines, the low-paid, and women in charge of supporting the family. Second, special vocational training in economic development refers to technician and supervisor training in public civil engineering, orientation training, further training in industry automation, and technician training in the information and aerospace industries. Third, foreign-aid vocational training includes training provided to developing economies' vocational trainers and technicians. It includes assisting overseas Mongolians, Tibetans, and overseas Chinese to receive training in Chinese Taipei.

Job Training and Development

Generally, large enterprises have education and training centers focusing on internal development for their employees. Many of these enterprises are Taiwan branches of renowned multinationals like Motorola, Philips, and Whirlpool. Local enterprises that have such training facilities include ACER and EVERGREEN.

Off-the-job training (OFF JT) consists of newcomer training, professional skills training, management competency training, internal trainer cultivation, Total Quality Management (TQM) training, direct communication training, internationalized professionals cultivation, and self development training system. On-the-job training (OJT) consists of running meetings, shadow learning, job shifts, job agents, small group activities, overseas study, particular appointments, and job guidance. Self development (SDP) consists of Mandarin-English speech encouragement unions, self-growth learning centers, study groups, and cultural activities.

In March 1997, there were 124 registered public and private employment training institutes in Chinese Taipei Corporations. In 1995, the number of persons who received employment training was 565,768, of which only 21,038 trainees (3.72 percent) received training courses in public employment training institutes. The other 544,730 trainees (96.28 percent) trained in private employment training centers. Significantly more people receive training from private training centers rather than public ones because the number of public centers (only 11) and their class-sizes are much smaller than those of private institutes.

Pay and Benefits

Determination

In Chinese Taipei pay is determined by a variety of means, including market factors (such as going rates by occupation, industry, location), internal equity factors (such as job evaluated grade structures) and employee factors such as seniority, age and performance. There is no standard means of pay determination.

Minimum Rates of Pay

According to Council of Labor Affairs' regulations, the lowest payment should not be lower than the basic payment, NT\$15,840 per annum in 1997, in any enterprise to which the Labor Standards Law (1997) applies.

Variations in Pay

Table 11 shows the structure of employees' average monthly earnings by industry for the five years to 1997. Pay is made up of regular earnings (fixed and basic wage), irregular earnings (performance wage), and non-salary remuneration (insurance fee, retirement pay, dismissal wage, and other welfare expenses). There has been a trend for regular earnings to fall as a proportion of total pay and for irregular earnings to increase.

Items	Grand Total	Regular Earnings	Irregular Earnings	Non-Salary Remuneration				
				Insurance Paid by the Employer	Retirement Pay Supplied by the Employer	Service Pay	Employee Welfare Fund	Other Welfare Payment
Industry								
1992 July Industry & Service	29,968 (100.00)	24,219 (80.82)	3,493 (11.65)	1,063 (3.55)	690 (2.30)	216 (0.72)	168 (0.56)	119 (0.40)
1993 July Industry & Service	31,952 (100.00)	25,716 (80.48)	3,916 (12.26)	1,208 (3.78)	735 (2.30)	77 (0.24)	173 (0.54)	128 (0.40)
1994 July Industry & Service	34,128 (100.00)	27,216 (79.75)	4,333 (12.70)	1,287 (3.77)	814 (2.31)	110 (0.32)	238 (0.70)	130 (0.38)
1995 July Industry & Service	36,478 (100.00)	28,599 (78.29)	4,303 (11.80)	2,120 (5.81)	842 (2.31)	274 (0.75)	247 (0.68)	133 (0.36)
1996 July Industry & Service	38,128 (100.00)	29,878 (78.36)	4,492 (11.78)	2,381 (6.24)	931 (2.44)	99 (0.26)	239 (0.63)	108 (0.28)
1997 Industry	35,659 (100.00)	28,525 (79.23)	3,608 (10.12)	2,405 (6.75)	926 (2.60)	141 (0.39)	228 (0.64)	99 (0.28)
1997 Mining & Quarrying	39,699 (100.00)	31,882 (80.31)	2,427 (6.11)	2,805 (7.07)	1,718 (4.33)	362 (0.91)	297 (0.75)	208 (0.52)
1997 Manufacturing	34,789 (100.00)	26,943 (77.42)	3,990 (11.47)	2,458 (7.06)	911 (2.62)	161 (0.46)	227 (0.65)	108 (0.31)
1997 Electricity, Gas & Water	71,063 (100.00)	53,760 (75.65)	3,488 (4.91)	4,299 (6.05)	7,772 (10.94)	40 (0.06)	1,682 (2.37)	22 (0.03)
1997 Construction	37,160 (100.00)	32,715 (88.03)	1,762 (4.74)	1,992 (5.36)	469 (1.26)	44 (0.12)	121 (0.33)	57 (0.15)
1997 Service	40,844 (100.00)	31,667 (77.53)	5,465 (13.38)	2,352 (5.76)	937 (2.29)	53 (0.13)	252 (0.62)	118 (0.29)
1997 Commerce	34,228 (100.00)	28,489 (83.23)	2,701 (7.89)	2,379 (6.95)	438 (1.28)	11 (0.03)	96 (0.28)	114 (0.33)
1997 Transport, Storage & Communication	55,875 (100.00)	35,553 (63.63)	15,661 (28.03)	1,993 (3.57)	2,484 (4.45)	5 (0.01)	130 (0.23)	49 (0.09)
1997 Finance, Insurance, & Real Estate	56,206 (100.00)	39,395 (70.09)	10,320 (18.36)	2,748 (4.89)	2,041 (3.63)	269 (0.48)	1,214 (2.16)	219 (0.39)
1997 Business Service	45,893 (100.00)	37,837 (82.45)	4,401 (9.59)	2,900 (6.32)	583 (1.27)	0 (0.00)	91 (0.20)	81 (0.18)
1997 Social & Personal Services	34,723 (100.00)	29,408 (84.69)	2,597 (7.48)	1,946 (5.60)	522 (1.50)	64 (0.18)	74 (0.21)	112 (0.32)

Source: Directorate General of Budget Accounting and Statistics of Executive Yuan, 1997

Table 11 Structure of Employees' Average Monthly Earnings by Industry (NT\$, percentage)

The average income of employees increases with their age and seniority. As shown in Table 12, employees aged 15-19 years receive the lowest payment, and those aged 40-59 years receive the highest. Average income also increases with educational attainment. Undergraduates and above earn an average of NT\$47,676 per month. Graduates of junior high schools and below receive an average NT\$26,972.

Category	1993	1994	1995	1996	1997
Grand total	27069	29123	30446	31408	31966
AGE					
15-24 Years	19264	20956	22067	22133	22599
15-19 Years	15258	17199	17751	17901	18270
20-24 Years	20681	22334	23661	23698	24117
25-49 Years	28800	30954	32242	33046	33572
25-29 Years	25838	27623	28554	29306	29773
30-34 Years	28412	30621	31608	32398	33045
35-39 Years	30281	32201	33915	33925	34317
40-44 Years	30935	33195	34965	35849	36098
45-49 Years	31431	34515	35102	36752	37275
50-64 Years	29744	31517	32873	35090	35720
50-54 Years	30951	32287	33159	34794	36737
55-59 Years	38985	31835	33701	36818	35107
60-64 Years	28218	38967	30559	32774	33741
65 Years & Over	20547	22615	22237	26137	23293
Educational Attainment					
Junior High School & Below	23778	26020	26914	26809	26972
Primary School & Below	23160	25197	25930	25624	26011
Junior High School	24471	26859	27881	27930	27865
Senior High School & Senior Vocational School	25143	27051	28248	28983	29546
Senior High School	26628	28069	29375	30121	30982
Senior Vocational School	24626	26680	27865	28617	29065
Junior College & Above	35975	37582	38922	40557	40802
Junior College	31727	33111	34811	35566	35539
College And Graduate School	41570	43665	44540	47324	47676

Source: Directorate General of Budget Accounting and Statistics of Executive Yuan, 1996

Table 12 Employees' Average Monthly Income by Age and Educational Attainment (NT\$)

The highest average monthly employee income in 1997 was in the water, electricity, and gas industry followed by business and insurance, and public administration (see Table 13). The lowest were to be found in agriculture, and the wholesale, retail, and catering industries. In the five years to 1997, agricultural and service workers had the highest average percentage pay increases; the lowest was for production operators.

Category	1993	1994	1995	1996	1997
Grand Total	27069	29123	30446	31408	31966
Industry					
Agriculture	19990	22378	22892	23451	24898
Industry	25830	27946	29497	30086	30358
Mining	32450	31672	32851	33891	37486
Manufacturing	23738	25594	27372	28496	28983
Electricity, Gas & Water	39099	39450	45483	46657	47532
Construction	30807	33109	33772	33447	33556
Service	28634	30553	31643	32866	33686
Wholesale, Retail & Catering	24637	26355	27506	28199	28219
Transport & Communication	33862	36237	37675	38488	38507
Finance & Insurance Trade	32462	36083	38385	38934	40225
Business Service	27328	29589	28595	30612	33902
Social & Personal Service	38352	30085	30504	32173	33293
Public Administration	31886	33614	36414	37862	39068
Occupation					
Legislators	50199	52705	57139	59588	59207
Professionals	38755	40807	41600	44625	45665
Craft Workers	31362	33571	35119	36212	37337
Clerks	23611	25202	26408	27401	28029
Service Workers	21919	23803	25044	25644	25917
Agriculture Workers	19128	21431	21675	22661	23473
Production Operators	24309	26525	27539	27568	28021

Source: Directorate General of Budget Accounting and Statistics of Executive Yuan, 1998

Table 13 Employed Persons Average Monthly Income by Industry and Occupation (NT\$)

Methods of Payment

Most wages are paid monthly and by electronic transfer. Some are hourly paid, mainly in cash. For short-term workers, most are paid by day in cash. Home workers are paid mostly by piecework in cash or by check.

Overtime

Refer to Employment Law section for details on overtime working and payment.

Performance-Based Pay

Performance-based pay is becoming a more significant trend in Chinese Taipei, particularly in the high-technology and service industries. Table 14 shows the differential performance-based payment methods applied in the electricity and textile industries

Position	Reward Methods
Production worker	Piecework system General working hour system Group rewards system
Manager and Head of Department	Short-term reward system (annual bonus) Long-term reward system (stock-purchase options)
Clerk	Basic payment system Commission system Mixed system
Other professional worker	Incremental increase Performance-based merit pay system

Source: Chu, Cheng-ming, 1997

Table 14 Types of Performance-Based Pay and Financial Bonus in the Electricity and Textile Industries

Currently, businesses provides bonuses or shares in order to motivate employees to improve their productivity and enhance overall business performance. Take Corporation A for instance. Every month, Corporation A withdraws 15 percent of the pre-tax surplus and regularly issues it to employees as bonuses, five times a year. Details are shown in Table 15. Also 10 - 15 percent of newly issued stock is legally to be reserved for employees to purchase.

Date	Total	Note
April 10	30% of the withdrawal sum from January to March	First quarter
June 10	30% of the withdrawal sum from April to June	For the Dragon Boat Festival
September 10	30% of the withdrawal sum from July to September	For the Mid-autumn Festival
End of December	The issued withdrawal sum from January to November	For the New Year
Chinese New Year's Eve	The sum of the issued bonus in a year	Settlement

Source: Hang, Chih-xiang, 1997

Table 15 Methods of Distributing Bonus in Corporation A

Income Taxation

From February 20th to March 31st, employees are required to submit their consolidated income tax return. The 1996 consolidated income tax rates are shown in Table 16.

Unit: NT Dollars				
Level	Net Consolidated Income	×Tax Rate	-Accumulated Balance	=Year-round Income Tax
1	Below 330,000	× 6%	- 0	=Year-round Income Tax
2	330,000~890,000	× 13%	- 23,100	=Year-round Income Tax
3	890,000~1,780,000	× 21%	- 94,300	=Year-round Income Tax
4	1,780,000~3,340,000	× 30%	- 254,500	=Year-round Income Tax
5	Above 3,340,000	× 40%	- 588,500	=Year-round Income Tax

Table 16 1996 Consolidated Income Tax

From 1998, the double taxation of business income is eliminated, and the highest business income tax rate has decreased from 55 percent to 40 percent.

Leave

Legal holidays

According to Labor Standard Law, the leave days are:

- Founding Anniversary (January 1st)
- The day following the Founding Anniversary (January 2nd)
- The Eve of Chinese New Year
- Spring Festival (from 1st to 3d day of 1st lunar month)
- Peace Memorial Day (February 28)
- Youth Day (March 29)
- Women & Children 's Day (April 4)
- Tomb Sweeping Day (April 5)
- Dragon Boat Festival (5th day of 5th lunar month)
- Mid-Autumn Festival (15th day of 8th lunar month)
- Teacher's Day (September 28)
- Double-Tenth Day (October 10)
- Restoration Day (October 25)
- Chiang Kai-shek's Birthday (October 31)
- Dr Sun Yet-sen's Birthday (November 12)
- Constitution Day (December 25)

Employees are entitled to payment for these holidays.

Annual Leave

Refer to the Employment Law section for details of legal entitlements for annual leave.

Wedding Leave

According to the Rules on Leave-taking by Workers (1996), a worker is entitled to 8 days of wedding leave with pay.

Funeral Leave

According to the Rules on Leave-taking by Workers (1996), on the death of a parent, foster-parent, step-parent or spouse, a worker is entitled to 8 days of funeral leave with pay. On the death of grand-parent, grand-parent-in-law, son or daughter, grand-parent of spouse, parent of spouse, foster-parent or step-parent of spouse, a worker is entitled to 6 days of funeral leave with pay. On the death of brother or sister, a worker is entitled to 3 days of funeral leave with pay.

Sick Leave

According to the Rules on Leave-taking by Workers (1996), when a worker must receive medical treatment or rest on account of ordinary injury, or physical reasons, he or she is entitled to ordinary sick leave according to the following provisions: for non-hospitalization, a worker is entitled to leave for a total of less than 30 days in one year with pay; for hospitalization, a worker is entitled to leave not exceeding one year in any two year period.

Leave of Absence for Personal Reasons

According to the Rules on Leave-taking by Workers (1996), an employee is entitled to normal leave without pay not exceeding 14 days in one year, for dealing with personal matters.

Workers' Compensation, Retirement Pensions, and Maternity Leave

Refer to the Employment Law section for details on legal entitlements.

Benefits

Industry and unions supply welfare payments. Since 1996, 9301 welfare institutes have been established to deal with the welfare services of employed persons. In 1996, the Department of Labor Welfare of the Council of Labor Affairs subsidized a total of NT\$4,868,057 in welfare payments for its own staff. The welfare items included: restaurants, transportation, hospitals, clinics, hairdressing, libraries, recreation facilities, baby-sitter services, and scholarships for children.

According to 1996 statistics from the Council of Labor Affairs, there were around 3,000,000 people in Chinese Taipei who receive welfare benefits. Generally speaking, the benefits provided by employees tend to vary by industry and by position.

The potential range of benefits available for organizations to distribute is very broad. For example, a company may choose to implement some of the following welfare items: insurance (labor insurance, health insurance, group insurance), medical treatment consultations, annual checkups, retirement pay, stock allowances, stocks-purchasing plans, house-purchasing loans, car, dormitories, restaurants, transportation/parking lots, legal/financial consultation,

psychiatric consultations, membership card, saving plan, education subsidies, catering subsidies, job-reserve without payment, consumer load subsidies, day-care center, hotel recreation, gymnasium, overseas travel subsidies, and children's scholarships.

Employee Relations

Employer Associations

There are no special employer associations who help negotiate with unions. Other than labor unions, there are about twenty employer associations (including both public and private) of neutral standing in negotiating labor disputes. Two of the largest associations are the Chinese National Association of Industry & Commerce and the Association of Industrial Relations.

Government

The Department of Labor-Management Relations of the Council of Labor Affairs plays a significant role in negotiation, arbitration and resolution of labor disputes. The Labor Department of Taiwan Province and the Labor Bureaus of both Taipei Municipal Government and Kaosiung Municipal Government are also involved in handling labor-management issues.

Employee Associations

Union Categories

According to the Labor Union Law, labor unions are divided into two categories, basic unions and united unions. There are two types of basic unions: trade unions and occupational unions. Trade unions are unions composed of workers of same trade/industry but in different occupations, and occupational unions are composed members of the same occupation. Basic unions are made up of sub-unions, sub-departments, and groups. United unions are divided into three levels: city / county general unions, provincial general unions, and unions combining different industries and general unions.

Union Numbers and Membership

In 1996, there were 3,700 labor unions. There were 3,048,000 members which represents 33.6 percent of the total employed workforce. Table 17 shows labor unions at all levels. The 1,190 trade labor unions had 588,000 members. Under this category, manufacturing had the highest membership, and transport, storage and communications the second highest (see Table 18). The remaining 2,422 occupational unions had 2,461,000 members. Under this category, skilled workers and related personnel ranked the highest, followed by service and sales personnel, machine operators and assemblymen.

Type of Unions	Number of Unions (units)		Number of Members (1,000 persons)	
	End of 1995	End of 1996	End of 1995	End of 1996
Total	3,704	3,700	3,135	3,049
General Federations of Labor Unions	25	25	-	-
Federations of Trade Labor Unions	20	20	-	-
Federations of Occupational Unions	42	43	-	-
Trade Labor Unions	1,204	1,190	598	588
Occupational Unions	2,413	2,422	2,537	2,461

Source: Council of Labor Affairs of Executive Yuan, 1996

Table 17 Labor Unions at All Levels

Trade Union	No. of Unions	Members
Total	1,190	587,559
Agriculture, Forestry, Fishery & Animal Husbandry	12	3,931
Mining & Quarrying	14	1,623
Manufacturing	915	372,713
Electricity, Water & Gas	24	37,370
Construction	10	9,452
Commerce	16	4,272
Transport, Storage & Communications	116	132,293
Finance, Insurance & Real Estates	51	10,702
Industrial & Business Services	5	2,235
Social & Personal Services	27	12,966
Public Administration	-	-
Occupational Union		
Total	2,422	2,460,711
Federation Of Occupational Unions	21	35,058
Elected Assemblymen, Administrators, Corporate Executive & Managerial Personnel	1	107
Professional Personnel	113	57,382
Technicians & Assistants	221	114,594
Clerk	48	18,268
Service Workers & Sales Persons	376	398,571
Agriculture, Forestry, Fishery, & Husbandry Workers	104	59,145
Skilled Workers & Related Workers	921	1,035,889
Machine Operators & Assemblymen	322	537,338
Unskilled Workers & Laborers	295	204,359

Source: Council of Labor Affairs of Executive Yuan, 1996

Table 18 Trade Union and Occupational Union Numbers and Membership

The overall number of unions and members has been decreasing in recent years. There are a number of reasons. Some trade unions are influenced by political opposition groups. They shift from economic to political appeals, and tend to politicize labor issues. Some entrepreneurs and personnel managers are hostile to the union movement, organizing unions or accept the requirements of group consultation raised by unions. Many members are reluctant to support their union. Furthermore, some workers consider the unions unrepresentative and are unwilling to join. The funding of unions comes from member fees, which are usually low. This makes it very hard for unions to promote themselves.

Labor-Management Relations

With regard to the labor-management relationship system, 289 business firms signed collective agreements with trade and occupational labor unions in 1996 (see Table 19). They included 284 business firms signing agreements with trade unions, and five with occupational unions. In 1996, 994 business firms engaged in labor-management negotiations, an increase of 14 over 1995. A total of 458 state-owned enterprises engaged in negotiations with labor unions, also

an increase over the preceding year. In 1996, a total of 1,028 business firms offered dividend sharing and/or equity stock-sharing programs for employees, up 2.29 percent on the preceding year. Of 1,028 business firms, 511 firms offered the dividend-sharing programs, 371 business firms offered the equity stock sharing programs; and 146 business firms offered both dividend and equity stock-sharing programs, all were increases on the preceding year. A total of 11,077 business firms set rules of work in 1996, 5.92 percent more than the 1995. In these rules, firms have emphasised productivity, the formalisation of employee relations and improving the working environment.

Item	Collective Agreement						Labor Management Negotiation		Dividend Sharing	Equity Sharing	Dividend & Equity Sharing	Work Rules
	Total		Industry Trade/Union		Occupation Union							
	Public	Private	Public	Private	Public	Private	Public	Private				
End of 1995	119	168	119	163	-	5	457	523	501	362	142	10,458
End of 1996	117	172	117	167	-	5	458	536	511	371	146	11,077
Chinese Taipei	86	97	86	95	-	2	327	390	153	88	67	9,021
Taipei mun.	14	25	14	25	-	-	79	31	211	137	36	1,260
Kaohsiung mun.	17	15	17	12	-	3	49	42	43	50	2	494
KEPZ	-	35	-	35	-	-	3	29	29	-	5	171
SIP	-	-	-	-	-	-	-	75	75	96	36	131

Notes: 1. KEPZ refers to Kaohsiung Exports Processing Zone

2. SIP refers to Science-based Industrial Park

Source: Council of Labor Affairs of Executive Yuan, 1996

Table 19 Labor-Management Relations in Business Firms

Employee Relations Performance Indicators

Labor Dispute Management

Labor disputes in the five years to 1996 are shown in Table 20. A total of 2,658 cases of labor-management disputes took place in 1996, up 17.04 percent from the 2,271 cases in the preceding year. Among the causes for disputes (permitting multiple choices), contract dispute ranked the highest, accounting for 47.82 percent of the annual total in 1996. Wage disputes ranked second with occupational hazards disputes third. In 1996, 2,581 disputes had received mediation from the Department of Labor-Management Relations of Council of Labor Affairs of Executive Yuan.

Item	No. of Disputes (cases)	Types of Labor Dispute (case)									Number of workers involved (persons)
Year		Dispute over contracts	Dispute over wages	Dispute over retirement	Dispute over welfare benefits	Dispute over work hours	Dispute over labor insurance	Dispute over management	Dispute over occupational hazards	Dispute over safety & sanitation	
1992	1830 (1747)	848 (828)	557 (542)	185 (179)	55 (52)	9 (8)	91 (84)	68 (64)	224 (216)	-	12,934
1993	1898 (1856)	852 (844)	548 (545)	207 (205)	61 (61)	43 (42)	121 (120)	73 (73)	234 (225)	1 (1)	37,949
1994	2061 (2021)	931 (912)	643 (635)	210 (206)	55 (54)	27 (27)	105 (100)	64 (59)	295 (288)	-	30,890
1995	2271 (2211)	962 (934)	761 (747)	257 (246)	50 (49)	17 (15)	100 (92)	90 (84)	272 (265)	-	27,342
1996	2658 (2581)	1271 (1228)	891 (874)	239 (225)	32 (31)	15 (13)	97 (89)	62 (60)	262 (254)	-	21,654

Note: Figures in parentheses refer to labor disputes receiving mediation or coordination of labor administrative agencies (or organizations).

Source: Council of Labor Affairs of Executive Yuan, 1996 Table 20 Resolved Labor Management Dispute

Table 20 Resolved Labor-Management Disputes

Occupational Hazards

In 1996, there were 22,843 occupational injuries, diseases and deaths covered by labor insurance, down 0.15 per cent from the preceding year. As Table 21 shows, manufacturing industry experienced the largest number of cases in all respects: death (223), disability (2,935) and sickness/injury (10,275); these represented 58.81% of the total number of cases for 1996. Electricity, gas and water ranked the lowest overall.

However, the occupational hazard ratio, which is based on the number of cases per 1,000 employees in each industry presents quite a different picture. Mining and quarrying with an overall ratio of 11.294 emerges as the most hazardous industry, followed by construction. Finance, insurance and real estate ranked as the industry with the lowest overall occupational hazard ratio.

Category	Unit: person-case				Unit: one thousand employees			
	Person-Cases				Occupational Hazard Ratio(%)			
	Total	Sickness & Injury	Disability	Death	Total	Sickness & Injury	Disability	Death
Total	22,843	18,016	4,150	667	3.063	2.415	0.556	0.091
Agriculture, Forestry, Fishery, Husbandry	390	194	81	115	1.415	0.704	0.294	0.417
Mining & Quarrying	138	108	25	5	112.994	10.169	2.354	0.471
Manufacturing	13,443	10,275	2,935	223	1.803	3.674	1.049	0.080
Electricity, Water & Gas	32	16	11	5	1.049	0.524	0.360	0.164
Construction	4,968	4,352	458	158	6.566	5.752	0.605	0.209
Commerce	1,841	1,444	339	58	1.445	1.133	0.266	0.046
Transport, Storage & Communications	1,134	916	161	57	2.128	1.719	0.302	0.107
Finance, Insurance & Real Estate	71	61	7	3	0.226	0.194	0.022	0.010
Industrial & Business Services	157	133	15	9	0.654	0.554	0.062	0.037
Social & Personal Services	645	507	105	33	0.573	0.450	0.093	0.029
Public Administration	34	10	13	11	0.336	0.099	0.129	0.109

Source: Council of Labor Affairs of Executive Yuan, 1996

Table 21 Occupational Injuries, Diseases and Deaths Covered by Labor Insurance

Current HRM Issues and Trends

Major HRM Issues in Recent Years

Valuing Human Resources

The key factors determining successful industrial competition are related to human resources. In the past, most employees were not willing to stay in the technology manufacturing industry because their salaries were low. Employers considered their salary a consumption expense and were unwilling to pay for those with experience and ability. However, nowadays, employers realize that the only way to hold onto employees is to pay an attractive salary, to adopt a reasonable performance reward system, and to consider employees as a resource generating wealth for companies.

Development of Employee Potential

Many enterprises are starting to place a high value on training current employees. However, most SMEs do not follow this trend. As a result, employees are not willing to stay in SMEs, which evidently are unable to compete with larger enterprises in this regard.

Recognition of Individual Needs

The traditional focus of personnel management on attracting employees by economic means is insufficient to meet the needs of a new generation. This new generation wants to pursue self-development, they value leisure, and they want to take care of both family and work.

Team Work

Modern enterprise management no longer depends on one or two people. The self-esteem of employees must be elevated without labor-management relations becoming tense. As a result, the crucial factors determining group success are cooperative employees, good teamwork, and excellent group learning capability.

Sustainable Management

Sustainable management is the basis of employees continuously accepting self-challenges to upgrade operations, and to achieve goals.

Managing Expatriates

There is an increasing trend for Chinese Taipei businesses to invest in the People's Republic of China and elsewhere abroad. It has become necessary for companies to know how to manage and motivate executives sent on overseas assignments.

HRM Trends

The following HRM trends have been identified in Chinese Taipei.

Humanistic Management

Humanistic management includes respecting individuals, active employee encouragement, employee participation, and employee understanding.

Development of a Reasonable HRM System

A reasonable HRM system consists of comparisons with other systems of advanced economies, reasonable, legal and logical systems, reasonable personnel management systems, reasonable working efficiency evaluation.

Shift to Democratic Leadership

Democratic leadership consists of good relationships, offering and decentralizing authority, exchanging ideas, and ability development.

Development of Diversity

Development of diversity consists of offering development opportunities to employees through various channels, recruiting employees from different areas, diverse evaluation standards, and flexible working regulations.

Focus on International Human Resource Management (IHRM)

IHRM consists of the management of host economy workers and foreign labor in Chinese Taipei.

Key Organization Addresses

Council of Labor Affairs

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FAX: (02) 2545-1140

Employment and Vocational Training Administration, Council of Labor Affairs

14th Fl, No 6, Sec 1, Chung Hsiao W. Rd, Taipei

TEL: (02) 2383-1699

FAX: (02) 2311-3696

Industrial Development Bureau, MOEA

No 41-3, Sec 3, Shin Yi Rd, Taipei

TEL: (02) 2754-1255

FAX: (02) 2704-3775

Meidum and Small Business Administration, MOEA

3rd Fl, No 95, Sec 2, Roosevelt Rd, Taipei

TEL: (02) 2368-0816

FAX: (02) 2367-3883

Ministry of Education

No 5, Chung Shan S. Rd, Taipei

TEL: (02) 2356-6051

National Youth Commission

14th Fl, No 5, Hsu Chou Rd, Taipei

TEL: (02) 2356-6232

FAX: (02) 2321-5884

Department of Labor Affairs, Taiwan Provincial Government

6-8 Fl, No 501, Sec 2, Li Ming Rd, Taichung

TEL: (04) 255-0629

FAX: (04) 252-1967

Bureau of Labor Affairs, Taipei City Government

5 Fl, No 5, Shi Fu Rd, Taipei

TEL: (02) 2759-6667

FAX: (02) 2720-6651

Bureau of Labor Affairs, Kaohsiung City Government

No 6, Chen Chung Rd, Chien Chen District, Kaohsiung

TEL: (07) 812-4613

FAX: (07) 821-4783

Chinese Federation of Labor

No 21-18, Tun Hua N Rd, Taipei

TEL: (02) 2713-5111

Labor & Employer Cooperative Relationship Foundation
4th Fl, No 17, Sec 3, Chung King N Rd, Taipei
TEL: (02) 2397-9678
FAX: (02) 2391-4271

China Productivity Center
2nd Fl, No 79, Sec 1, Hsin Ta Wu Rd, Hsi Chih, Taipei
TEL: (02)2698-2989
FAX: (02) 2698-9047

Human Resource Development Association
17th Fl, No 51, Sec 2, Chung King S Rd, Taipei
TEL: (02) 2396-4605

Chinese Human Resource Management Association
R 512, No 207, Tun Hua N Rd, Taipei
TEL: (02) 2546-0001
FAX: (02) 2718-9354

Harvard Management Services International Corporation
5th Fl, No 220, Sec 3, Ta Tong Rd, Hsi Chih, Taipei
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Kind Management Consulting International Corporation
TEL: (03) 336-6993
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FAX: (02) 2356-9762

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Hong Kong

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Economy Context

Geography, Climate and Population

Hong Kong is a cosmopolitan and highly urbanized society located at the entry to the Canton Delta on the southern coast of China. Created as China's Special Administrative Region (SAR) after its reversion and political re-integration with the Mainland, this territory is adjacent to one of the biggest and most populous Chinese provinces, Guangdong, which serves as its hinterland.

The total area of Hong Kong is 1,095 square km., with Hong Kong Island at a size of 80 square km., Kowloon Peninsula at 47 square km., the New Territories at 794 square km., the outlying islands altogether at 174 square km. and new and reclaimed since 1851 at 60 square km. (Hong Kong 1997: A Review of 1996, 1997: front page).

Hong Kong Island has always performed as the administrative, financial and banking centre of the SAR. Kowloon is hectic in accommodating a variety of retail businesses, trading and commercial activities; it also serves as the focal point of the territory's international and cross-border transport. In light of air traffic congestion, a new airport is being built on one of the largest outlying islands, Lantau, in the Chek Lap Kok area and scheduled for operation in 1998. In the past, much of Hong Kong's industrial and residential space was clustered at the Kowloon Peninsula. However, there has been a considerable amount of workplace and residential relocation and decantation to a fringe of suburban-cum-industrial new townships developed in the new Territories since the 1970s.

The mild climate of Hong Kong, featuring a seasonal variation of moderate sub-tropical weather, helps explain its hospitality to human settlement. It is one of the world's most densely populated urban centres with a population of 6,421,300 at the end of 1996. The territory-wide population density per square km was 5,900 as at 1996 but the built-up city areas of Hong Kong Island and Kowloon had a density of 26,460 people per square km. Urban congestion has hence been a consistent source of strain on the hectic life-style of its people; and overcrowding is particularly conspicuous in such old industrial-cum-residential districts as Kwun Tong, where the density is as high as 53,610 people per square km.

In terms of its age composition, Hong Kong has a relatively youthful population although the demography is now maturing: the median age as at 1996 was 34, with 18.5 per cent of its people younger than 15 and 10.1 per cent older than 64. The proportion of the population aged under 15 fell from 23 per cent in 1986 to 19 per cent in 1996, while that of those aged 65

and above rose from eight to ten per cent in 1996. Given these trends, the age dependency ratio (which is the ratio of the young and elderly to people aged between 15 and 64) declined from 443 per thousand in 1986 to 407 per thousand in 1996 (Hong Kong 1997, 1997: 396).

The trend of a plateauing birth rate, which declined from thirteen per thousand in 1986 to ten per thousand in 1996, has helped stabilise the population's natural growth rate. Hence, Hong Kong's natural growth rate has dropped consistently over the decade, from eight to five per thousand (Hong Kong 1997, 1997: 396). However, it still grew by a sizeable 2.4 per cent during the year intervening between 1995 and 1996, principally because of an enlarged intake of legal migrants arriving from Mainland China. Within the population itself, the sex ratio has been even in recent years, standing at 1,000 males to 1,000 females in 1996.

The citizens comprising the Hong Kong SAR are mainly Chinese (95 per cent). Most of them, although largely local born, have their origins in the adjacent southern province of China, Guangdong. The non-Chinese constitute the expatriate segment of Hong Kong's population who can, however, be 'localised' after obtaining citizenship.

Previously, the expatriate community was heavily biased in mix towards the so-called 'westerners' (namely, those who were Euro-American in origin). However, such an ethnic profile of the non-native population has been modified significantly as a result of the massive admission of guest migrant workers since the late eighties. Such manpower importation began in the seventies with the intake of foreign household maids (largely from the Philippines) and was later extended in coverage, around the turn of this decade, as a public policy measure of helping the local labour market alleviate its tightness of supply at the semi-skilled and unskilled levels. Because of this compounding factor, the Philippines, which supplies Hong Kong with the largest contingent of domestic helpers in relieving many middle-class women from their domestic work (thereby enabling the latter to enter, re-enter or remain in the full-time salaried labour market), is now the 'lead' home country of visiting expatriates in Hong Kong. In 1996, there were altogether 128,300 people from the Philippines, mostly hired as guest workers, within the territory's non-native and non-citizen (alien) population. The diversity of ethnic groups among Hong Kong's expatriates is wide. Within this spectrum, they can either be imported guest labour or overseas executive/professional staff dispatched by multinationals from their headquarters in the home countries; they include the Americans, Germans, French, Dutch, Australians, Canadians, Portuguese, plus pockets of Asians including the Japanese, Singaporeans, Malaysians and Indonesians. Such a heterogeneous mix has given Hong Kong a highly cosmopolitan image and 'multi-cultural' flair featuring ethnic plurality and openness.

Attesting to its 'cosmopolitan' character, Hong Kong has adopted, since introducing its Official Languages Ordinance in 1974, both English and Chinese as its two official languages. A linguistic dualism has subsequently been recognised and ratified in the two 'benchmark' official documents enshrining the future of Hong Kong: namely, the Sino-British Joint Declaration of 1985 and the Basic Law. As an internationalised city-port, Hong Kong has been accustomed to the use of English as the principal language of business and commerce, although the Cantonese dialect is probably the most common spoken medium within the local community. However, Putonghua (Mandarin) as the official spoken version of Chinese has become increasingly popular following the 1997 political changeover.

Political Context

By virtue of the 1985 Sino-British Joint Declaration, the sovereign authority governing Hong Kong was returned by Britain to China on July 1, 1997. Thereafter, Hong Kong became re-integrated with China as its Special Administrative Region (SAR) under the political formula of 'one country, two systems'. Such an arrangement, as guaranteed by the Basic Law which China prescribes as the mini constitution for Hong Kong, enables the latter to conserve and sustain its status quo as a capitalist society and its life-style for at least fifty years after the political transfer of sovereign authority and government.

The Hong Kong SAR government owes its creation to two primary source documents: one being the treaty-like diplomatic instrument 'The Sino-British Joint Declaration on the Future of Hong Kong', which the two nations ratified in 1985, and the other being the Basic Law, enacted for Hong Kong by the legislature of the People's Republic of China, the People's Congress. However, as part of its reversion to China, Hong Kong derives the mandate of constituting its new SAR government from the Basic Law ordained by China which is now both its motherland as well as its sovereign authority.

The SAR government enjoys a high level of autonomy in governing its own affairs, apart from the dualistic domain of foreign affairs and defence, which belongs to the jurisdiction of the Central Government in Beijing to which it is answerable directly. Basically, the Basic Law ordains the creation of the executive, legislative and judicial branches of the new SAR government now functioning under the auspices of the Chinese sovereign power.

The government is headed by the Chief Executive whose powers are reminiscent of those of the former Governor heading the previous government. These abilities include, inter alia:

- i to lead the government of the SAR;
- ii to be responsible for the implementation of the Basic Law and its ancillary body of legislation;
- iii to sign bills passed by the Legislative Council and to promulgate laws, and to sign budgets passed by the Legislative Council and report them to the Central Government;
- iv to decide on government policies and to issue executive orders;
- v to nominate to the Central Government for appointment of the principal officials of the SAR government;
- vi to implement the directives of the Central Government on matters in connection with the Basic Law; and
- vii to conduct external affairs for the SAR government as authorised by the central authorities. (Basic Law, article 48).

The Chief Executive has to be a Chinese citizen not less than 40 years old and a Hong Kong permanent resident having been locally domiciled for at least 20 years. Appointed by the Central Government in Beijing for a term of five years, the Chief Executive is now elected by a Election Committee which is itself appointed by the Central Government on the basis of consultation. The Committee has been designed in its composition to be representative across all sectors and sectarian interests in society, with a sizeable membership of 800 delegates.

Purporting to conserve the practice of the preceding government, the Basic Law creates the organ of the Executive Council to assist the Chief Executive of the SAR government in policy decision-making. It is obligatory for the Chief Executive to consult the Executive Council

‘before making important policy decisions, introducing bills to the Legislative Council, making subordinate legislation, or dissolving the Legislative Council’. The Executive Council is to be drawn from among the government’s principal officials, members of the law-making Legislative Council and any lay public personalities. Appointed by the Chief Executive, its members are not placed on a fixed-term tenure but are incumbent so long as the Chief Executive who makes the relevant appointment is in office (Basic Law, articles 55 and 54).

The Chief Executive is assisted by the Administrative Secretary (who is equivalent to the Chief Secretary in the previous government) in heading the civil service. Other principal officials include the Financial Secretary, the Secretary of Justice (which is re-titled from the Office of the Attorney General in the former government) as well as the heads of the policy bureaux housed in the government secretariat (that is, the headquarters) of the SAR government. These fifteen policy bureaux (previously known as policy branches), co-ordinate and formulate the government’s policies which are being performed by altogether 71 departments and agencies constituting the public service. The SAR government is the largest employer in Hong Kong, hiring about six per cent of the general labour force. Specifically, in terms of number employed, the public service registered a strength of 184,000 in October 1996, of whom 99 per cent were local staff.

Similar to the constitutional arrangement of the preceding government, the competent authority to make law for Hong Kong is the Legislative Council of the SAR government. In principle, the Basic Law has prescribed a stepped process by which the Legislative Council is to continue broadly its gradualistic transition towards a more democratic institution. In laying down the ‘Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures’, the Basic Law anticipates in its Annex II that the future legislature (when formed after and under the third election) is to be constituted, for half of its membership, of those returned by functional constituencies and for the other half, of those elected by geographically based constituencies by way of direct election.

The Legislative Council now in session adopts broadly analogous parliamentary procedures to the previous government’s. As such, these procedural etiquette and rules are strongly reminiscent of the British system and that practised within the British Commonwealth. Legislative motions are submitted to the Legislative Council in draft forms known as ‘bills’ for its scrutiny, debate and approval in order to complete the enactment process. Such a cycle normally involves three successive stages of (i) first reading (which is basically ceremonial, including citation of title of the bill as well as a preambled brief about the intention and rationale of the proposed legislation by the proposer, which is normally the government’s legal officer, the Secretary of Justice); (ii) second reading and committee stage (during which the drafted legislation can be debated and amendments to it moved); and (iii) third reading. After completing these proceedings and provided that the Council does not vote to veto it, the enactment is cleared and referred to the Chief Executive who signs and promulgates it as law of Hong Kong. Such a new piece of enactment is to be announced in the next issue of the Government Gazette. It has been customary, since the beginning of the former British rule, for the government to initiate new legislation by moving before the Legislative Council the relevant bill. Private members, however, are also allowed to introduce new laws by a practice of moving before the Council private members’ bills. The Basic Law has prescribed that the written consent of the Chief Executive is required as a prerequisite for any private members to introduce a bill affecting government policies (Basic Law, Article 74).

The Legislative Council, as the law-making organ in the Hong Kong SAR, has the basic prerogative to:

- i enact, amend or repeal laws of the SAR;
- ii approve public expenditure and budgets of the SAR government;
- iii receive and debate the public addresses of the Chief Executive;
- iv raise questions on the work of the SAR government;
- v debate any issues concerning public interests;
- vi endorse the appointment of the principal judicial officers (ie. the top judges in court);
- vii receive and handle complaints from Hong Kong residents; and
- viii impeach the Chief Executive (Basic Law, Article 73).

Hong Kong has kept its judiciary arrangement basically intact following the 1997 political transition. This system is again a product of evolution under previous government owing its heritage largely to the British legal tradition. Constituting the hierarchy of the Hong Kong courts is the High Court in the upper tier, followed at the next level by the District Court, with a constellation of junior courts below. The lower-level courts include the Magistrates' Court, the Juvenile Court, the Labour Tribunal, the Small Claims Tribunal, the Obscene Articles Tribunal, the Coroner's Court and the Lands Tribunal. A Court of Final Appeal has been created within the SAR government and with which the power of final judgement for the Hong Kong jurisdiction is to reside, locally rather than overseas.

Economic Context

In Hong Kong, basic and recent shifts in the economy have been noticeable in two dimensions. One dimension is the endemic process of inter-sectoral adjustments and re-structuring and the other is the changing configuration of a property distinctive to Hong Kong labelled 'institutional permissiveness'.

Economic Restructuring

The Hong Kong 'syndrome' or 'drama' of re-structuring began probably in the mid eighties, as it was touched off by the 'China' factor as this formerly 'socialist' nation steadily opened up itself to the world using Hong Kong as its 'gateway'. China's sustained momentum to modernise under its new logic of 'market socialism' has caused Hong Kong to re-commercialise into an entrepot and advance into the 'post-industrial' realm as a business-cum-financial centre for the Asian region and the world. At the same time, Hong Kong's restructuring was compounded by its 'de-industrialisation' as its production (manufacturing) industry hived off assembly processes (and sub-processes) to its hinterland northwards across the border to tap inexpensive and abundant land and labour available in the Mainland. The offshoot of these market-ordained shifts in Hong Kong's economy has been a gradual process of sectoral redistribution of its labour force from the secondary manufacturing activities towards a growing concentration in the tertiary service industry.

These structural adjustments were symptomatic in terms of such key indicators as the changes in the relative share of the gross domestic product (GDP) and employment between the major sectors of the economy. Specifically, the manufacturing sector's percentage share in the employed workforce declined from 47 per cent in 1971 to 41 per cent in 1981, to 28 per cent in 1991 and further to 16 per cent in 1995. Its contribution to Hong Kong's GDP also receded concomitantly, from 31 per cent in 1970 to 21 per cent in 1982, to 16.7 per cent in 1990 and again to less than 16 per cent in 1994.

By contrast, Hong Kong's service industries' contribution to employment and aggregate income has steadily been on the rise in both absolute and relative terms. The sector's percentage share in the workforce advanced from 41 per cent in 1971 to 47 per cent in 1981, 63 per cent in 1991 and further to 80 per cent in 1995. Correspondingly, there has been a parallel and sustained increase in its contribution to the economy's GDP from 60 per cent in 1970, 65 per cent in 1982 and 69.4 per cent in 1990 and again further to more than 80 per cent in 1994. At the end of 1995, the size of the tertiary service workforce numbered 1,870,600, representing a 0.8 per cent growth over its strength of 1,855,000 in December 1994. Concomitantly, the size of the industrial labour force engaged in manufacturing activities numbered 375,800 in December 1995, mirroring a significant contraction of eleven per cent from what it was in 1994.

Such a process of industrial advancement of Hong Kong into a post-industrial realm as a predominantly service economy has also given rise to its reconfiguration of manpower in terms of skill mix. These shifts are manifested in parallel changes in the economy's occupational structure. The manpower hierarchy has shifted towards white-collar occupations in managerial, professional and clerical classifications. The profile of these occupational shifts has been noticeable in the last decade: the relative share of professional and managerial workers in the employed workforce rose from 12.4 per cent in 1987 to 13.6 per cent in 1991 and further to 15.1 per cent (or 28.2 per cent, if 'associate professionals' are included) in 1996, whilst that of the clerical workers increased from 17.3 per cent to 19.7 per cent and fell to 18.2 per cent in 1996. By contrast, the relative drop of the production workers has been consistent and significant, as symptomatic of Hong Kong's 'de-industrialisation' experiences: from 42.9 per cent in 1987 to 34.9 per cent in 1991 and 22.8 per cent in 1996.

Hong Kong's manufacturing industry has not withered away but has simply secured a cheaper base for production operations across the border. According to estimates provided by sources conversant with investment and trade in China, factories owned by Hong Kong capital are probably responsible for hiring now about four to five million workers inside China.

Institutional Permissiveness

Hong Kong has always prided itself in having been able to sustain and advance a prosperous economy by pursuing, with little or minimum institutional presence, a free enterprise system by permitting the maximum latitude of economic freedom to the private sector, both for capital in business as well labour. Such a characteristic has been labelled as 'institutional permissiveness' and is manifested in the labour domain by virtue of:

allowing the maximum possible amount of latitude to private voluntary arrangements in labour and employment practices so long as these are not excessively exploitative or abusive. Such a policy approach, which places primacy on the individual contract of employment, may be described as an official stance of permissiveness towards employment and labour relations (Ng, 1996a: 289-300).

As a hallmark of its 'institutional permissiveness', Hong Kong has not been regulated by either i) a statutory minimum wage floor; or ii) union negotiated collective bargaining arrangements. Given the absence of these two key pillars which actually help institutionalise the labour market of most advanced economies, Hong Kong is reputedly free of the intervention of institutions whose rigidities are liable to prevent the flexible adjustments of the wage and labour markets in response to the cyclical fluctuations of the marketplace.

Such in-built sources of Hong Kong's economic resilience, by virtue of the immaturity of its industrial institutions, have been compromised and impeded as a result of recent developments in Hong Kong's labour and society prior to the 1997 transfer of its political sovereignty. These developments are labour market regulations and human rights codification which have affected the workplace domain (refer to the Labour Market and Employment Law Sections).

Renewing Competition?

Since the inception of the SAR administration, the public policy agenda has recently refocused on the fundamentally 'bread and butter' issue of reviving and renewing the competitive power of its economy. The drain of Hong Kong competitiveness, in both attracting (foreign and domestic) investment as well as markets for its products and service is, of course, complex and has to be appreciated in context especially vis-a-vis other newly industrialised economies (NIEs) in neighbouring East Asian nations like Singapore, Taiwan, South Korea and Thailand, or even the coastal provinces of Mainland China. The crux appears to be the latter's rapidly advancing efficiencies and productivity, thanks to their educational development, technological and infrastructural advances (which upgrade manpower skills and capabilities) - enabling them to catch up with Hong Kong in terms of economic performance. On the other hand, Hong Kong is now faced with the possibility of pricing itself out of the market: a sustained experience with high inflation, high land prices and high labour costs in the latter half of the eighties and the first half of the nineties has now transformed the territory from an initially low-cost into a high-cost area.

Socio-Cultural Context

In Hong Kong, the class structure is conspicuous for its fluidity, given its nature as a young society permissive to social mobility and its competitiveness as a 'free-enterprise' capitalist economy. Perhaps compounding such structural fluidity has been the migrant background of this urban society. Historically, Hong Kong owes both its origin and subsequent development to a population which moved in either for settlement or on a visiting basis from the Mainland. The inflow level has staggered in cyclical 'ups and downs', always as a sequel to refugees flocking into Hong Kong for asylum when pushed by political crises and upheavals inside China or else, these arrivals could have been pulled by the attractive job opportunities available Hong Kong to work as, from before the Second World War, seasonal labour commuting from the hinterland in the north (Ng, 1996: 39-44). Such a history featuring a 'transient' population, paralleled by its 'colonial' status before July 1997 as a British dependent territory on Chinese soil, has given it a nostalgic label in the past as a 'borrowed place living on borrowed time'. By virtue of and emanating from such a character, Hong Kong society has evolved a number of relatively distinctive features endemic to its plasticity.

First, the demographic volatility which characterises Hong Kong's history helps explain its image as a predominantly 'refugee' society, being overwhelmed by a local psychology which is cash-neurotic and pervaded by a visitor's mentality. Second, these propensities have given a transient character to its social structure, class composition and its people's horizon and commitment. Third, as a synthetic society which lacks a secure and stable commitment from its local people, Hong Kong is always beset by a problem of social integration and ambivalence of identity, which is likely to persist beyond and in spite of its reversion back to China in 1997.

Hong Kong is, however, pluralistic inasmuch as a noticeable diversity exists in the socio-cultural pattern of its management and workplace practices. For example, Chinese employers are known to offer to their workforce a mix of supplementary incomes and bonuses whose nature is always

not precisely specified, since their provisions are sustained by the employers' paternalistic trust and goodwill. However, there have been recent attempts by these firms to modernise these wage supplement provisions by converting them into a more rational structure of incentives and benefits. (Ng, Stewart and Chan, 1995: 63). Employment and hiring practices proliferate in type and are highly diversified among employing units and firms according to the ethnic background of capital ownership, the cultural assumptions and style of management as well as other structural variables like size and industry. Such a range of incentive arrangements, varying across Hong Kong's workplaces according to their industry or the enterprise's own specific subculture, was identifiable already twenty years ago in a landmark study of labour and labouring conditions in Hong Kong (Turner et al., 1980). These diversities have persisted until today. The complexity arising from the variety of bonuses and fringe benefits, differentiated between different groups of firms and of employees, has compounded the contours of the Hong Kong labour market and contributed to its segmentation.

The multicultural character of Hong Kong's society is mirrored not only in its profile of diverse workplace arrangements, incentives and employment practices but also in the more intrinsic aspects of its people's perspective and normative assumptions about work, business and management. In these interrelated spheres of industrial attitude, the actors have all betrayed a common and pragmatic concern for performance, instrumentality, prudence and flexibility, coalescing into a quality of versatility which combines with the Chinese heritage of inculcating norms of trust, reciprocity and altruism to sustain a Hong Kong ethos of moral discipline in work and business.

In this context, it has been pointed out that in spite of the current popularity of enshrining Confucian ideals as a 'model' prescription of paternalistic benevolence to manage people at the workplace, the Hong Kong 'cult' of local management practices differ from the benchmark of Japanese corporate welfare paternalism. It has been suggested, in light of the fluidity and pluralistic nature of this society, that certain basic aspects of the work and business values pursued in enterprises in Hong Kong are not necessarily intrinsic to the mainstream of a Confucian cultural legacy. What appears to be culturally distinctive of this 'borrowed place' (perhaps, no longer so after July 1997) is the native process that: 'a local work and business ethos could have been significantly shaped by Hong Kong's contemporary experiences as a hybrid and transient community which have resulted from repeated tides of refugee from the north, for whom shelter from social rupture and destitution, as well as sensitivity, adaptability and defensiveness are probably key concerns for survival. Accordingly, inhabitants of this territory place a high value on the individual's flexibility, and his or her ability to avoid being restricted by institutional rigidities' (Ng, 1996: 110).

Labour Market

Overview

Partly as a sequel to its increasing cosmopolitanism and its growing role in the Asian regional economy, Hong Kong's labour market has proliferated in occupational and cultural diversity in recent years. At the same time, its complex and sophisticated skill hierarchy features a paradoxical phenomenon of increasing opportunities as well as deprivations generated respectively at each end of the skill spectrum. This section portrays the heterogeneous profile of the workforce and discuss its implications for the labour market.

Workforce Characteristics

As noted already in the previous section on the economy's context, the restructuring of the Hong Kong economy into a 'cosmopolitan' business, financial and commercial centre of tertiary level activities has led to important and consistent adjustments and changes in the composition of Hong Kong's labour force. As a result of these inter-sectoral shifts and re-distribution of the workforce, Hong Kong has become a heavily service-oriented urban economy which hires the bulk of its working population at the tertiary level in the service sector.

Mirroring its demographic growth in population due to exogenous factors like accentuated intakes of Mainland immigrants and increasing levels of returning emigrants (who left Hong Kong earlier to settle in places such as Canada, Australia and U.S.A), Hong Kong's aggregate labour force grew by a significant margin in the mid nineties, approaching a size of 3.1 million in 1996 (or an increase of 3.1 per cent over 1995). Correspondingly, the employment strength reported in the major economic sectors has also advanced from 2,508,700 in December 1995 to 2,556,400 in December 1996. A cursory look at the shifting composition of the workforce's industrial mix again attests to the intersectoral process of workforce re-distribution which underscores the on-going 'drama' of Hong Kong's economic restructuring. Corroborating the data cited in the previous section, Table 1 illustrates that employment in the service sector has continued to grow at a conspicuous pace, increasing from a strength of 1,870,600 in December 1995 to that of 1,953,700 in December 1996. At the same time, employment in the manufacturing sector fell by a sizeable 13.5 per cent over the previous year down to a number of 325,100 in December 1996.

Economic Sector	Percentage share of GDP (by %)			Labour Force Size (in thousands)		
	1991	1994	1995	1991	1995	1996
Primary Sector: Agriculture & Fishing	0.2	0.2	0.1	n/a	n/a	n/a
Secondary Sector: Manufacturing	15.4	9.2	8.8	655	386	327
Building & Construction	5.5	4.9	4.9	64	66	77
Electricity, Gas & Water	5.5	4.9	4.9	n/a	n/a	n/a
Service Sector: Wholesale, Retail & Import/Export	25.9	26.2	26.5	880	1031	1047
Trade, Restaurants & Hotels						
Transport, Storage & Communications	9.6	9.7	9.8	n/a	n/a	n/a
Financing, Insurance, Real Estate & Business Services	22.7	26.4	24.9	289	375	391
Community, Social & Personal Services	14.9	15.9	17.1	n/a	n/a	n/a
Civil Service	n.a	n.a	n.a	191	181	184

Source: Census and Statistics Department, Hong Kong Government, Hong Kong in Figures, 1997 edition.

Table 1 Gross Domestic Product Distribution & Employed Labour Force Size in Hong Kong, by Major Economic Sectors, 1991 - 1996

According to official employment statistics, the 'number of persons engaged' across the 'major economic sectors' include people like i) working proprietors and partners; ii) employees and iii) unpaid family workers. However, such reckoning does not include the 'outworker' category. It is also worth noting that the 'mainstream' economy, as charted officially, is concentrated upon the principal divisions, specifically, the 'major economic sectors', from which the minor economic activities are discounted. Those activities not normally included are i) agriculture

and fishing; ii) professional, managerial, clerical staff in the construction industry and workers engaged in repair and decoration works in existing buildings; iii) hawking; iv) taxi, public light bus services; and v) domestic services.

The tertiary service sector is comprised of: i) wholesale, retail and import/export trades, restaurants and hotels; ii) transport, storage and communication; iii) financing, insurance, real estate and business services; and iv) community, social and personal services, in line with the convention adopted by the International Labour Organisation (ILO). In 1996, the 'lead' sub-sector in employment growth was the division of 'community, social and personal services', which registered a six per cent workforce increase over the previous year. Next on the league of 'fastest growth' was the 'transport, storage and communication' group, with a 5.4 per cent growth in the same period, followed by the 'finance and insurance' family (having a 4.7 per cent growth) and the 'wholesale, retail and hotel and catering trade' cluster, which has also grown by a noticeable 3.7 per cent between 1995 and 1996.

The shift in occupational mix of the general labour force has also been indicative of Hong Kong's process of restructuring into a postindustrial 'service' economy. The occupational structure, previously pervaded by blue-collar callings, has become increasingly predominated by white-collar employment, notably involving service-oriented jobs like sales, services and clerical and associated work. Such a trend, sustained since the 1980s, is shown by Table 2.

Occupation	Percentage of Employed Labour Force
Professionals	5.1
Associate Professionals	13.8
Managers and Administrators	9.6
Clerks	18.3
Craft and Related Workers	11.2
Service Workers and Shop Sales Workers	14.2
Plant and Machine Operators and Assemblers	9.9
Elementary Occupations	17.5
Others	0.4
Total	100.0

Source: Hong Kong Government, *Commissioner for Labour Report 1996*, Hong Kong, 1997, Figure 4, p.28

Table 2 Distribution of the Employed Labour Force, by Occupation, 1996

Such a changing profile of the sectoral, industrial and occupational composition of the workforce needs cautious interpretation. The sizeable drop in industrial jobs and employment as portrayed above actually disguises an important but compounding phenomenon arising from the rapidly strengthening economic links between Mainland China and Hong Kong. Arguably, Hong Kong's industry has not withered away, but has just secured a cheaper base of processing industrial workers across the border. By such logic, Hong Kong industry can be deemed to be larger by hiring in locations north of the border a sizeable 'industrial army' of Mainland Chinese workers, estimated at about two to three million in the mid nineties before the 1997 'dateline' of political reversion. The estimate has been adjusted upwards to about four to five million following the sovereignty transfer.

The aggregate size of the general labour force, defined officially to include Hong Kong's land-based and civilian (that is, non-institutionalised) population being aged 15 and above 'who

satisfy the criteria for inclusion in the employed population or the unemployed population', totalled altogether 3,093,800 in 1996, comprising 1,886,900 men and 1,207,000 women. A demographic profile of the aggregate labour force, analysed according to sex and age, is presented at Table 3. Given a more or less 'balanced' sex ratio in the general population, the higher number of males in the general labour force suggests that in Hong Kong men have a higher propensity to work than the women. Such a phenomenon is probably understandable in the context of a fundamentally Chinese society where traditional (and family) conventions and mores discouraging women (especially after marriage and childbirth) and disadvantaging them at work are still present. Liberalising 'anti-discrimination' laws introduced by the government help as a lever to achieve better gender parity at the workplace and in other social contexts. The sex and age labour force participation profile is presented in Table 4.

Number of Persons (in thousand)			
Age Group	Male	Female	Persons
15-19	47.2	37.5	84.7
20-24	173.3	172.1	345.4
25-29	234.6	235.0	469.5
30-34	297.4	233.4	530.9
35-39	316.9	185.3	502.2
40-44	260.7	140.7	401.4
45-49	218.7	104.3	322.9
50-54	129.3	45.6	174.9
55-59	104.7	30.5	135.2
60-64	66.6	13.8	80.5
65 and above	37.5	8.8	46.3
Total	1,886.9	1,207.0	3,093.8

Source: Hong Kong Government, *1996 Report of the Commissioner for Labour*, Hong Kong, 1997, Figure 1, p.23

Table 3 Composition of the General Labour Force by Age & Sex 1996

Labour Force Participation Rate (percentage)			
Age Group	Male	Female	Persons
15-19	22.2	18.7	20.5
20-24	77.6	78.6	78.1
25-29	97.1	82.9	89.4
30-34	98.5	68.9	82.9
35-39	98.0	56.6	77.1
40-44	97.6	54.0	76.1
45-49	96.6	51.3	75.1
50-54	91.5	39.3	67.9
55-59	77.2	26.2	53.6
60-64	49.9	11.2	31.4
65 and above	13.4	2.6	7.6
Total	76.0	47.8	61.8

Source: Hong Kong Government, *1996 Report of the Commissioner for Labour*, Hong Kong, 1997, Figure 2, p.24

Table 4 Labour Force Participation Rate by Age and Sex 1996

The employed workforce, if analysed by sex along the divide between the manufacturing (industrial) and service (non-industrial) sectors, suggests a trend of a disproportionately faster growth of women workers in the service sector (see Table 5).

Labour Force (thousands)						
	Manufacturing Sector:			Service Sector:		
Year	Male	Female	Persons	Male	Female	Persons
1992	311.0	254.2	565.1	934.0	709.2	1,643.2
1993	267.3	216.3	483.6	964.5	755.2	1,719.7
1994	236.5	186.5	423.0	1,030.6	824.4	1,855.0
1995	211.5	164.2	375.8	1,029.0	841.6	1,870.6
1996	182.3	142.8	325.1	1,070.5	883.2	1,953.7

Source: Hong Kong Government, *Commissioner for Labour Report 1996*, Hong Kong, 1997

Table 5 Size of Sectoral Labour Force by Sex 1992-1996

Emigration, New Immigrants from China, Migrant Guest Workers and Returning Emigrants

The local workforce has been characterised in recent years by:

- i en masse emigration of Hong Kong people, who opted to leave Hong Kong because of the 1997 dateline of political changeover (from British to Chinese sovereignty) to settle in such popular host societies as Canada, Australia, United States and Singapore in search of a political assurance for the future. Many were affluent middle-class emigrants of professional and managerial background. Their departure from Hong Kong caused disruption not only to their own careers and family relationships but also to the manpower hierarchy and managerial resources capabilities of a number of corporate employers;
- ii admission of legal immigrants arriving from Mainland China, whose intake number was enlarged on the eve of the 1997 dateline, from a daily level of 100 to 150. These newly arriving Chinese immigrants not only face problems of social integration and cultural assimilation into Hong Kong as their host society of settlement but also they are prone, due to linguistic and other drawbacks, to be trapped in 'lower status' and marginal jobs of lesser pay and poorer conditions. These Mainland immigrants are mostly destined for the secondary tier of the labour market;
- iii labour importation, under a diversity of administratively demarcated schemes, of visiting workers on a 'guest' basis. The lower reach of Hong Kong's skill market, which used to be relatively 'closed' as an 'enclave', has become heavily affected by the entry, first, of household domestic maids since the mid seventies and second, of semi-skilled and general labour brought into Hong Kong under the 1991 consolidated General Labour Importation Scheme and the concurrent scheme of importing building and construction workers for the 'New Airport and Associated Infrastructural Projects;' and
- iv the 'home-bound', reverse flow of the Hong Kong emigrants who had moved overseas in previous years under the above category i). They have been returning to Hong Kong to renew their career at home in response to the 'pull' of lucrative business and job opportunities and improved prospects of a secure political future after 1997 in Hong Kong.

Crystallising from such a 'melting-pot' phenomenon is a heterogeneous 'secondary' layer in the labour force, an alienated and loosely integrated urban 'sub-class' is potentially in the making. Such a propensity can also conceal the possibility of labour agitation and industrial unrest, if the disaffected and deprived are denied proper representation of their interests and articulation of their grievances.

The expatriate working population tends to span Hong Kong's manpower hierarchy. At the upper echelon of the skill hierarchy, a total of 14,384 expatriates entered Hong Kong on work visas in 1996, being largely located in the primary sector (of the 'labour aristocracy') as professionals, specialists, administrators and managerial personnel. In the same year, there were 164,299 foreign domestic helpers, constituting the largest contingent of the expatriate workforce visiting Hong Kong. They were mainly (82 per cent) from the Philippines. Under the General Labour Importation Scheme introduced at the beginning of this decade to bring into Hong Kong a controlled number of guest workers across a number of trades of general skills but which has been run down by phased attrition since 1995, a mix of 7413 technicians, supervisors craftsmen and experienced operatives was still retained in 1996. In its place, the Supplementary Labour Scheme began operating in 1996 and admitted 179 alien workers in the year. During the same period, the New Airport Infrastructural Project 'complex' was responsible for hiring 5,288 building and construction workers from overseas at its work sites. Last of all, in 1996 a special scheme enrolled, a nominal number of 493 young professionals and managers hired from the Mainland (Commissioner for Labour, 1997: 32-4).

In Hong Kong, the unemployment level has been relatively stable during the last decade, moving between three and two per cent. However, it rose to above three per cent (3.2 per cent) in 1995, but declined to 2.8 per cent in 1996 and further to below 2.5 per cent in 1997. It is now above 4 per cent in the wake of the regional currency upheavals which began to beset most Asian new economies in the latter half of 1997. A cross section of the sex and age profile of the unemployed, as well as the pattern of their industrial distribution, is given in Table 6.

Unemployed Population		
(i) Age Group	Persons (number)	Unemployment Rate (percentage)
15-19	10,600	12.5
20-29	29,500	3.6
30-39	20,200	2.0
40-49	16,000	2.2
50-59	8,500	2.7
60 and above	1,400	1.1
Total	86,100	2.8
(ii) Sex		
Male	58,000	3.1
Female	28,100	2.3
Total	86,100	2.8

Source: Hong Kong Government, *1996 Report of the Commissioner for Labour*, Hong Kong, 1997, Figure 5, p.28

**Table 6 Age & Sex Composition of the Unemployed Population
in the General Labour Force 1996**

Institutional Parameters

The labour market in Hong Kong is reputed to be comparatively free from rigidities caused by institutional restrictions and regulations. However, there are two qualifications to such a generalisation. The first pertains to private sector arrangements and voluntary restraints, which are either collectively made independent of official intervention or inspired by official non-mandatory guidelines and norms. The second is, by contrast, an involuntary obligation of the two parties (namely, the employer and the employed) to observe prescriptive and compulsory rules declared and laid by the government, as a body of codified protocol or etiquette. The latter, typically embodying the spirit and philosophy of the relevant government policies, is

often represented in the letters of the labour law, as cited in the statute book. Each will be briefly discussed in turn.

Voluntary Practices and Arrangements in Private Industry

The image of Hong Kong as a place loosely regulated by labour market institutions is in a large part buttressed by a phenomenon popularly labelled as 'workplace permissiveness'. Basically, such a notion suggests that in the average Hong Kong workplace, private sector industrial relations have been characteristically informal and lowly regulated by any established machinery which would have committed both parties to a stable, sustained and regular labour-management dialogue. Three factors are commonly cited to explain such a normative openness of workplace 'fluidity'. First, statutory regulation of the actual conduct and pattern of workplace industrial relations by the government and its public agencies has been up to now sparse or hardly existent. Second, it has not been popular for local unions to institute a shop steward system in organising the workplace, although a quasi system of workplace representatives is not entirely unknown. Third, there is still a normative preference for Chinese paternalism which de-emphasises formalised and bureaucratic rules. The work ideology, still shared among many Chinese workers and employers, espouses an optimistic opinion that exalts the 'practice of informality and flexibility as the ethos of workplace behaviour'. Purportedly anchored upon the 'Chinese traits of face, mutual accommodation and tacit trust', such a value pattern is commensurate with 'the logic of survival and adaptability that explains the economic resilience of Hong Kong' (Ng, 1997: 232). In this context, any conscious attempts at 'formalising workplace industrial relations arrangements' would be viewed as unstrategic.

Given the above background, a two-fold property appears to characterise the so-called 'free' operation of the wage market. The first, by virtue of the workplace's normative permissiveness, features the prevalence in Hong Kong of individualised haggling about pay and conditions, rather than a collectivised approach to wage determination pivoted around the union combinations as the representative bargaining agencies. However, the second point invokes a mild rejoinder by arguing that collusive propensities among employers are identifiable in some industries and trades which seek to harmonise their pay policies in order to remove wages out of the arena of their mutual competition. Such a dualistic property is briefly described below.

First, the average workplace in Hong Kong is lowly organised by trade unions. Specifically, there is absent from most industrial plants (and non-industrial establishments as well) a shop steward structure or any system of union deputation to represent the union *vis-a-vis* management on grievances, discipline, job allocation, demarcation, working environment, custom and practice, work hours, overtime, pay and other issues relating to employment conditions and labour relations. A concomitant feature has been the feebleness of collective bargaining as a labour market regulatory institution. Hong Kong has generally inherited the British 'voluntarist' model in fashioning the legal and governmental approach towards the private practice of collective bargaining. Such a 'voluntarist' approach has meant that: i) any collective labour-management agreement resulting from voluntary and private collective bargaining is not legally enforceable in any court of law (unless specific clauses of the collective agreement are incorporated, either expressly or by implication, into the individual labour contract between the employer and the employee) and ii) the government has steadfastly refrained from prescribing any procedural norms at law obliging the private sector employers to recognise trade unions for purpose of collective bargaining.

Naturally, inasmuch as the government has been lukewarm in sponsoring collective bargaining, the private sector has hardly developed a workplace culture which is congenial to collective bargaining. The conventional estimates have placed a mere five per cent of the waged labour force being covered by a collective agreement negotiated by a trade union. Hong Kong employers have always been apathetic about or resistant to the idea of extending voluntary recognition to trade unions claiming to be the representative organisations of the workforce in their enterprises (Ng, Stewart and Chan, 1997: 182-4). Indeed, a law was introduced briefly by the pre-SAR Legislative Council on the eve of the July political handover in 1997 prescribing mandatory balloting procedures for trade union recognition, labelled as 'collective bargaining right'. This piece of legislation was, however, reckoned to be too radical by the new SAR government and was subsequently revoked by its Provisional Legislature, in November 1997.

The second phenomenon largely pertains to a refinement canvassed by academics to the stereotyped image of the Hong Kong labour market as a 'freely competitive' market. Such an impression is criticised as a 'myth', since employers in certain key industries can be observed to exchange wage information, emulate each other in pay practices or even harmonise mutually their wage and pay so as 'to keep wages out of inter-firm competition' (Turner, Fosh and Ng, 1991: 80). This feature of the wage determination process in the labour market will be discussed in greater detail in the 'Pay and Benefits' section.

Dual Labour Market

There exists a strong linkage between civil service pay arrangements and large corporate employers in the private sector. This linkage suggests a phenomenon of privileged conditions available for work with what are commonly labelled as the 'primary sector' employing units, compared to the 'secondary sector'. In this context, an implicit form of 'dualism' in the local labour economy is discernible. It corresponds firstly, to the contractual and formal stipulations of these conditions in the primary sector and secondly, to the informality and non-standardisation of these benefits in the secondary sector.

Constituting the primary sector are the large-scale bureaucracies, located mostly in the civil service, public utility sector, as well as the big trading firms (mainly of British origin) and the financial conglomerates (like the banks). Here, the provision of fringe and supplementary benefits is often elaborate and standardised by virtue of express personnel policies and specific contractual stipulations (Ng, Stewart and Chan, 1997: 24-5).

Outside this primary sector of the bureaucratic large-scale corporations is a massive fringe of the smaller and medium-sized firms, which predominantly constitute the Hong Kong economy. Yet, these firms are eclipsed in a lesser and hence 'secondary' position by their large-scale modern counterparts in terms of both the stability and specificity of the employment benefits which they are able to provide to their workforce. These small and medium sized enterprises, located in the 'secondary' sector, are economically associated with the 'marketplace' pressure of 'unprotected' competition to which they are exposed in the product market. As a result, they have lesser capacity to develop the type of elaborate and explicit system of fringe/incentive provisions which are available with the large-scale 'primary' firms. Instead, the wage supplements afforded and paid by these firms are often non-specific and volatile in nature and purpose, basically of a generic and intermittent form so that they can be paid and varied by the employer according to business conditions and discretion. Some firms are also known for their paucity in providing these benefits, partly because they may prefer to rely upon paying

workers higher wages above the 'going rate' to serve as a direct incentive 'in cash'. The entire picture about fringe and incentive payments within the secondary sector is, amorphous and uncrystallised, featuring a wide diversity of ad hoc and 'flexible' practices (*ibid.*, 25-27).

Likely Challenges to Workplace Flexibilities

In the wake of worldwide popularisation of human rights, the government has canvassed, in recent years, the prospects of introducing anti-discrimination legislation in connection with sex, age and physical disabilities, both inside and external to the workplace. While such initiatives are apparently justifiable in the moral context of advancing public standards and awareness in human justice, the administration's interest can be viewed as a natural extension from the earlier enactment of the Bill of Rights Ordinance in Hong Kong in 1991. The codification of these 'equality' and equity' norms also represents a prudent policy response to the assiduous lobbying of the territory's women groups pressurising the authority (both the Hong Kong and British governments) for reforms to vindicate women's rights. These women lobbyists insisted that the benchmark and standard-bearing United Nations instrument, the Covenant on the Elimination of All Forms of Discrimination Against Women (CEDAW), be extended and applied in Hong Kong. This position was achieved in 1995, with the enactment of a sex discrimination law in Hong Kong.

However, what the business sector was apprehensive about was that this endeavour to ratify the principle of women's rights, gender, age and associated equalities would have levied upon Hong Kong and its fragile economy a cumbersome body of equal pay legislation, let alone the creation of a laborious litigation machinery and elaborate yet expensive procedures for remedy. In case of abuse or dispute. If applied recklessly, these new arrangements are prone to become highly interventionist in tampering with the operation of a hitherto permissive labour market, with a potent risk of impeding (unwittingly) Hong Kong's long-prided success as a bastion of 'free enterprise'. Further, any equal pay legislation and its associated regulatory framework, if erected, would have inevitably given rise to heavy rigidities in what has been a highly competitive and self-adjusting market like Hong Kong's, especially where the size of business has been preponderantly small.

Nevertheless, in 1995, a Sex Discrimination Ordinance was introduced. This piece of legislation, albeit falling short of any equal pay prescriptions for the private sector, could herald the beginning of a series of rights legislation which can be restrictive and stifling on business freedom and initiative (Ng, 1998: 218-19).

Unemployment

An imminent challenge to the Hong Kong labour market is likely to emanate from the gradual increase in the unemployment level which attends the cyclical problem of the economy's downturn and instability in the wake of the East Asian financial upheavals. Hong Kong's annual GDP growth for the year 1998 is anticipated to take a dip of four per cent or more. At the same time, the unemployment rate has risen above the unprecedented height of four per cent. This is largely a consequence of the increasing number of business failures, insolvencies and closures, coupled with corporate downsizing, consolidation and staff-cuts. Up to the present, episodes of lay-offs and retrenchment have been approached and handled by both sides of industry with prudence and self-restraint; and unemployment has not yet reached such a scale as causing widespread hardship and dislocation. However, as redundancies are prone to provoke a disillusioned and disconcerted labour force into agitational protests, there

is a possibility that if the unemployment plight lingers or intensifies, a rise in industrial militancy may emerge. Such a situation may be imminent if the Wage Insolvency Fund centrally administered by the Labour Department becomes rapidly depleted and strained, unless contingencies such as unemployment benefits, at present an unpopular option to the government for fear of their disincentive effects, can be introduced at least as 'stop-gap' measures.

Employment Law

Overview

In the aftermath of civil disturbances in 1967, the Hong Kong government began to adopt a more proactive strategy of intervention into industry and society, using labour law as a key ameliorative lever to address social injustice and inequalities (Turner et al., 1980: 105-7). The Employment Ordinance, enacted in 1968, became a landmark piece of labour legislation which has since prescribed for the general workforce a statutory 'floor of employment rights'.

By the mid eighties, the average Hong Kong wage-earner had achieved a decent level of protection in employment, thanks to the consistent improvement of the Employment Ordinance and other associated labour statutes (Ng, 1982: 750-51). Largely because of this development, the legislative programme of labour law building began to slow down towards the close of the eighties. Such a legislative pause was superseded by a hectic revival of labour enactment activities as Hong Kong prepared in the 1990s for political revision to China in 1997. The process has witnessed the use of labour law as a political instrument by both the government and diverse political groupings for furthering their objectives and interests.

Sources of Labour Legislation

By virtue of the Basic Law and China's 'one country, two systems' policy prescriptions, Hong Kong is to continue institutional arrangements in place before the 1997 political handover. Inasmuch as the legal system is to be conserved intact, the practice and application of labour law are to be perpetuated after the transfer of sovereignty (Ng, 1997: 262-63).

Hong Kong owes its building of employment law to several sources in mirror of its legal heritage from the British system. These include endogenous sources, which are its legislative enactments and statutes; common law, including case law derived from court ruling precedents; and custom and practices. However, since the labour law reforms of the seventies, Hong Kong has increasingly drawn from the international labour standards promulgated by the International Labour Organisation (ILO) as international labour conventions (ILCs). Each of these four sources are discussed briefly in turn.

Statute Law (Legislative Enactments)

In Hong Kong, a major source of labour law is enactment of statutes by the legislature, which was the Legislative Council before the political handover and the Provisional Legislative Council between July 1997 and June 1998 and now the first Legislative Council of the SAR as elected in May 1998. Any principal piece of legislation, known as an 'ordinance' (since Hong Kong is not a sovereign state) can be supplemented by its subsidiary legislation, which is normally conceived as either 'regulations' or 'orders' under the auspices of the relevant ordinance. The competent authority for making such a subsidiary body of legal norms rests with the 'Chief

Executive in Council', in pursuance of the enabling provisions contained in the relevant 'source' ordinance. 'The Chief Executive in Council' refer to the Chief Executive of the SAR government acting upon the advice of the Executive Council. In essence, the Hong Kong system of law (including labour law) enactment is analogous, both before and after the political handover, to the British system in which statute law is enacted by the legislature.

Following the British practice, the scope of application of statute law (including labour statutes) has been confined in general to the private sector, so that the civil service is not covered unless the contrary is specifically provided in the relevant piece of legislation. An example is the 'anti-union discrimination' clause of the Employment Ordinance which states expressly that the government's employees are also under its purview. That the British Crown (and now the state after Hong Kong's re-integration with China) is not bound by the exigencies of any statutory enactments is clearly prescribed by the Interpretation and General Clause Ordinance, which preambles the Laws of Hong Kong. Specifically, it declares that 'no ordinance shall in any manner whatsoever affect the right of or be binding on the Crown unless it is therein expressly provided or unless it appears by necessary implications that the Crown is bound thereby' (Interpretation and General Clause Ordinance: chapter 1, Section 66). An analogous legislative position has recently been registered by the new SAR government when it passed the Hong Kong Re-unification Ordinance exempting the state (PRC) and its agencies from the regulatory purview of any statute law enforced in Hong Kong.

Common Law

By far the most conspicuous British legacy left by the pre-1997 government in shaping Hong Kong's present body of legal norms, including its system of labour law, is the institution of common law. In short, common law can be defined as that part of the law of England laid down, developed and interpreted by the common law courts, based principally upon the common lores, custom and practices of that country. Common law principles have given rise to the primacy of the individual labour contract at employment and the sacrosanct assumption that the two parties to a contract of employment are equal and freely contracting parties.

This common law legacy, has led to a reliance upon the 'voluntary' rather than the 'legalistic' philosophy as the basic assumption of the official approach to labour law and industrial relations policy formulation. Hong Kong has emulated closely the British experience insofar as common law principles have been important for regulating the individual labour contracts in this society. However, the parallel stops short at the case of collective industrial relations, given Hong Kong's comparative amorphousness in its normative institutions, save in specific cases of regulating strikes and interpreting the legal status of a collective agreement, where the British common law interpretation appears to be imperative.

Custom and Practice

Custom and practice, especially if derived from Chinese lores and traditions, have always been an important influence affecting labour law building in Hong Kong. The government, before and after the political handover, has shown consistent prudence in tailoring local statutes to the cultural traits of this basically Chinese community. Such pragmatism helps explain the

appointment of a number of Chinese festivals as statutory holidays, under the purview of the Employment Ordinance. Similarly, the trade union law has recognised tacitly the mixed combinations of employers and employees as a form of registrable trade unions, being a legacy from the prewar pattern of the traditional Chinese guilds.

The role of custom and practice may also be given commensurate weight by the court when deciding upon cases of disputed labour matters. However, where conflicts in application occur, it is more likely for statutory prescriptions to prevail and take precedence over custom and practices. For this reason, it is generally held that the parties cannot 'contract out' privately of their legally prescribed statutory entitlements and duties by simply invoking 'custom and practice' as a reason or defence.

International Sources

International Labour Organisation (ILO)

It has been a policy norm of the government, before and after Hong Kong's reversion to China in 1997, to adopt as far as practical the world's labour standards proclaimed by the ILO (Commissioner for Labour, 1997:53). By ILO's constitutional provisions, Hong Kong cannot ratify any conventions which it has declared. This is primarily because Hong Kong, by virtue of its dependency upon the United Kingdom as its colony up to 1997 and its subsequent re-integration with China as the latter's Special Administrative Region (SAR), is not that of a full member state but a 'non-metropolitan territory'. Given this political status of 'non-independence', Hong Kong can be represented on the ILO only under the national auspices of its sovereign authority: first, the United Kingdom and now, China. Before 1997, any conventions ratified by the United Kingdom were made by the latter on Hong Kong's behalf after full consultation between the governments in the two societies. China has made it clear that the same protocol will be continued for Hong Kong after the political reversion which also provides that the People's Republic has to report to the ILO on all conventions which Hong Kong have already applied, including those which are not yet ratified by the PRC itself.

At the end of 1993, the ILO has adopted altogether 174 ILO Conventions. Of the 80 conventions which the United Kingdom ratified, 72 items could be applied to Hong Kong. The Hong Kong position registered at that time was:

Status Declared		Number of ILO Conventions
i	applied without modification	31
ii	applied with modification	18
iii	decisions reserved	23

Neighbouring Asian States

In committing itself to a labour reform agenda by way of a legislative programme, the Government before 1997 pledged a policy mission to build and consolidate a statutory floor of employment rights, as benchmarked against comparable legal standards being practised elsewhere in East Asia. This policy norm, announced by Lord Maclehoze, a previous Hong Kong Governor, in his annual address before the Legislative Council in 1976, has been upheld and practised for the remaining years of British rule. The rationale professed is 'to set ourselves

the target of achieving a level of legislation governing safety, health and conditions of employment at least broadly equivalent to the best in our neighbouring countries, whose stage of economic development and social and cultural background are similar to our own' (Hong Kong Hansard, 6th October 1976). Certain standards prescribed in the Employment Ordinance have thus been inspired by parallel provisions in the Singaporean Employment Act. Recently, the Labour Standards Act/Labour Standard Law in Japan, South Korea and Taiwan have also been covered by Hong Kong's 'orbit of coercive comparison' in the design of improving Hong Kong's labour law.

In the past, member states within the British Commonwealth could also provide an important influence on Hong Kong labour law. Indeed, sponsorship by the Foreign and Commonwealth Office in harmonising labour standards as well as practices of labour administration in the overseas dependencies of the former British Empire have helped shape the broadly comparable, if not convergent, legal framework now governing trade unions, strikes and other collective aspects of labour and industrial relations in many of these former British colonies (Roberts, 1964, p. xv). Such comparability is anticipated to continue beyond 1997 because of the status quo guaranteed to the legal institutions currently already in place in Hong Kong before the reversion.

Individual Labour Law

Individual Contracts of Employment

Individual labour law is that part of labour law which governs and regulates the individual employment relationship between the employer and employee. The rights and obligations between the two parties are mutual, as prescribed or deemed to arise from the contract of employment. The contract of employment, buttressed in the British system of common law, has been amplified, limited and qualified by postwar enactment of labour statutes, the 'core' piece of which is the Employment Ordinance introduced to Hong Kong in 1968.

Contract of Service

Following the British practice, a contract of employment needs not be in writing in the Hong Kong context but can be oral or implied from regular behaviour and actions. However, in order to avoid misunderstanding, the Labour Department of the Government has consistently advised both parties to enter into a written contract of employment. Corporate employers are also persuaded to publish and codify their 'in-house' personnel rules and regulations at the workplace in the form of an 'employee handbook' circulated to members of their workforce. However, the legal status of an 'employee handbook' can be problematic, as Hong Kong courts have not been entirely unequivocal in construing a document of such a nature as a part of the labour contract.

A Continuous Contract

By virtue of the Employment Ordinance, all labour contracts are deemed to be 'continuous' in nature, provided that the employee has served the same employer for at least four weeks. In order to be recognised as a week for the purpose of qualifying for the 'continuous contract', the individual needs to have worked at least 18 hours in the week. Such a legal definition has implied that for those part-time workers working less than 18 hours a week, they are denied the status of an 'continuous' employment at law. This can be important in terms of labour

protection, because of a two-fold significance to the employee in having a continuous labour contract at work, as explained briefly below:-

a) Duration of contract and employment security:

The Employment Ordinance deems every continuous labour contract as a monthly contract (renewable automatically from month to month) in the absence of any agreement to the contrary. Any party wishing to dissolve or terminate a monthly contract is obliged to give the other party an advance notice of one month or a month's pay in lieu of notice. As such, the requirement of a notice term to cover the dissolution of an employment contract is often interpreted, in the Hong Kong context, to afford the employee a minimum measure of job security. However, the Hong Kong employee is still devoid of any legal safeguards against 'unfair dismissal', apart from specified instances of defaults labelled as 'unlawful' discharge.

b) Entitlement to statutory employment benefits:

The 'continuity' notion has served as a 'cut-off' screening device, since it entitles the employee to a variety of statutory employment benefits prescribed by the Employment Ordinance, including statutory holidays and pay, paid annual leave, sickness pay, maternity leave and pay, long service payment, etc. Such a legally defined 'pre-requisite' has, by implication, deprived those part-timers without a continuous contract of legal access to the above list employment benefits at work, regardless of their length of service.

Wage Security and Disclosure of Information

Basic to the legislative spirit of the Employment Ordinance is its intention to protect wages of the local workforce against any risks and hardship arising from possible defaults by employers. For this purpose the law has been strenuous in regulating the payment and security of wages due. In addition to ensuring the promptness of wage payment on time, the Employment Ordinance stipulates that wages need to be paid on a working day directly to the employee himself or to a person whom the employee has appointed as his agent. Such payment has to be effected in legal tender by cash. However, if approved by the employee, it is possible for wages to be disbursed by cheque or by crediting the employee's deposit account in a licensed bank. Wage protection is also available by virtue of the Employment Ordinance against any excessive and unreasonable deductions by the employer. The employer also has a onus of furnishing the employee with the necessary information about the latter's wages and pay conditions. Such a duty about disclosure of pay information to the individual employee obliges the employer to prompt and appropriate updating, whenever changes in these conditions are made.

Legal sanctions are provided by the legislation against any defaults of the employer in discharging his/her obligation to pay wages promptly. The employer, if losing his/her ability to pay, is legally obliged to dissolve the contract immediately in order to halt any further increase in the burden of arrears of wages. Basically, any failure of the employer to pay wages within seven days after they are due is illegal and deemed as a basic breach rupturing the contract. The wages owed by an insolvent business can be recovered, normally claimable as 'preferential' debts, under legal procedures of winding-up or bankruptcy as prescribed by the either Company Ordinance or the Bankruptcy Ordinance.

Since April 1985, the creation of the Protection of Wages on Insolvency Fund under its enabling legislation, the Protection of Wages on Insolvency Ordinance, has provided the Hong Kong workforce with an officially administered central insurance cover to hedge against risks of employers' defaults in paying wages and other sums owed to the employed. The Fund draws upon an annual levy contributed as a surcharge by all Hong Kong companies registered with the Business Registration Ordinance. The 1985 legislation enables the Fund to pay employees arrears of wages and associated items due to them, employees up to the preferential limits prescribed by both the Companies and Bankruptcy Ordinances, in the event that their employers lose their ability to pay because of business failures or insolvency. Such payment has to be authorised by the Commissioner for Labour, subject to the ability of the Protection of Wages on Insolvency Board to review his/her decision upon appeal.

Statutory Employment Benefits

Weekly Rest Days, Holidays and Annual Leave

By virtue of the Employment Ordinance, the employee is entitled to weekly rest days, formally at intervals of every seven days. These rest days, either fixed every week or appointed by the employer according to a 'roster' cycle, can be paid or unpaid. The same law also prescribes altogether 12 days in the yearly calendar as statutory holidays which are paid (in contrast to the optional nature of pay for rest days), provided that the employee has been in 'continuous' employ for not less than three months before the relevant holiday. In addition, where the employee has been hired 'continuously' by the same employer, he or she is entitled at law to paid annual leave on completion of twelve months of 'continuous' service. The minimum paid annual leave entitlement is seven days, for those having served in their present employ for one to two years. Thereafter, annual leave entitlement improves for the individual according to a sliding scale graduated by the basic criterion of the 'length of service' variable, so that for those having worked in the same employing unit for nine years or above, the minimum length of annual leave they earn every calendar year at law is of two weeks' duration, that is, fourteen days.

Sick Pay, Maternity Leave and Protection

The Employment Ordinance also confers upon the employee a measure of statutory security covering incapacity due to sickness and maternity confinement. Sick pay is available at law in the form of an allowance equivalent to four-fifths of the employee's normal pay, provided that the leave of absence due to sickness is not less than four consecutive days. Under the present provisions, sick leave entitlement accrues to the individual as if it were earned and accredited to his or her balance of sick leave 'earnings'. The statutory rate of sick leave accumulation varies according to the individual's length of service: two paid sick leave days earned for each month's completed service in the first year of employment, and thereafter increasing to four days for every month's service. A maximum of 120 days of paid sick leave days can be accumulated.

The Employment Ordinance also provides maternity leave benefits for eligible pregnant women employees. Maternity leave is available to any female employee for a continuous period of ten weeks, provided that appropriate advance notice of her expected date of confinement is given. Normally, maternity leave is to begin four weeks immediately before the expected date of confinement and end six weeks immediately after the actual date of confinement. Taking

maternity leave also has the legal effect of suspending a labour contract and hence restrains the employer from any discharge actions which are unlawful during the period of the maternity leave.

The maternity leave pay provisions of the Employment Ordinance were amended on the eve of the political handover in 1997, improving the rate of payment for maternity leave to four-fifths, instead of the original level of two-thirds of the female employee's pay. The restriction on the number of childbirths for ascertaining eligibility has also been rescinded so that paid maternity leave is now available universally regardless of the number of childbirths.

As a sequel to an amendment to its provisions in 1997, the Employment Ordinance was streamlined to make consistent and explicit the law's proscription against 'unreasonable and unlawful dismissals'. Any discharges during and due to the employee taking i) paid sick leave and ii) maternity leave are now cited as legally censured acts of unreasonable and unlawful dismissals. These are punishable offences at law and also entitle the affected employee to claim for remedies at the Labour Tribunal and higher courts of law.

End of Year Payment

The Employment Ordinance has converted into a statutory benefit a Chinese custom and practice obliging the employer to give his or her employees a gratuity payment, known as 'year-end double pay' (which is a token of generosity and appreciation given at the Lunar Chinese New Year). The legal presumption now invoked by the law, since the Employment Ordinance amendment of June 27 1997, purports to displace the previous and conventional assumption that such an annual bonus could be of a gratuitous nature by Chinese customs. Such a presumption can only be removed and nullified if there was a written agreement by both parties to the contrary. Otherwise, an employee is eligible for an end of year payment if he or she has served under a continuous contract for a whole payment period deemed to be a lunar year. By implication, upon dissolution of the contract prior to completion of an annual "cycle", the employee is entitled to such payment on a pro-rata basis.

Long Service Payment, Severance Payment and Job Security

The Employment Ordinance confers upon the individual employee a measure of pecuniary security to hedge against risks of unemployment, available either as a payment to reward long service (probably reminiscent of but falling short of a retirement gratuity) or as a severance payment to compensate for loss of job due to redundancy and not the fault of the individual employee.

The employee is entitled to long service payment after having completed at least five years of continuous service. As implied by its label, seniority and length of service are the principal set of variables for determining the formula of such payment whose basic nature is to reward the employee for his or her stable service and loyal attachment to the employing unit. Long service payment hence accrues when the individual leaves his or her employ due to ill health, old age; resigns voluntarily or is discharged for reasons other than summary dismissal or retrenchment (as severance pay is normally claimable to cover retrenchment). The formula of calculating the size of long-service payment is geared to the dual criteria of i) length of service and ii) age.

The employee's legal entitlement to severance pay upon redundancy, as well as the amount of such compensation hence payable, are also closely associated with seniority and determined

according to length of service. First, a continuous service of at least two years is a necessary pre-requisite to qualify for entitlement to such payment. Secondly, among those qualified, the actual level of severance pay depends upon the individual's history of service in the employing unit. Basically, it is at the rate of two-thirds of his or her last month's pay for every year of service reckoned at law, where the employment is on a monthly-rated pay basis. Otherwise, in the case of a piece-rated, daily-rated or time-rated employee, a comparable rate of eighteen days' pay applies.

As a result of a 1997 piece of amendment to the Employment Ordinance, the legal notion of 'employment protection' has been brought to the statute book. The protection now conferred upon the individual in terms of his or her job security enables the latter to institute legal actions in court (basically, the Labour Tribunal) for remedies if he or she has been discharged from his or her employ without proper reason. Claims are actionable under either of the three conditions listed below:

- i unreasonable dismissal;
- ii unreasonable variation of the terms of the labour contract; and
- iii unreasonable and unlawful dismissal.

Amongst the plausible remedies which the court (Labour Tribunal) may order is reinstatement or re-engagement, which is innovative in the Hong Kong context. Otherwise, compensation basically equivalent to severance pay can be awarded by court. Indeed, such a new aspect of individual labour law building has been inspired largely by the comparable institution of 'unfair dismissal' provisions in the Employment Protection Act of Britain.

Legal Instruments on Anti-Discrimination Protection

A recent theme of labour law building in post-industrial Hong Kong has been to benchmark against and emulate western industrial norms in protecting the individual against any discriminatory and unfair acts of prejudices and disabilities at work, notably in areas pertaining to gender, (physical and mental) handicaps, and membership and participation in trade unions. However, it has been considered inappropriate and premature for Hong Kong to legislate on any statutory provisions against such forms of discrimination as due to age, race (ethnicity) and religion. This is because of the possibly negative implications which would attend, hence perverting unwittingly either Chinese traditions and values or provoking an unnecessary and undesirable level of political sensitivity and tension.

Union Discrimination

The Employment Ordinance, by virtue of its amendments in 1974, has introduced a statutory safeguard to protect the individual in the exercise of his or her union freedom, in particular against any acts of discrimination by the employer in victimising anyone for belonging to a union and participating in its activities. The relevant legislative provisions define the rights of the individual employee to become a member or an officer of a trade union, and to take part in its activities at any appropriate time (which is either outside normal working hours or within, but provided that it has been agreed with the employer or with the latter's consent). The same rights apply if the individual organises, together with other persons, a new trade union and applies for its registration under the Trade Unions Ordinance. Protection against union discrimination has been hitherto backed by penal sanctions punishable by fines but by the 1997 amendment to the Employment Ordinance, has also been made actionable as a civil claim by the victim in the Labour Tribunal or other courts of law, provided that the claim is justified

on the newly introduced ground of unreasonable and unlawful dismissal censured by the Employment Ordinance. As such, the remedy awarded by the judicial authority can either be compensation corresponding to the formula for computing severance pay (to cover redundancy) or a reinstatement order.

Sex, Disability and Family Status Discrimination

The pre-SAR government, on the approach of the impending political handover by the 1997 'dateline', introduced in close succession a Sex Discrimination Ordinance and a Disability Discrimination Ordinance, both in 1995. These two pieces of legislation were brought into effect in 1996. Subsequently, the third statute in the series, the Family Status Discrimination Ordinance, was also enacted in 1997 by the new SAR government shortly after the transfer of political sovereignty (Ng, 1998:218-9).

In essence, the Sex Discrimination Ordinance deals with discrimination on the ground of sex, marital status and pregnancy covering both work and non-work situations. The Disability Discrimination Ordinance aims to eliminate social and industrial prejudices and discrimination inflicted upon disabled persons. And the Family Status Discrimination Ordinance makes it unlawful to discriminate anyone, at work and outside work, on the ground of family status which implies, at law, an individual having responsibility for the care of an immediate family member.

The Sex Discrimination Ordinance is particularly significant in the Hong Kong context. Part III of this Ordinance specifically deals with the sphere of employment. The relevant set of provisions are likely to be extended to other parallel companion or associated legislative instruments, such as the Disability Discrimination Ordinance or a prospective equal pay law being canvassed by women lobbyists.

This law makes it unlawful for an employer to discriminate against a woman by virtue of:

- i arrangements adopted for the purpose of determining who should be offered their employment;
- ii the terms on which she is offered the employment; or
- iii refusing or deliberately omitting to offer her that employment.

Such unlawful deprivations or denials at the workplace are defined by the 1995 legislation to include 'access to opportunities for promotion, transfer or training, or to any other benefits, facilities or services', as well as 'terms of employment'. Any other disabilities levied upon the female employee which are prejudiced on the ground of gender considerations, including discharges and dismissals, are also censured at law.

In addition, the Sex Discrimination Ordinance creates the Office of the Equal Opportunities Commission. This public agency is empowered to investigate any defaults, breaches and acts of non-compliance with the legislation's provisions, as well as to initiate conciliation pertaining to complaints or claims otherwise actionable in civil proceedings by virtue of the relevant provisions in the Ordinance, or to issue enforcement notices against any party having committed a breach of duties and contravention of the law. In spite of these statutory abilities in sanctioning any acts of violating these newly introduced legal standards, it appears that the Commission has opted to adopt a non-coercive approach and is lukewarm about invoking its power to censure. Instead, it has steered basically a cautious and suasive approach by promulgating a

promotional and educational series of guidelines in the form of codes of practice in the pertinent areas. These areas include, *inter alia*, the elimination of discrimination, the promotion of equality of opportunity between men and women generally, and the elimination of sexual harassment. The 1995 legislation makes it mandatory for the Commission, in the course of preparing any code of practice of such a nature, to consult the representative bodies of both sides of industry, namely the employers' associations and the labour union organisations, as well as appropriate interested groups. This quasi-legal way of codifying norms and standards, even void of the full rigour of statutory rules, is apparently modelled upon the European and British practices.

A measure of flexibility has been incorporated into the legislation giving concessionary allowance to the small employers, inasmuch as any workplace 'where the number of persons employed does not exceed five' is expressly exempted from the law's purview.

Legal Procedures Governing the Determination of Individual Disputes of Rights at Employment

In Hong Kong, the legal procedures available to both parties to a labour contract for adjudicating their disputes of rights and the claims arising therefrom are prescribed by the Labour Tribunal Ordinance of 1972 and the Minor Employment Claims Adjudication Board Ordinance of 1994. These two pieces of enabling legislation have created a dualistic machinery for the arbitral settlement of industrial conflicts due to individual grievances about contractual or statutory breaches of rights and duties at employment. Such individual disputes about rights are labelled officially as 'claims'.

The primary and 'mainstream' tier in this adjudication system is the Labour Tribunal which is competent, as a part of the Judiciary, to hear labour disputes over rights. It has in this capacity jurisdiction over claims which arise from a breach of the term of the labour contract, whether for local performance or an overseas contract. The Tribunal is, however, not competent to hear any disputes of interest. Neither is it able to decide on any cases pertaining to employees' compensation claims, nor to do so on any claims for damages in tort arising from a breach of contract, or a breach of duty at common law.

The Labour Tribunal is designed as a quick, inexpensive and informal avenue for the judicial determination of claims arising from the individual labour contracts. These claims are heard by a Presiding Officer, a career judge belonging to the Judiciary and sitting alone in an informal manner. The informality of these proceedings at the Labour Tribunal features:

- a conscious and deliberate effort to reduce any overt 'legalism', as in the ordinary courts of law, by disallowing any professional legal representatives to appear on behalf of the disputants. However, where the Tribunal grants leave, an official of a registered trade union may represent the parties at the Tribunal's hearing; and
- the discretion available to the Presiding Officer to conduct the proceedings in either English or Chinese.

However, the Tribunal is a judicial institution *per se*. As a court of record belonging to the Judiciary, its award is registrable as a judgment of the District Court. Concomitantly, the Presiding Officer possesses similar judicial prerogative as a judge in a civil court.

Because the Labour Tribunal was burdened excessively with a heavy number of outstanding claims, an administrative device was instituted in 1994 with the creation of the Minor Employment Claims Adjudication Board to supplement the judicial procedure of legal settlement by the Labour Tribunal. As an ancillary arrangement, the Board possesses limited jurisdiction, but is competent to deal with minor claims which are those:

- i arising from disputes of statutory or contractual rights of employment;
- ii involving not more than five claimants; and
- iii not exceeding HK\$5,000 in claims per claimant.

Emulating the basic logic of operation of the Labour Tribunal, the Adjudication Board affords the key advantage of a simple, inexpensive and independent, albeit administratively sponsored, procedure for settling claims and grievances generated at the workplace level. The Board's primary appeal is its less legalistic and judicial auspices which enable it to work at a quicker pace than the 'core' institution of the Labour Tribunal. It is necessary, however, for the voluntary conciliation proceedings at the Labour Department to be exhausted before any claims can be entertained by the Board. For this reason, unlike the Labour Tribunal, the Adjudication Board is not accessible directly to the disputing parties, unless upon referral from the relevant conciliation officer in the Labour Department.

Collective Labour Law

Collective labour law regulating the collective conduct of labour-management relations and workplace behaviour has been conspicuous for its 'permissive' character. The law of industrial conflict, such as in respect of strikes, has remained equivocal rather than clear and express in Hong Kong.

Constituting the basic infrastructure of collective labour law are i) the Trade Unions Ordinance, first introduced to Hong Kong in 1948 under the title of the Trade Unions and Trade Disputes Ordinance but subsequently amended and renamed to its present title in 1961; and ii) the Labour Relations Ordinance.

Trade Unions Ordinance

The Trade Unions Ordinance provides for, *inter alia*, i) registration of a trade union; ii) procedures for mergers and combinations; iii) union members' rights and freedom; and iv) picketing and other industrial actions involving a workers' combination.

Registration

This piece of legislation prescribes a legal duty upon trade unions in Hong Kong to register with the Registrar of Trade Unions, which belongs to the jurisdiction of the Labour Department of the SAR government. The legally sponsored procedure of compulsory registration has the effect of i) conferring a legal status upon a union; ii) making it a corporate body; and iii) bestowing upon it certain immunities (which are 'negative' rights) and obligations. Otherwise, unions are liable to be deemed as illegal at law. With respect to rights, the Ordinance provides immunity from either civil actions or criminal liability for conspiracy where the purposes of the union are in restraint of trade; exemption from actions in respect of torts for any acts done in contemplation of furtherance of a trade dispute. Moreover, the freedom to picket peacefully at or near the workplace is also safeguarded by the same legislation although it censures any activities involving violence, intimidation and 'watching and besetting' the employer.

The Ordinance stipulates relatively liberal procedures for trade unions to seek registration. For the inception of a new union, it needs only seven voting members to sign the application for registration, to be submitted to the Registrar for Trade Unions. The submission has to include, *inter alia*, the proposed constitution of the union, the offices and the names of the officers on its preparatory committee as well.

Combinations and Mergers of Trade Unions

The Trade Unions Ordinance makes it permissible for trade unions to amalgamate or combine into union federations. In the case of a proposed amalgamation, it is necessary for the proposal to secure the support of the membership in the respective unions involved. Each of the unions has to conduct a secret ballot among its members to ascertain approval. There are two decision criteria. First, the balloting is not effective unless at least 50 per cent of the union's voting members vote. Second, whether the proposed amalgamation can proceed or not depends upon the condition that the votes cast in favour have to exceed those against the motion by a margin of at least 20 per cent.

Individual Members' Rights and Freedom vis-a-vis a Trade Union

The Trade Unions Ordinance confers upon the individual who participates in and belongs to a trade union a set of statutory rights which are to protect his or her interest vis-a-vis the union and its government.

Peaceful Picketing

The Trade Unions Ordinance prescribes the legally permissible scope of peaceful picketing. It is lawful for the pickets, acting in concert in pursuance of a trade dispute, to 'attend at or near a place where a person works or carries on business', provided that such an act is merely for 'the purpose of peacefully obtaining or communicating information or of peacefully persuading any person to work or abstain from working' (Section 46). This right to picket is, however, not absolute but qualified by the legal prohibition against the pickets to attend in such numbers, or otherwise in such manner, 'as to be calculated to intimidate any person in that place, or to obstruct the approach thereto or egress therefrom, or to lead to breach of the peace' (Section 46). Such an act of wilful obstruction or intimidation is punishable as a criminal offence for causing nuisance. As illustrated by a Labour Department pamphlet briefing the public about the law of 'picketing', it may constitute a breach of the legislation if the pickets: i) violently and continually bang on doors; ii) shout out; iii) obstruct the highway by lying down in front of vehicles; iv) make a show of violence; v) obstruct people in the road by standing in their way or catching their arms and compelling them to listen. The maximum number of pickets is not specified by the law. However, if more are employed than are reasonably required, the court may hold that the intention is not *bona fide* and censure it.

The trade union law proscribes the use of intimidation and annoyance while picketing in pursuance of a trade dispute. Thus, it constitutes a summary offence if anyone who, in order to compel any person to abstain from work or performing other activities at his or her free will, uses violence against such a person, wrongfully and without legal authority. In parallel, it is also illegal for the picket to intimidate such a person or his/her family; or injure the person's property; or persistently follow the person from place to place; or hide any tools, clothes or property owned or used by the latter; or deprive the person of the same or hinder the use thereof; or watch or beset the house or other place where the latter resides or works or carries on business or which happens to be on the approach to such house or place; or follow the latter in a disorderly manner in or through any street or road.

Labour Relations Ordinance

The Labour Relations Ordinance, introduced in 1975, has instituted a body of officially sponsored procedures for third-party intervention into a trade dispute by way of escalating arrangements which are: i) authorised ordinary conciliation; ii) authorised special conciliation; and iii) either of the prescribed methods of inquiry committee, (voluntary) arbitration or whatever procedures as adopted by the Chief Executive-in-Council. However, the most potent lever of intervention available to the government in a serious trade dispute (in the event that it may threaten to rupture economic stability and peril social order) is the equivalent to the device of the 'presidential injunction', which enables the President to suspend a strike in the United States. This provision, which has not yet been put into effect, is placed on the statute book as the 'cooling-off' clause of the Labour Relations Ordinance.

Part I of this Ordinance, which has to be activated by the administration, will empower the Chief Executive-in-Council to declare a 'cooling-off' period in respect of a trade dispute. Such a 'cooling-off' period, as ordered by the government, will oblige the parties to the dispute, and any party specified in the order, to discontinue or defer any industrial action and to resume temporarily the status quo in order that work could be restored to normal. Otherwise, the defiant parties could be held guilty of contempt of an order of the Supreme Court. The initial period of the 'cooling-off' order is not to exceed 30 days but the Chief Executive-in-Council is able to extend its duration for another 30 days, provided that the total duration does not exceed altogether 60 days. Such an executive power to declare a 'cooling-off' period cannot be invoked indiscriminately. Otherwise, it would have become an excessive and undesirable coercive weapon for the administration to curb a normal strike or industrial action in process. Indeed, specified conditions need to be satisfied for such a power to be invoked. First, it is applicable only to actions in contemplation or furtherance of a trade dispute. Second, 'cooling-off' can only be declared if the situation arising out of the trade dispute is of such a nature, or on such a scale, as to be likely to cause an interruption in the supply of goods or in the provision of service which might:

- i be gravely injurious to the economy of Hong Kong or seriously affect the livelihood of substantial number of persons, or create a serious risk of public disorder, or seriously jeopardize the internal security of Hong Kong; or
- ii endanger the lives of a substantial number of persons and expose them to serious risk of disease or personal injury.

The Chief Executive in Council is able to exercise such a power only if, having regard to all the circumstances of the trade dispute, it would be deemed conducive to settlement of the issue by negotiation, conciliation, arbitration or the appointment of a board of inquiry if the industrial action were discontinued or deferred.

Legal Status of Strike and the 'Suspension Theory'

The 1975 Labour Relations Ordinance also serves to repeal the prewar legislative instrument of the Illegal Strikes and Lockouts Ordinance. As a sequel, the previous notion of an 'illegal strike' has now disappeared. Instead, the present position governing 'strike' is that it is no longer illegal at law. It is suggested that: 'inasmuch as strikers have been freed of illegal connotations, workers in Hong Kong are no longer subject to any legal disabilities if they strike' (Ng, 1992: 452). However, still clouding the status of 'strike' and making it problematic in Hong Kong is a common law-based area of ambiguity. The ambivalence arises because such a freedom to strike is not tantamount to 'a positive and unequivocal "right to strike", as enjoyed

by workers in Continental Europe and Japan whereby strikers are afforded job protection by the constitution and law' (Ng, 1992). It is common, outside the Anglo-American legal system, as in continental Europe and Japan, for a nation's constitution to recognize that a strike only suspends an employee's obligation pursuant to the labour contract to work during the period of a strike. It does not repudiate it altogether. Locally, however, such a 'suspension' theory has not been recognized at law or at least, its status is dubious in Hong Kong. Often upheld here is still the traditional and orthodox opinion that at common law and in the absence of the relevant provision in the contract, express or implied, a strike is a breach of contractual duty, unless it is preceded by appropriate notice of an intention to dissolve it. The interpretation is tenable that where a group of employees stop work and fail to give notice thereof, their work stoppage might be construed to constitute a contractual breach of their employment duties (Labour Department, undated: 6).

Recruitment and Selection

Overview

This section examines the pattern of recruitment and selection practices in Hong Kong. Given the nature of Hong Kong's labour market it is natural to expect a high degree of variation in actual employment practices among local workplaces when they recruit and enlist new personnel for their workforce. However, in spite of diversity of practices, there are certain basic common features to the approach of the Hong Kong employers at large.

Methods of Recruitment

External Avenues

In Hong Kong, there is a spectrum of recruitment methods adopted by employers which is broadly consistent with the diversity of workplaces and employing units. As noted earlier, these workplace types vary according to size; industry; ethnic nature and structure of ownership; management style as well as public versus private sector location. Mirroring these differences, the variety of recruitment arrangements embraced by these organisations can vary significantly in terms of procedural formality and standardization, degree of sophistication and structure, time and resources consumed, impersonality and level of bureaucratization by rules. Most employers in smaller and medium-sized businesses, which are the most numerous in the Hong Kong economy, prefer 'word-of-mouth' and other informal ways of communicating job opening information and conduct a personalized search of appropriate candidates via contact networks. By contrast, the public bureaucracies and corporate employers in the 'primary sector' emulate largely established personnel practices of human resource management in the West, Japan and foreign multinationals in having instituted elaborate arrangements and policies of sourcing and selecting new personnel. A recent 1996 survey report (Tang, Lai and Kirkbride, 1996) published by the Hong Kong Institute of Human Resource Management showed that the most common method of recruitment was advertisement in the English newspaper, followed by the use of employment agencies and employment consultants. Media advertisement, campus recruitment (of graduate job seekers), hiring employment agencies (both public and fee-charging commercial ones, including consultancy and headhunting search firms), sourcing from professional bodies and trade unions, as well as open-door recruitment booths, etc. are all recognisable as some of the common ways by which these larger employers in the primary sector are known to have adopted for enlisting fresh intake into their workforce.

Employment Agencies

Hong Kong has witnessed a major growth in the number of professional employment agencies and consultancies in recent years. These employment agencies, unless exempted as non-profit making placement exchanges by the government, have to be placed under official supervision in order to pre-empt any abusive acts of excessive extortion by the commercial intermediaries. As such, they need to be licensed by the Labour Department, by virtue of Part XII of the Employment Ordinance and its ancillary Employment Agency Regulations. In 1996, the Employment Agencies Administration of the Labour Department registered a total of 1,062 licensed agencies (Hong Kong Year Book, 1997: 124).

Employment agencies cater more or less specifically for the recruitment of junior staff and middle level managers on behalf of their clients, while executive search firms (more commonly known as 'headhunting firms') specialize in the recruitment of senior executive personnel for companies and public organisations. Hong Kong now houses some of the world's top search firms, including Heidrick & Struggles, Korn/Ferry International, Russell Reynolds Associates, Spencer Stewart & Associates, Norman Broadbent, and Morgan & Banks. Many large corporate and public sector employing organisations have increasingly called upon their services for filling top-level vacancies.

Labour Department Employment Services

The Labour Department has a network of geographically dispersed local employment placement services to cater for the mutual needs of both job-seekers and employers, as either party can register for free their availability and openings with the Employment Services Division of the Department. Since the beginning of the 1990s the Labour Department has established a cluster of job placement functions to provide enhanced assistance to the unemployed in their job and career moves. They are known as the 'Job Match' Programme (Hong Kong Year Book, 1997: 121-122). This Programme, complementing the re-training services furnished by the newly created Employee Re-Training Board, has been instrumental in modifying the contours of Hong Kong's secondary career job market by instilling it with a new element of flexibility. Yet, in spite of its innovative nature in seeking to upgrade the performance of Hong Kong's human infrastructure, the efficacy of such a package has been challenged. It is held by its critics to be at best limited and at worst nominal and perfunctory in helping arrest Hong Kong's consistent decline in employment.

Other services provided by the Labour Department to help address the present downturn in the economy and employment market include an Outreaching Placement Service which offers immediate employment assistance to workers who have been affected by mass retrenchments. Another group of socially disadvantaged in society, the disabled, have been given support by the Selective Placement Division of the Department which works to help integrate these less privileged workers into the community through open employment. It provides free employment counselling and placement service for the sight impaired, hearing impaired, physically disabled, mentally retarded, chronically ill and mentally restored persons.

Primary Sector Employer Recruitment Practices

Generally, in the primary sector, the public sector (including the civil service and associated public and statutory bodies) and the leading corporate firms have institutionalized similar devices and procedures to formalize and rationalize their recruitment activities. First, their human resource functions, normally staffed by trained and specialist personnel, are well equipped with resources for launching highly structured recruitment exercises at regular intervals or in response to arising needs. These are performed either by in-house avenues or by outsourced arrangements contracted to the employment agencies/recruitment firms. Second, these procedures are, on the whole, highly sophisticated and refined in terms of the scope of

search, rigour of control governing impartiality, fairness and test of competence, proficiency and suitability. Hiring based upon criteria of formal qualifications and experience, or both, is viewed as standard practice. Third, in most of these firms, there are well-defined career paths available to the new recruits within the organisation's hierarchy. For this reason, intake of new personnel into the Hong Kong civil service and other corporate bureaucracies has been in the past limited essentially at the entry-level of either their clerical or executive/managerial/professional grades. Such a system of recruiting freshers at the junior or intern level and grooming the recruits by way of in-house training and skill upgrading is consistent with the human resource notion of retaining and conserving competent skills.

Network hiring has been institutionalized to a certain degree in the upper echelon of the Hong Kong manpower market. Here, senior management of corporations may prefer, by custom and practice, to recruit directly from a network of chosen universities and colleges/schools, whose alumni have performed well or whose espoused assumptions they cherish because of common affiliation to the same class or university background. Such a hiring norm is tantamount to a sponsored and self-perpetuating 'closed shop', once widely adopted by large corporations in Hong Kong for stabilizing their managerial succession by creating an 'enclave' accessible to graduates of selected elitist institutions like Hong Kong University, Cambridge University and Oxford University. However, there has been a gradual erosion of such an enshrined practice for a number of reasons. In the first place, such a hiring practice, albeit having the advantage of helping conserve a homogeneous culture within the managerial echelon of enterprises, insulates the employing unit from an otherwise bigger pool of potential and equally, if not better qualified, candidates by giving privileged access to a confined network of source institutions patronized. This was probably less problematic in the past than now. It has become less tenable to maintain such a relatively closed system of preferential hiring among employers today, because of the proliferation of universities in Hong Kong's increasingly pluralistic education market and the internationalization of its managerial infrastructure. The more powerful imperative causing the above changes in recruitment practices among the large employers is their growing quest for flexibility when organising, commissioning and deploying their human resources in order to achieve a more efficient business. Flexibility of personnel hiring now popularly adopted by these restructuring organizations has implied not only a weakened internal labour market as mid-career entry of experienced personnel is now permissible by 'fixed term' contract hiring (in place of life-time employment available to young graduate recruits via the ports of entry at the base level) but also internal transfer, re-deployment and promotion of serving staff, which has given a new dimension to the hiring practices of these enterprises.

By virtue of these 'flexibility' prescriptions which partly aim to source internal candidates, employers in the primary sector have increasingly freed up their internal labour markets by permitting their incumbent staff members to have access to openings within the organisation by way of internal bidding, often in response to electronically transmitted job advertisements. What this form of de-regulatory practice in recruitment means is that competent individuals can now short-circuit the normal step-by-step advancement path along the conventional career ladder within the organization's hierarchy.

Secondary Sector Employer Practices

Outside the domain of the 'primary sector' employers, it is still a commonplace among the small and medium-sized enterprises in Hong Kong to adopt the less structured and formalized

ways of relying upon 'words-of-mouth' referral, personal intermediaries and business/occupational contact networks for hiring new hands. Often these firms are looking for candidates who are trustworthy in character (reinforced by personal bonds like kinship ties) and yet versatile enough to be rotated around and deployable for multiple tasks, according to arising needs in different spheres of a small business unit. Sometimes, these small employers are also likely to approach public employment agencies administered by the Labour Department to register their vacancies in order to broaden their scope of people search at little or no expense.

Legal Constraints on Recruitment and Selection

Since December, 1996 the Hong Kong government has introduced anti-discrimination legislation which now makes it unlawful to treat a person, either directly or indirectly, in a manner less favourable than others because of certain attributes. This public policy development in Hong Kong is also consistent with a worldwide trend among trading partners within such transnational bodies as the World Trade Organisation (WTO) and APEC, or among members-states of the International Labour Organisation (ILO) to ratify or at least harmonise with the United Nations instrument, the Covenant on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Within this family of new anti-discrimination law brought to the statute book are the Sex Discrimination Ordinance (SDO) and the Disability Discrimination Ordinance (DDO), both introduced in 1995 and later in June, 1997, the Family Status Discrimination Ordinance (FSDO). The Sex Discrimination Ordinance makes it unlawful to treat people less favourably because of their sex, marital status etc, both outside and in employment. The DDO prohibits acts to discriminate against a person because of his/her disability or connection with a disabled person. The FSDO provides that a person cannot be victimized, harassed or discriminated against because of the responsibility which he/she performs for the care of an immediate family member.

Some of the implications of this new body of anti-discrimination laws for workplace practices in Hong Kong are worth noting. As it appears, these newly introduced legal standards are likely to cause many employers and media advertising agents to transform their existing practices in order to ensure conformity with the law. Concerns have been articulated by both business and the media about prosecution actions initiated by the Equal Opportunities Commission to sanction discriminatory newspaper job advertisements now disallowed under the new law.

In addition to the above provisions governing equal rights, any recruitment activities in Hong Kong have always been subject to the legal ambit of employability as prescribed by existing laws in Hong Kong. Foremost is the notion of employability as attached to the individual's right of residence in Hong Kong. By virtue of the Immigration Ordinance and its subsidiary legislation, an individual is legally employable provided that he/she is a local citizen or has been granted a valid work permit or employment visa by the immigration authority. It is a breach of the law to employ an illegal immigrant and is punishable by penal sanctions. There is also a proscription against employment of any child labour, as provided by the Employment Regulations attached to the Employment Ordinance. In this context, the minimum age of employment permissible at law is 15, so that it is against the law to employ a minor under the age of 15 years in an industrial undertaking for reasons of protecting his/her safety, health and welfare. However, children between 13 and 14 years of age may be employed in a non-industrial

establishment, on the condition that they attend full-time schooling if they have not yet completed three years of secondary schooling (Hong Kong Year Book, 1997 : 118).

Shortages and Surpluses

Since China launched its momentous reforms for modernizing its economy in the late 1970s, Hong Kong has been caught in a process of de-industrialization with a consistent shift of its manufacturing and labour intensive industries northwards across the border. This process of sectoral re-distribution has led to, as noted earlier, a rise in unemployment in Hong Kong due to a surplus of workers released from the manufacturing/secondary sector. At the same time, there has been a rapid expansion of service employment in the tertiary and newer industries, due to the re-commercialization of Hong Kong, as a regional financial, banking and business centre. As a result, the labour market has been drastically re-shaped.

Factories have been streamlined and converted, into network organizations which retain their administrative headquarters and service functions in Hong Kong but have detached spatially their assembly-line works and housed them in their subsidiary mainland plants. What arises is a state of dualism in these Hong Kong based manufacturing firms' human resource infrastructure: these employers, largely small and medium-sized enterprises, have ceased to recruit skilled blue-collar workers but, instead, started to retrench them en masse within Hong Kong. Hiring for production manpower has been transferred geographically, to be based in the northern hinterland (notably in the Pearl River Delta Basin) and now estimated to be responsible for employing as many as about five million Chinese workers. The once strong demands for skilled manufacturing workers in the Hong Kong market have withered away. In their place, Hong Kong based industrial capital employs basically service and administrative personnel. Their recruitment activities have focused on white-collar occupations since the turn of the 1990s.

Both government and private enterprise in Hong Kong have been faced with a radically altered agenda from one of augmenting and replenishing the supply of industrial manpower to one of retrenchment and reabsorbing workers in gainful alternative employment. This has given rise to a decade-long process of adjustments of occupational re-training and job placement. Hong Kong has been beset by a problem of unemployment since the early 1990s, only to be aggravated by its recent economic downturn triggered off by the Asian financial crisis.

In the first half of the 1990s, Hong Kong was faced with a shortage of skilled white-collar labour. Its response was comparable to some of the recruitment devices used earlier in recruiting industrial manpower. Banks and hotels, as well as retail shops and restaurants were known to follow the recruitment practices of paying a generous recruitment bonus to intermediaries, administering 'walk-in' recruitment counters, offering mid-year instead of year-end salary hikes; applying for 'import' quotas from the government to enable them to replenish their white-collar workforce with foreign guest workers at their sales outlets and offices. Both the government and primary sector corporate employers have been noticeable in speeding up their internal recruitment processes of upgrading their junior staff through skill upgrading, multi-skill training and managerial development programmes. Hong Kong's tertiary education has also been hastily expanded in order to produce an accentuated supply of executive/professional personnel, estimated by the government to be in acute shortfall in its manpower blueprint for the year 2001.

However, the boom of Hong Kong's white-collar recruitment market began to dwindle in the mid 1990s. The service economy started to manifest symptoms of fatigue as costs were pushed to prohibitive levels and business competitiveness was reduced due to high inflation, fuelled by escalating land and labour prices. Corporate employers like the airlines, banks and trading houses were relocating their non-core service operations out of Hong Kong in order to cut costs, or otherwise adopting austerity measures like downsizing their middle-level managerial establishment. All these human resource strategies aimed at rationalizing business have had a negative impact upon local demands in the executive/professional market, following the 1997 onset of the Asian currency crisis. Within a short span of less than five years between the early and late 1990s, Hong Kong employers have swung from one extreme of bidding heavily for managerial recruits to one of working to outpace their managerial staff, including those with long-service. While the present manpower 'glut' demonstrates little sign of abatement (as the unemployment level, at an unprecedented height of 4.2 percent in mid 1998, is estimated to escalate further later in the year), enterprises are adjusting their workforce downwards using methods such as natural wastage, voluntary retirement and compulsory retrenchment, layoffs, short-time working, job-sharing, extended holiday arrangements, outsourcing, part-time hiring, recruitment freezes and temporary manpower transfer to Mainland branches. Even the Mainland market for absorbing Hong Kong's executive personnel has become a little exhausted, as China's universities are rapidly modernizing their management education programmes and are producing trained managerial and technocratic resources for meeting the nation's needs.

Recruitment of Foreign National/Immigrant Workers

The Immigration Department and the Labour Department are the competent authorities for regulating and policing the recruitment and entry of foreign guest workers into Hong Kong (Hong Kong Year Book, 1997: 122-124).

Generally, the Labour Department scrutinizes and attests the standard labour contracts of newly employed guest workers recruited by sponsoring employers brought into Hong Kong according to prescribed industrial quotas under the various labour importation schemes. The standard contract is normally for a duration of two years and renewable two times thereafter (with the exception of the foreign domestic helpers). Such a contract stipulates, *inter alia*, a standard wage equivalent to the industry's median level norm. It also obliges the employer, as consistent with prescriptions of the relevant international labour conventions, to provide board and lodging, and repatriation arrangements on completion of every two-year tour of service. The Labour Department has to extend approval to employers' applications to hire 'alien' workers. To do so, it needs to be satisfied that the employers are applying within the purview of the industry's prescribed quota and second, the employers have endeavoured to recruit locally but been unable to find the suitable candidates. (In practice, in order to meet this criterion which explicitly assigns hiring priority to local applicants, the relevant vacancies have to be listed and advertised at the job match exchanges of the Labour Department).

The Immigration Department is responsible for screening applications and granting work permits (employment visas) for the admission of the recruited foreign workers entering Hong Kong, as well as policing their stays and ensuring their repatriation back to their home countries as their contracts expire. In spite of such a broad demarcation of duties, the two departments hold joint task force exercises from time to time, largely to police the labour conditions and wage protection of the guest workers, as well as their reception by the hiring employers. Further, regular inspections at workplaces, like building and construction sites, are carried out by these

task forces to enforce the present immigration rules that no 'aliens' are illegally employed outside the approved labour importation schemes or without a valid employment permit.

Since the introduction of the Supplementary Labour Scheme of 1995 in place of the now defunct General Labour Importation Scheme, the Labour Advisory Board has been vested with the jurisdiction of examining Hong Kong's labour market profile and determining the assignment of intake quotas to specific industries and occupations in governing the recruitment of foreign workers under the approved importation schemes. In the special case of foreign workers recruited into Hong Kong as 'domestic helpers', the officially sanctioned hiring norm is that these workers have to be employed by bona fide Hong Kong residents for the sole purpose of household duties. Although domestic helpers are imported from a diversity of Asian sources, almost 80% of the present population of domestic maids engaged in Hong Kong (numbering 164,299 in 1996) are brought in from the Philippines.

Selection

Selection methods in the territory range from simple application blanks with resume, to the more sophisticated use of psychological testing and assessment centers. Again, similar to the methods of recruitment employed, the larger organizations with more established human resource functions use more thorough screening selection methodologies. The most common selection practice found by a study conducted by the Hong Kong Institute of Human Resource Management is the selection interview, indicated by 99.1% of the respondent organisations (Tang, et al., 1996).

Training and Development

Hong Kong's Educational System

Hong Kong has institutionalized an eleven-year educational system, comprising six years of primary and five years of secondary level education in formal schooling. Comprehensive education is available to every young person in the appropriate age group for nine years, up to the level of junior secondary schooling, at Form Three level. This nine-year period constitutes the basic 'core' of Hong Kong's formal education and as such, is compulsory, backed by legal sanctions enforceable upon the children's parents.

The primary school curriculum is in general designed to lead to the versatile development of the junior with a coherent and holistic programme, centred upon a general studies syllabus which includes training in Putonghua (the official Chinese language). Beyond primary education, the junior secondary school curriculum is planned to cater to post-primary students of varying standards, irrespective whether or not they continue formal education beyond Form Three level. Streamlining by subject concentration takes place normally at and after Form Five in senior secondary schooling, which offers a plurality of subjects to prepare graduates either for further post-secondary (tertiary) education or to enter the full-time job market. At present, there are five types of secondary schools by curriculum, namely: grammar; technical; prevocational; practical and skills opportunity schools. Broadly speaking, the grammar schools, in the heritage of the British educational system, prepare students for general education of an academic nature leading to their enrolment in universities and associated tertiary institutions. The remaining four types, outside the mainstream, feature vocational and practical programs

of varying intensity to help young people attune to and develop their aptitude in preparatory training for entry into the employment market, at the craft or technician level.

Within the purview of the general 'grammar' type of secondary education, the advancement ladder can be differentiated into three tiers: the first segment provides junior secondary education; the second segment caters to senior secondary education leading to the award of the Hong Kong Certificate of Education (HKCEE, equivalent to the British system of 'ordinary level' academic credentials) at public examinations; and the third segment of a two-year preparatory studies for university entry after the HKCEE, housed also in the secondary (mostly grammar) schools. These two-year pre-university curricula, known as Form Six and Form Seven years, lead to the public examination of the Hong Kong Advanced Level Examination which awards credentials equivalent to the British system of 'advanced level' qualifications.

In addition to the Education Department, the Vocational Training Council is a public agency with a specialist responsibility of administering and supervising the operation of public-funded educational institutions that provide training in industrial and technical skills. These institutions include technical colleges, technical institutes, training centres and skill centres for the disabled.

The principal body in the government responsible for the formulation of public policy on education and manpower development is the Education and Manpower Bureau of the Government Secretariat. It carries out periodic review and forecast of Hong Kong economy's human resources requirements (published, for instance, as an official 'blueprint' on the human infrastructure entitled "Manpower 2001") to constitute the basis of steering its education and training policies. The Branch oversees and coordinates the activities of a number of public agencies/government departments with administrative portfolios in implementing these policies, in liaison with the Education Commission, which is the principal consultative organ to the government on Hong Kong educational policy. In the associated domain of employment and manpower training there are consultative bodies including the Labour Advisory Board, the Vocational Training Council and the Employees Retraining Board.

Industry Training Systems

The Vocational Training Council coordinates twenty training boards, covering Hong Kong's major industries in both the secondary and the tertiary service sectors, alongside a parallel set of eight general committees dealing with cross-industry training matters such as the skill enhancement of managers and supervisors employed in all industries and trades. These industry-specific training committees are typically tripartite in membership (including representatives from employers, labour and government officials, plus the co-opted participation of technocratic experts like educational and training specialists in the relevant fields) and are administratively backed by the secretariat staff of the parent Vocational Training Council. These committees produce manuals such as the job/skill descriptions in their respective industries, as well as listings of these job/skill standards and the relevant training guidelines, largely at the three tiers of the operative (semi-skilled); the skilled (craft); and the technician levels for industry's reference, notably for apprentice training. However, these training guidelines have not been widely adopted by private employers.

These training committees have been instrumental in urging the government to assume a more active role to participate in and sponsor the organisation of systematic technical industrial training to strengthen Hong Kong's human resources infrastructure. This has been largely

due to the periodical human resource surveys conducted by these training committees on the present and future skill supply for their industry. The shortfall of trained human resource supply indicated by most of these surveys alerted the government to their potentially constraining effects on Hong Kong's future competency to advance and diversify its industrial structure. Such a concern induced the administration to create an array of industry training centres (for instance, in hotel and catering, automobile repairs and maritime sea-faring) which are often physically clustered together. However, these training centre complexes, which complement the trade oriented technical institutes, have been found to be of limited efficacy in addressing Hong Kong's skill problems. This is because of i) their concern with the training of lower level skills; ii) their inflexibility in responding to and updating their instruction to current market needs at the workplace; and iii) the low attractiveness of these officially sponsored courses to the potential beneficiaries (ie. young novices in need of skill upgrading), in spite of a trainee stipendiary made available by the authority.

Prior to the political reversion in 1997, a comprehensive review of the Vocational Training Council and its activities was undertaken, particularly in view of the above shortcomings. Aimed at ascertaining the future direction of the Council and enhancing its 'effectiveness and flexibility in meeting the changing needs of the Hong Kong economy', the review recommended a number of flexibility prescriptions, including a better interface with Hong Kong's tertiary education institutions, as a possible way ahead for re-vitalizing and activating essentially lukewarm systems of industrial training (Hong Kong: A New Era, A Review of 1997, 1998: 137).

Training During Employment

The paucity of resources devoted by the average employer to training at the workplace level has meant that in Hong Kong, employment training available to the new recruit has been largely 'on-the-job'. There are a number of reasons for this situation. First, because of the competitive nature of the employment market (until recently at least), employers tended to recruit experienced and skilled personnel directly from the labour market by a high pay strategy. Such a strategy has stifled employers' incentive to invest in human resource training, largely because of their concern that they might be simply training for their business competitors. The difficulties of recouping their outlays in training due to the easy loss of the trained and experienced manpower led to perceptions that training hardly paid off. Second, the problematic nature of manpower retention has been complicated by the production functions of most enterprises in Hong Kong. As labour intensive service business or processing plants, most Hong Kong enterprises lack sophisticated technological know-how as to warrant highly specific job skills training. Instead, the typical repository of competency required at many workplaces relates to general skills which are easily transferable among employing units. Employers are generally inert about training for non-specific skills as the employees alone are the principal beneficiaries, by virtue of their enhanced mobility in job-hopping. The third factor commonly cited is the smallness of Hong Kong's enterprises, which implies both their lower ability to spare resources to invest in human resources as well their preference for informal approaches to training activities and outlays, which promises 'flexibility'. In this context, many of the Hong Kong small and medium-sized enterprises have opted to provide newly recruited employees, mostly with post-entry experiences, with a token of induction training or skill enhancement by on-the-job practical exposure to the tasks or upgrading from the shopfloor.

Despite the foregoing, a more sophisticated and systematic approach to staff training and development is characteristic of the human resource policies of the primary sector employers in Hong Kong. Within this domain are the civil service, public sector organisations, multinational corporations, public utility franchised businesses, banks, hotels and British-styled trading conglomerates (ie. the 'noble houses' or 'trading hong's'). Many of these leading firms have appointed a special team of training personnel (some hiring full-time instructors), and deployed a regular proportion of the company's resources as training budget, as well as developed and acquired an enterprise-specific inventory of training materials, or even assigned part of the workplace area as a training centre or venue of instruction. Typically, these employers, have designed an 'intern' or 'trainee' grade within their staff hierarchy to house 'novices' who attend a fixed period of traineeship in their employ before being promoted to the rank after completion of their training.

Post-entry training and employment experience gained from working with large enterprises like Swires and Jardines (noble houses), the mass transit railway, Hong Kong and Shanghai Bank, Hong Kong Aircraft Engineering, and Motorola are valued more less as a de facto academic credential which enables the individual to bid for job openings which require proven experience and competency in the relevant occupation. It has also been increasingly common for these primary sector employers to supplement their 'in-house' training with sponsored attendance at specialized training and education institutions like the universities and technical institutes, often on a part-time day or block day release basis for specialised courses.

Training for Re-employment

Training for re-employment has also become an important issue on Hong Kong's labour agenda. This development is evident now that the Hong Kong economy has displaced an increasing number of people due to business restructuring, technological innovations, organizational de-layering and other austerity measures in order to streamline labour overheads, enhance business competitiveness and cope with the current economic downturn.

It has been held as a good employer practice among the large corporate businesses and the civil service that these employers would strive to transfer and retain any staff members becoming redundant from their initial jobs and skills. Re-training as part of the in-house training portfolio among these in the private business sector has been undertaken often under the auspices of remedial training or skill-upgrading.

Re-training for re-employment became a society-wide issue for Hong Kong at the beginning of the 1990s. The transfer of industrial plants northwards to the Mainland led to surplus industrial manpower released from the factories being either closed down or re-located out of Hong Kong. Most of these were skilled or semi-skilled production workers in mid-career, lacking any employable skills other than those which had become obsolete. The bulk of these were unable to secure alternative employment in the new service industries on their own accord and abilities. The onus fell on the government to address such structural unemployment, which coincided with the lifting of Hong Kong's embargo on the admission of guest migrant labour at the lower strata of the skill hierarchy. The disquiet and protest articulated by the trade unions in the labour movement caused the government to act by organising and providing re-training to the unemployed in order to equip them with new competencies. The government set up the Employee Re-training Board in 1992 and vested it with a generic responsibility for steering and administering the provisions of re-training to unemployed persons displaced

from manufacturing industries. These re-training activities were initially funded by a centrally pooled levy on labour importation. Later, after the General Labour Importation Scheme was phased out in the mid 1990s, the government started to deploy its general revenue allocation to sustain the re-training programmes of the Board.

A skill re-training market began to emerge in Hong Kong under the sponsorship of the Employee Re-training Board. Basically, the Board coordinates and supervises a plurality of re-training programmes and course portfolios, which it assigns and subcontracts to a network of training organisations which are endorsed and listed by the Re-training Board. These approved institutions are comprised mostly of voluntary social work agencies (non-government bodies), which are equipped with classrooms and associated instructional facilities previously used for pre-vocational and adult education activities. Armed with this infrastructure, these voluntary agencies can be easily adapted for re-training purposes and are relatively resourceful in bidding for the training packages assigned and put out by the Re-training Board. However, many of these re-training programs have proved to be of 'armchair' value and loosely related to the practical needs of the workplace and economy.

Given the slight impact achieved by the government-sponsored re-training activities in redressing the unemployment and re-employment problem, the government has commissioned a review of the Re-training Board in 1996-7, with a view of re-organising the Board and streamlining its portfolios of functions and operational mechanism.

Management Development and Training

In Hong Kong, management development is generally an 'in-house' function essentially with 'primary sector' employers. This type of workplace personnel development, entailing movements along internal career ladders, has been well established. However, this situation has changed with recent developments involving more flexible hiring practices which have seen more direct entry of managers at middle and senior levels. They are often hired on 'fixed-term' contracts without having to climb the career ladder through intervening promotion steps. In addition, senior staff positions are being made open for internal applications.

Management development has also become more significant in Hong Kong's training and education market, now that the corporate employers have placed a higher premium upon formal and external agencies for the professional training and up-grading of their managers. The government has also become more closely involved in the building and enhancement of the economy's human resource infrastructure, especially in grooming an adequate supply of managerial skills and competencies to steer and operate its complex apparatus of financial and business services. Moreover, there has been significant growth in demand for after-work and post-experience opportunities in management education among the younger and aspiring members of the working population. Many young people now look to management education, especially where formal credentials like an MBA and associated degrees are awarded, as a route to improve their career life-chances and upgrade their employability and labour market value. Consequently there has been a proliferation of both suppliers and instructional programmes and courses in a highly buoyant and competitive market of management education and professional training in Hong Kong. A survey by the Vocational Training Council and its committee on supervisory and management training carried out in the early nineties found more than two hundred agencies in Hong Kong purporting to provide structured programmes of management education.

At the upper tier of the management educational infrastructure are the universities and tertiary institutions which are providers of formal degree courses at both the undergraduate and graduate levels, including the bachelor of business administration (BBA); the master of business administration (MBA); or even the doctor of business administration (DBA), plus other executive programmes organised by their business schools and extra-mural departments. Entering this 'mainstream' market dominated by the academic institutions and business schools are a growing number of overseas universities which have established or are keenly exploring their off-shore options in Hong Kong, often in collaboration with a local partner institution to offer joint degree programmes in either general management or special sub-fields of management, finance, accounting and business law. Teaching activities by visiting faculties are locally organised but there are signs that distance learning is to assume growing eminence with the popularisation of computer aid and information technology applied to education.

Outside this core of institutional providers, there is a large number of commercial agencies, mostly consultant firms, which organise and offer a diversity of basic and post-experience courses, seminars and workshops, for the development of adults in various facets of management. It has proved difficult for the government to monitor and regulate standards across such a broad spectrum of courses and providing institutions. A common complaint by employers about the pursuit of management education in institutions has been the discrepancy between theory and the practice of management at the business unit and workplace level. In the Hong Kong context, employers in the private sector have also complained about the lack of versatility produced by the business and other undergraduate degree programmes of the universities. A major shortcoming of graduate job seekers, which these employers identify and articulate in their feedback comments, is their lack of diagnostic skills and lateral thinking, considered important qualities of managerial decision-making and problem-solving.

Pay and Benefits

Overview

A key feature of the pay and benefits profile in Hong Kong's is the permissiveness of individual negotiation in determining wages and conditions. However, as noted earlier, such an ethos of a free labour and wage market has the literal implication of allowing employers at individual workplaces almost a customary ability to determine and dictate unilaterally whatever wage they would like to offer to their employees, unless the latter were able to wield 'material' market and bargaining power based upon relative scarcity of their skills and competencies. Often, job hopping in a context of tight skill supply affords the individual in the labour market an effective avenue for improving his/her pay level and life chances in employment. Such a high propensity for labour turnover has given Hong Kong's employers a challenge as how to stabilize their workforce and strengthen organisational commitment.

In order to prevent an excessive amount of competition among employers and to remove wage and benefit issues out of the 'coercive orbits' of inter-firm comparison, there is a preference for making 'common rules' or an etiquette of 'non-competition'. In some key industries there are informal accords or understandings reached among the personnel managers not to poach each other's staff nor to pull up the wage level above a prevailing norm for the industry. Such a practice of a 'gentleman's agreement' among the leading enterprises in the primary sector has been instrumental in the seventies and eighties for modern workplaces like those in banking, hotels and electronics to maintain a form of wages league to cushion off over-heated pay hikes. It has also led to a growing use by Hong Kong's human resource practitioners of annual

pay survey findings from representative bodies like the Hong Kong Employers' Federation and the Hong Kong Institute of Human Resource Management, as well as those produced by commercial personnel consultant agencies.

In Hong Kong, there is an absence of any regulated system of institutional intervention in the wage-setting processes of individual enterprises. The government has adhered to a public policy of 'free wages'. It has refrained from prescribing any minimum wage floor on an economy-wide and statutory basis. Exceptions to this non-regulatory policy norm exist but are confined largely to the cases of the foreign migrant guest workers in Hong Kong's manual skill market; yet their mandatory standard wages are governed by non-statutory but administrative sanctions and are intrinsically sector or trade specific. Neither have there been any official initiatives to promote collective bargaining or any form of industrial joint regulation on pay and benefit conditions. The trade unions in Hong Kong have largely proved unable to organize collective bargaining.

Legal Framework

In spite of the absence of a legal infrastructure governing the negotiation and determination of wage levels and standard rates at either the economy-wide, industry, enterprise or workplace level, the Employment Ordinance has been the principal legal instrument prescribing the minimum standards for a number of employment benefits among all employing units in Hong Kong, save the civil service. Equivalent to the employment standard laws or acts in other industrial societies in Europe/America and Asia Pacific, this Ordinance confers upon the employees such statutory benefits as i) statutory holidays; ii) weekly rest days; iii) paid annual leave; iv) sickness allowance; v) maternity leave and pay and protection; vi) year-end thirteenth month pay; vii) long service payment; viii) severance pay; ix) anti-union discrimination protection; and x) job security protection against unlawful discharge (see the Employment Law Section for more details).

The Wage Insolvency Security Fund Ordinance, provides for a flat-rate levy on the registration of all business enterprises in Hong Kong, and also provides local employees with a safety-valve by applying to the Board, as the authority administering the Fund, for payment of outstanding wages which are owed by defaulting employers. These amounts can include, inter alia, both wages as well as other items of statute-backed benefit payments like holiday pay, long service and severance payments. The advance is basically an 'ex-gratia' and interest-free provisional disbursement to help the affected workers to tide over the waiting period, which would have normally lapsed over a lengthy interval pending the judicial process of court proceedings to wind up a liquidated business and determine the allocation of creditors' entitlements. Basically, the advance by the Board has the effects of transferring the claim against the legal liquidation procedures from the affected workers as the primary claimants on their outstanding wage entitlements to the Board as the 'vicarious' and secondary claimants.

Pay Determination

As already documented in the "Overview" of this section, the pay determination process is essentially devolved to the workplace as Hong Kong has hardly any institutionalized mechanisms, either voluntary or legally backed, for the structured formulation of wage level norms or negotiation of pay and employment benefit standards at the collective level of either the industry or the economy. However, the case of the civil service and the consultative role of the Labour Advisory Board in setting certain minimum standards of employment benefits by moving labour legislation proposals are worth noting.

The civil service has a quasi form of collective bargaining. There are staff councils covering six broad occupational families within the government sector. These are: the mainstream establishment of the Senior Civil Service Staff Council covering the bulk of the civilian public employees; the Modern Scale 1 Staff Council covering junior blue-collar government workers; the Staff Council for the disciplinary forces; the Council for the staff members in the Judiciary; plus a Police Staff Council and a joint committee reviewing the salary level of the directorate (senior managerial) grade. These staff councils, mainly constituted of staff and employer representatives, negotiate at annual intervals the pay hike percentage for the grades covered. These wage adjustments discussions, although known formally as 'consultation' since the prerogative of decision rests nominally with management are tantamount to a de facto process of salary negotiation as mutual consent is in practice necessary for the government to forward the pay hike proposals to the Legislative Council for financial clearance.

Also of interest is the consultative process involving the joint representation and dialogue of capital and labour on the formulation of labour and employment policies as well as the gestation of new labour legislation at the central level of the Labour Advisory Board. The functions and jurisdiction of the Board have been outlined in the Employment Law Section. The Labour Advisory Board has performed a function of centralized 'collective bargaining' on procedural norms which is basically state-sponsored, in spite of its tripartite membership. It is a process which has enabled both parties to negotiate, through their representative organisations sitting on the Board, to determine the minimal norms of employment standards to enter the statute book.

Methods of Payment

In Hong Kong, the past pattern of employment practices of Chinese businesses, especially among enterprises in the traditional sector, had been to differentiate the workforce into three types of employment status. These were, i) the *cheung-kung* (permanent hires); ii) the *cheung-saang-kung* (permanent casual hires); and iii) the *saang-kung* (temporary casual hires). Such a typology helped determine not only the job security of the individual but also the methods of wage payment. 'Permanent hires' held the 'staff' status in the firm and belonged to the 'core' of its establishment. They were predominantly paid a monthly rated salary and entitled to a generous array of employment benefits which epitomized the benevolence of the paternalistic employer. Outside this core were the casual or long-term casual workers, who were assigned marginal jobs as supplementary or ambulatory labour. Treated as the flexible part of the personnel establishment which could be expanded or contracted according to seasonal fluctuation of production and business level, these casual hires were typically daily-rated or paid by piece work, and were less privileged than the permanent staff in enjoying the variety of employment fringes provided by the enterprise.

In the past, hourly rated and weekly rated payment systems were less common than the monthly, daily and piece-rated methods of calculating wage payments. However, weekly payments have become more widely practiced as a popular way of determining the pay for part-time employees, in either domestic household manual duties or non-manual service work, like in hotels, restaurants and sales retail outlets.

Since its industrial take-off of the sixties and seventies, Hong Kong has also witnessed the decasualization of the general labour force on two fronts. First, private sector enterprises, especially the corporate employers, were keen to integrate their blue-collar workers into their regular

workforce for purpose of labour stabilization and retention as manpower shortage rose and began to beset Hong Kong's labour market towards the mid and late seventies. A popular way of employee commitment was to confer a staff status upon the casually hired manual workers and convert them into monthly paid and permanent employees. A second and perhaps more profound development was the enactment of the Employment Ordinance in 1968 to modernize and humanize the legal infrastructure of employment protection. The Ordinance introduced, among others, the notion of a 'continuous contract' of employment. The 'continuity' notion, by deeming such a contract as a *de facto* monthly contract renewable from month to month, has virtually bestowed upon most employees in Hong Kong the legal status of permanent employment unless there were express agreement nullifying its monthly duration.

For the purpose of wage protection, it has been noted already (see Employment Law Section) that the Employment Ordinance places a statutory duty of the employer to effect wage payment for the corresponding wage period on the day when such payment is due and not less than seven days. The employer is also strictly constrained from excessive deduction of wages payable to the employee, unless with legitimate and justifiable reasons and within limited extent. The law also requires the payment of wages due normally in legal tender, although bank payment is permissible and actually encouraged by the labour administration as a good employer practice, provided it has the prior consent of the employee concerned.

In some cases, the employer is allowed to withhold from wage payment on the 'check-off' system for such purposes as to contribute to medical provident and superannuation funds, to effect payment of union membership subscription, etc. However, these extraordinary arrangements are policed heavily by the official authority. Furthermore, the consent of the individual affected, as well as approval by the Commissioner of Labour, have to be secured in advance for such arrangements to be put into practice.

Minimum Rates of Pay

In Hong Kong, the wage economy is conspicuous by the absence of any statutory regulation of pay. Although the government has introduced, the Trade Boards Ordinance in the 1940s to institute an industry-specific mechanism for minimum wage fixation, the sustained prosperity of the economy and the labour market in the postwar decades of industrialization has enabled Hong Kong neither to invoke such a law nor to declare an economy-wide minimum wage level for the general workforce. In spite of government abstention from regulating on and prescribing a minimum pay floor for the protection of the labour force, a two-fold development recently in the Hong Kong labour market has challenged these arguments about the rein of the 'free' wage in the economy.

The first pertains to the administrative prerogative, introduced initially to protect foreign domestic helpers first brought into Hong Kong in the late sixties and later extended to cover all semi-skilled and unskilled guest workers admitted into local employment under a plurality of labour importation schemes, which enabled the government to stipulate a standard minimum level to govern the wage payment for these foreign outside workers. The intent is to protect not only the guest labour against exploitative low pay conditions due to their docility but also their local counterparts whose employment chances could be jeopardized and threatened by the 'aliens' if allowed to offer cheap labour. The second phenomenon which has compounded the terrain of wage patterns is the creeping growth of pockets of industrial pauperism among such socially marginal groups as the recent immigrants from China, mid-career industrial

production workers displaced from relocated factories and obsolete industrial skills and reduced into 'hard-core' unemployables. Since the doldrums of the economy's downturn in late 1997, the number of industrially unemployed has been expanding in all sectors of industry. However, the government response has been a steadfast refusal to introduce a general minimum wage level as a leverage for those labouring on the poverty line. Instead, it has agreed, up to present, to extend and make available 'social security' grants to those disadvantaged and needy families in the form of a public assistance subsidy.

Overtime and Pay

In Hong Kong, there has not been any legal or state-backed intervention into the determination of overtime payment for private sector employment. However, there was in the past a body of clearly defined statutory prescriptions, largely inherited from the British system of the Factory Acts, which regulates the maximum work hours and overtime duration in hiring young persons and women workers in factories and industrial workshops. These were (are) basically protective regulations, now housed within the umbrella coverage of the Employment Ordinance as the Women and Young Persons Employment Regulations. These legal norms have actually been instrumental, in the heydays of Hong Kong's industrialization in the 1950s through the 1980s, for precluding by and large 'sweat shop' conditions.

However, the popularization of human rights and gender equality principles has proved inhospitable to the continued application of these protective regulations, which have been viewed with scepticism by proponents of human rights as restricting the freedom of the protected to work at their own free will and prejudicial against their interests in a pluralistic and permissive modern world of work. By the early 1990s, Hong Kong's modern workplaces have been increasingly penetrated by normative standards governing equal rights and non-discrimination on sex and age grounds. The corollary has been a steady legislative process of rescinding these protective controls on overtime and night work (including underground work) placed on women and young workers in industry. Although this change helps harmonize Hong Kong legal standards with international practices, there have been qualms raised by local labour unions about the propriety of such a 'convergence', given a persisting phenomenon of pockets of low paid and industrially deprived peripheral workers labouring on the verge of the poverty line.

According to work hour statistics published by the Census and Statistics Department, the average work hours performed by adult workers approach almost fifty hours a week, which slightly exceed the general standard of a forty-eight hour week. Given the widespread practice of overtime work in Hong Kong workplaces, it has been a commonplace for overtime work to be recompensed broadly according to two alternative arrangements in both the private and public sectors, largely differentiated along the non-manual versus manual divide. Senior managers are normally compensated by 'time-off' arrangements while manual production and service workers are typically awarded overtime pay and allowances at the rate of either two times (double rate), time and a half, or the standard rate (equivalent to the normal rate) in the remuneration of overtime work. In addition, a few traditional trades, notably the printers and restaurant catering workers, are known to have concluded industry-wide collective agreements which regulate, *inter alia*, the basic formulae for calculating overtime rates (including the compensatory rate for working on rest days or statutory holidays).

Performance Pay and Equal Pay

Performance Pay

It has been a prevalent practice in the civil service and among primary sector corporate employers, especially those of British capital which benchmark against the public service bureaucracy, to adhere to the classic principle of the 'seniority rule' in determining the annual pay adjustments for individual staff members in their workforce. This has been made possible partly by the highly structured pay scale systems used for stratifying and differentiating pay by clearly defined status and grade levels. Such a pay structure design has been instrumental, as a standard practice of personnel/human resource professionalism, for internal staff advancements but also to reward staff loyalty and satisfactory performance in the form of a regular periodical incremental rises in salary along a graded salary scale. The assumption is that if the employee is able to perform up to standard, he or she will be granted a normal or standard pay increment, as prescribed by the openly published pay scale. It has also been customary for performance appraisal, administered largely by the conventional 'traits' approach, to be conducted at annual intervals to help ascertain whether staff performance and progress have been consistent with the standard norm or average. However, such a low-key approach to performance appraisal exercises and its application to performance pay has been changing. In emulating personnel and pay policies now popularized in western corporate businesses, the bulk of the large enterprises in Hong Kong have shifted to a more flexible and performance elastic reward system by gradually replacing the highly structured and seniority-based grade system of published salary scales with less defined and more open-ended of performance pay.

Performance pay has been known to be practiced since the arrival of the non-British multinational corporations in Hong Kong, in particular those from the United States. There has been a notable spread and penetration of the American practices into the mainstream sector of British funded capital, so that the notion of performance pay has become popularized and applied by such workplaces as the public utilities, the banks and the trading conglomerates (ie. the 'noble houses'). This concept of performance pay has been extended to include the determination of the entire pay package for executive appointees, including the computation of a variety of employment benefits, which are convertible into a consolidated payment denominated in equivalent cash value. Such flexible pay packages are more characteristic of executive hiring on 'fixed-term' contracts than in rank-and-file staff employment at lower level of the personnel hierarchy.

Equal Pay

Equalization of pay between the sexes and locals and expatriates has been an emergent and almost irreversible phenomenon in the industrial relations and human resource domain of Hong Kong workplaces. The question of introducing an equal pay law has been on the agenda of the Equal Opportunities Commission but up to the present, it has been greeted with lukewarm reception from the public, including the labour movement.

Income Tax, Social Security Benefits and Pensions

Income Tax

In Hong Kong, the taxation system has enjoyed a long-standing reputation for its simplicity and low rate of levy. Salary and wage earners are subject to salary tax levied upon incomes which are derived from paid employment, full-time and part-time. The standard rate of salary tax has been adjusted since the financial year of 1993-94 and is now at 15 per cent. Specified items of tax allowance are deductible from the salary tax aggregate base and are permissible for the tax payer himself/herself, his/her spouse, children and parents who are dependent upon the tax payer.

Social Security

Parallel to a low-tax fiscal structure, the government has been conservative in committing public resources to building a comprehensive social security net covering a 'fall-back' provision for those who are in need. However, this approach to social insurance, other than the state's provision of medical and public housing for the impoverished and low-income households and individuals, has been gradually modified. This is in part due to the democratic political reforms ushered through the transition period, coercing a previously de-colonising and now a new SAR administration to be more sensitive about grass-roots needs. In part, the enhanced propensity of the government to spend on social security and social service has been made possible by Hong Kong's sustained prosperity and the improved affluence of her people whose expectations for betterment in the standard of living, backed by an expanded inventory of 'social wage' supplement sponsored by the state, have also become conspicuous.

The core provision of a 'social wage', payable to individuals and households in need as a 'cash supplement', is basically a form of public assistance grant. Indeed, it has been known as such when such public payments were stated in 1971. However, the scheme was amended, enhanced and re-titled as the Comprehensive Social Security Assistance Scheme in 1993. The scheme, administered on a non-contributory basis but requiring the recipients to be subject to means-test, is designed to raise the income of needy individuals and families to a level enabling them to meet their basic and essential needs (ie. subsistence level), provided that they have been resident in Hong Kong for at least one year. Since 1 April 1979, the scope of such benefits has been extended to cover any able-bodied adults in the age category between 15 and 59 who have become unemployed. However, in order to qualify for social security assistance, the unemployed have to be registered with the local employment service of the Labour Department for job placement. The assistance benefits are reviewed and adjusted at regular intervals to keep pace with rises in the cost of living. The payment to the beneficiaries comprises normally a standard rate (applicable to the four basic categories of the elderly; the disabled; the children; and the unemployed) plus, where it applies, such items as special grants, an annual long-term supplement, and a special supplement for single-parent families.

Pensions

Since the beginning of the 1990s there has been a public debate on the desirability of introducing to the territory a quasi form of national insurance covering the provision of a 'state pension' to retired and aged persons. Partly in its anxiety to secure a 'social partnership' with organised labour in the wake of Hong Kong's political transition, and partly to better harmonise local labour conditions with the Basic Law provision on retirement provision, the government

announced in 1990 its intention of introducing appropriate enactments so as to make retirement benefits a comprehensive and mandatory entitlement for the general labour force.

What was canvassed initially was a conservative formula placing the onus of paying all employment-related benefits upon the employers' shoulders as their private liabilities but made mandatory under the law. The resulting blueprint, envisaging joint contribution by the employer and employed without any direct governmental involvement save administrative back-up, elicited a lukewarm public reception. The unpopularity of the initial formula soon led to a drastically re-vamped idea advanced by the administration and the revised blueprint represented a radical departure from the established policy tradition as it emulated the social security or 'welfare state' notion of a centrally administered and subscribed system of public (ie. state) pension, to be made available at old age and financed out of a levy contributed by both the employer as well as the wage-earning employee. The shadow of building an embryonic 'welfare state' infrastructure hinted by this second blueprint provoked general suspicion articulated by the conservative sceptics that Hong Kong should be maintained as an 'enclave' of 'free-market' capitalism. At the height of its consultation process, the 'public old age pension' proposal instigated such a sharply dichotomized division of public opinions in society – between those in support, largely the trade unionists and social workers, and those in opposition, like the Chinese authority, the business persons and middle-class professionals – that the government prudently rescinded the 'public pension' policy recommendation. In its place, the administration reinstated the earlier proposal under a re-packaged arrangement entitled as 'mandatory provident fund' (MPF), which yet retains the essence of its 'high risk' propensity and 'privatised' nature.

Holidays and Leave

Public/Statutory Holidays and Rest Days

Hong Kong has a holiday arrangement pattern which epitomises a mix of eastern and western cultural heritage. The Holidays Ordinance prescribes a number of gazetted public holidays in a year, which are also bank holidays. However, these public holidays, normally numbering 17 or thereabouts a year, are not mandatory although widely observed among service enterprises in the commerce, banking, finance and public sectors, including the civil service. This piece of law has hitherto served as the guideline enabling non-industrial businesses to set their norm in scheduling holidays for white-collar employees.

Parallel to the Holidays Ordinance is the Employment Ordinance, which requires Hong Kong employers to grant statutory holidays as designated in the legislation and to pay an employee, in 'continuous' employment and having worked for the qualifying period before the holiday, the normal wage or salary for that day. The number of statutory holidays now prescribed has been adjusted to mark the festivity of 1997 as the year of reversion. Otherwise, it has been eleven days, although the labour movement has been keen in lobbying for the inclusion of Labour Day (1st May) within the holiday schedule.

The paired operation of both pieces of legislation governing holidays in Hong Kong has given rise to a dualistic structure of holiday arrangements in local workplaces, although there has existed a customary 'divide' by which the white-collar staff members of non-production enterprises follow the Holidays Ordinance schedule of gazetted general holidays, while blue-collar workers in industry are given the statutory holidays as specified in the Employment Ordinance. However, the provisions of the Employment Ordinance are normally construed as

authoritative in declaring the statutory minima of holiday entitlements, including normal holidays named as 'weekly rest days', which are on Sundays for most employees.

The Employment Ordinance hence also makes it mandatory for the employer to give and appoint one rest day in every seven days, paid or otherwise, to his/her employee. These rest days are literally the weekends for most industries apart from restaurants, catering and other businesses in the leisure industry. The week-end pause is basically on Sunday and can include a half-day on Saturday, especially for the banks and commercial houses. However, there has been a gradual increase in the number of workplaces, both industrial and non-industrial, practising a five-day week.

In spite of the need for periodic review to harmonise the holiday schedules between the above two statutes, there is a common 'core' of benchmark holidays in the calendar year. A cursory look at some of them are indicative of a 'hybrid' blending of Chinese and western custom and lores:

- i the first day of January (western);
- ii Chinese Lunar New Year's Day (Chinese);
- iii the second day of the Chinese Lunar New Year (Chinese);
- iv the third day of the Chinese Lunar Year (Chinese);
- v Ching Ming Festival (Chinese);
- vi Tung Ng (Dragon Boat) Festival (Chinese);
- vii the day following the Chinese Mid-Autumn Festival (Chinese);
- viii Chung Yeung Festival (Chinese);
- ix Chinese Winter Solstice Festival or Christmas Day, as opted by the employer (Chinese and western).

Sick Leave and Maternity Leave

As already explained in the Employment Law Section, the Employment Ordinance also entitles an employee at law to leave and holidays on medical grounds, which are basically of two statutory types: i) sick leave and ii) maternity leave. Where the employee affected is hired on a continuous contract and qualified by the relevant enabling provisions, the incapacitated person is also eligible to pay for the days of absence on leave, at the prevailing norm of four-fifths of normal pay in the event of taking either kind of these two leave categories.

Annual Leave

It has also been noted in the Employment Law section that the Employment Ordinance has prescribed, since 1978, paid annual leave as a statutory employment benefit. The 'floor' standard at law provides an employee who has served at least twelve months under a continuous contract at least seven days of annual leave with pay. Actually, giving paid annual leave has been a long existing personnel practice, either by custom or contract, followed by many industries and trades as a key employment norm before its introduction to the statute book. Examples are the big trading companies, banks, insurance and other financial institutions and hotels. Where there are private and voluntary practices, paid annual leave is always more generous and in excess of the legal norm, entailing a leave period which can range from two weeks to one month.

Workers' Compensation

Other than the Employment Ordinance, workers' compensation damages available to the employee for injuries and disabilities sustained as a result of work accidents are not covered by national social insurance on a centrally administered and collectively contributed basis. Instead, Hong Kong still follows essentially the pre-Beveridge British system of assigning the onus of compensating injured workers as a private liability belonging to individual employers. The enabling piece of legislation is the Employees' Compensation Ordinance, which prescribes both a salary equivalent income stream as a periodical payment to cover the injured person's maintenance needs while absent from work on sick leave as well as a lump sum payment, for any permanent loss of earning ability.

Employee Relations

Overview

Employee relations in Hong Kong have been and will continue to be permissive at the workplace level. Such a 'permissiveness' indicates a low level of institutionalisation of labour-management relations within the average enterprise as it is loosely regulated by either private collective arrangements like collective bargaining, or legislative and administrative control by the government.

The labour movement has been industrially docile, although its political status and influence have been given a major impetus by the officially sponsored electoral reforms since the mid eighties. Yet, on the average shopfloor, the workforce has been weakly organised by the trade unions, who are generally incapable of mobilising workers for industrial action, or securing a regular dialogue with management as an industrial partner for purpose of 'adversarial' collective bargaining or 'collaborative' consultation.

The pivotal instrument governing labour-management relations is the individual labour contract. Such a key position of the employment contract has, in turn, given a contractual appearance to the conduct of workplace relations, so that any breaches of contractual duties by either party are liable to constitute a claim. It is a dispute of right which can be brought before either the official agency (the Labour Department) for voluntary conciliation or the judicial institution (the Labour Tribunal) for legal determination. However, compounding the theme of nominal 'legalism' emanating from the individual labour contract is the informality of Chinese traditional custom and practices found in the ethos of paternalistic management sustained by the exalted logic of 'trust'. Of course, Chinese pre-modern and conservative values which had in the past bred authoritarianism, parochialism, nepotism and inertia at work and in business are also withering away steadily - giving way to technocratic and constitutional management in modernised Chinese enterprises, which increasingly recognise the universal importance of proven work competence, performance, participation, equity and efficiency, as well as other normative criteria decreed by the 'rule of law'. However, pre-industrial practices known in the Chinese milieu, such as norms of unspecified reciprocity and particularistic networking, are being revived and given a new and rationalistic interpretation. These have been instrumental in helping advance modern practices of human resource management at enterprises which are keen to consolidate their psychological contracts with their staff members.

Workplace Labour Relations

The characteristic pattern of industrial relations at the micro level of the employing units is probably due to the low structuration of the workplace. 'Constitutional management' exists and excels among Hong Kong enterprises, insofar as the rules governing the conduct of workplace activities and interactions are largely prescribed by the individual contract of employment. In this context, relations between the employer and employed, the manager and managed at the workplace level can be described as contractual - pervaded always by a concern for legalism in the parties' interpretation of their rights and obligations vis-a-vis each other. However, in spite of such impersonality, which suggests a mild degree of interest incompatibility between the 'seller' and 'buyer' of labour, these workplace labour relations have remained individualised, with little sign that labour will become more organised on the shopfloor for advancing workers' collective interests.

Paradoxically, although such a paucity of workplace institutions, collective and bilateral, has given reputedly a latitude of flexibility enabling business enterprises to adjust readily to cyclical changes in market conditions, the emphasis upon the labour contract and its associated legal norms has bred a local ethos of 'workplace legalism' accompanying its so-called 'normative permissiveness'. Where the parties adhere closely to legislative norms for defining their mutual rights and obligations, no more and no less, there is little surprise that the government and its public agents (like the Labour Relations Service of the Labour Department, which promotes harmonious industrial relations and conciliates in labour-management conflicts) have been perceived by the two sides of industry as the first point of call in the event of a labour dispute.

The purported Chinese preference for unspecified 'trust' and informality has been used to explain the generally weak presence of joint regulatory mechanisms for formalising labour-management relations at the workplace level, including joint consultation and collective bargaining arrangements. Up to the present, there is no statutory regulation of the actual conduct and pattern of workplace relations by way of collective labour legislation in Hong Kong. Industrial surveys have almost consistently illustrated that most local (Chinese) employers opt for 'the ad hoc and informal types of arrangements in the workplace' for reasons chiefly 'to better maintain a certain degree of flexibility as well as to achieve rapport with the rank-and-file members of the enterprise' (Ng, 1997: 235). The indifference of the two sides of industry to formalizing collective relations was noted by a senior labour official in the mid 1980s, as he conceded a local vacuum of workplace institutional arrangements lacking any properly instituted machinery established on a territory-wide basis for labour-management dialogue or communication (*ibid.*, 231). He lamented the low number of joint workplace arrangements, as far as there were only 32 industrial and service establishments which were known to the Labour Department to have instituted consultative committees in 1985 (Yeung, 1988: 54). This is despite the fact that since the late 1960s, it has been a part of the government's labour policy to promote the notion of joint consultation as a way of strengthening industrial relations at enterprise level. Such an official endeavour was largely inspired by the industrial upheavals which preluded the outbreak of the 1967 civil disturbance. As a sequel, the administration launched a promotion campaign, aimed at encouraging the large enterprises (with 100 employees and above) to establish joint consultative committees as a means of institutionalising enterprise-specific pattern of labour-management relations in Hong Kong. However, such a 'state-sponsored' industrial experiment at erecting a local workplace culture of practicing labour-management joint consultation on a voluntary basis has not consolidated into a popular norm in industry.

Similarly, the prospect of voluntary collective bargaining has always been a weak proposition in Hong Kong. Private sector employers are reputedly lukewarm and even hostile in extending any voluntary gesture of union recognition to organised labour for purpose of collective bargaining. Such an employers' attitude of workplace conservatism has been earlier documented:

And trade unions are often not accorded recognition status at the enterprise level. For instance, in the 1981 HKIPM survey, out of the 14 companies reporting the presence of a trade union at the plant, six firms stated that no union recognition was extended in spite of its presence ... a later study in 1987 indicated that among the 34 companies in the inquiry which did not have trade unions, a mere four of them showed a willingness to recognise one and such recognition was subject to the condition that the trade unions concerned were able to represent the interest of the majority (Ng, 1991: 41-2).

For its part, organised labour has consistently lobbied the government to intervene to redress its weakness by sponsoring legally trade union claims for recognition, as what has been popularly labelled as the latter's collective bargaining rights. This would have entailed new legislation which can prescribe compulsory union recognition procedures analogous to the American system of workplace election (namely, electing the most representative union as the sole bargaining agent in the officially demarcated bargaining unit). However, the government has not favoured this approach for a number of interrelated reasons. First, such an enactment was likely (and still is) to be seen as unduly interventionist and alien to the voluntary tradition of labour policy approach and assumptions in Hong Kong. Second, there is the alleged preference of both the employers and the employed for retaining their individualised labour market flexibility and freedom from the collective bargaining type of institutional constraints, especially since the majority of enterprises are small or medium-sized. Third, there is the official apprehension about the potential risks of politicising and destabilising the general harmony of workplace industrial relations, in view of the present state of organised labour with union multiplication in industries and across occupations.

In contrast to the above, according to a benchmarking labour study which covered the two decades of the seventies and eighties, Hong Kong employees' preference appears to be a hybrid arrangement combining both elements of workplace consultation and collective bargaining. As the authors report:

Our respondents clearly conceived this as involving a formal right to consultation through employee-elected representatives — not merely on the narrower questions of welfare, physical conditions and the like which concerned the UK-derived form of joint consultation ... but also upon the broader issues of pay, fringe benefits or related matters and of workplace grievance procedures (Turner, Fosh and Ng, 1991: 108).

In this context, collective bargaining at the workplace level has remained weak and inactive, lacking neither active sponsorship nor (repressive) control by the government. A basket of five pieces of labour legislation was ushered to the statute book at the eleven hour before the closure of British rule in Hong Kong in 1997. This legislative package included a core item of

enactment introducing workplace collective bargaining on a mandatory basis in enterprises above a stipulated size, where it is endorsed by a balloting procedure conducted for the workforce at the workplace concerned. However, such an innovative endeavour to reform workplace labour relations was widely castigated by employers as too radical. Neither was it able to elicit popular endorsement by the public at large or even the labour movement itself.

The collective bargaining right law and its associated pieces actually awaited the later inception of the SAR government for such an 'assorted package' to be reviewed and adjusted. The SAR administration made no pretence about its apprehension about the contentious nature of three pieces of law in the basket which it believes to be a result of uncritical and wilfully malicious emulation of western industrial institutions, where such new laws could be costly in compromising and impeding Hong Kong's celebrated work ethos and business practices. What ensued was a quasi constitutional crisis, as the Provisional Legislative Council of the post-handover government declared a temporary freeze on this controversial legislative package comprising: i) the law introducing compulsory procedures on union recognition and collective bargaining; ii) that which sought to transplant almost wholesale the 'redress' arrangements in the United Kingdom available for 'unfair dismissal' cases; and iii) that which liberalised statutory restrictions hitherto instituted by the Trade Unions Ordinance on unions' spending for political purposes. The Labour Advisory Board was later asked to examine applicability of these legislative items. Upon the Board's recommendation, the statutory package, including the law prescribing collective bargaining rights, was rescinded towards the end of the year. In its place, the SAR government advocated a gradualistic approach and pledged to promote, by voluntary methods, a workplace culture more congenial to collective norms of employee participation by way of formalised communication which would lead, hopefully, to collective bargaining practices.

Government Involvement: The Labour Advisory Board and Industrial Partnership

Hong Kong has an established mechanism, for a joint labour-management dialogue at the central level. The Labour Advisory Board, created in the 1930s as a result of the 'model' recommendations dispatched by the then British Colonial Office (now the British Foreign and Commonwealth Office) to its overseas dependent territories, is a consultative public body whose primary role is to advise the government in conceiving new labour legislation as well as formulating labour and associated public policies. The Board is tripartite in its membership, headed by an ex-officio chairman who can either be the Commissioner for Labour or his/her deputy and comprising parity representation from both the employer and employee sides, with a secretariat staffed by the Labour Department. Of the six employee delegates, five are nominated from and elected by the registered trade unions in Hong Kong; the remaining one representative is appointed by the government. On the other hand, the employers' representatives are drawn from the four major employers' and business associations designated by the government, including the Employers' Federation of Hong Kong, the Hong Kong General Chamber of Commerce, the Federation of Hong Kong Industries and the Chinese Manufacturers' Association; the remaining two employers' representatives are appointed by the government.

Although essentially advisory in nature, the Board has proved to be an efficacious mechanism instrumental for the gestation process of important legislative improvements. A pragmatic culture of mutual accommodation appears to have reigned, leading to consensus building

between the representatives of the employers and employed in this public policy forum at the central level. The accomplishment by the mid eighties of a statutory floor of employment rights for Hong Kong employees attests to a emergent sign of an industrial partnership gradually in the making. However, such a prospect has been eclipsed since the beginning of the nineties largely because of the 'politicisation' of the Legislative Council, which has evolved into a popularly elected law-making assembly under the officially sponsored democratic reforms introduced during the transition period since 1983. What has emanated from such a game of electoral bidding was, and still is, the polarisation of the sectional interests between labour and management, between the employed and their employers - now widely publicised in debates of the Legislative Council and ballot contests for the latter's election. Such a problem, it has been argued, has weakened not only the Labour Advisory Board's efficacy but also the prospects for developing labour law and administration in Hong Kong.

The introduction of new legislation affecting the workplace and employment in haste around the mid nineties has inexplicably sidestepped the consultative organ of the Labour Advisory Board as an essential and integral aspect of the tripartite dialogue leading to consensus building in the employment arena among all parties concerned.

Employers' Associations and Business Organisations

In Hong Kong, employers' associations catering for employment and labour-management matters are also recognisable as trade unions at law following the British legal tradition. As such, they are registrable under and regulated by the Trade Unions Ordinance in a manner basically analogous to the employees' unions. In 1996, there were 15 employers' associations registered with the Registrar of Trade Unions of the Labour Department of the government. Alongside this number, there were 17 mixed organisations of employers and employees, also recognised legally as trade unions but which were basically 'hybrid' labour combinations reminiscent of the traditional guilds in pre-industrial China organising both craftsmen and masters in the same trade. With the probable exception of the Hong Kong Employers' Federation, which is the largest with membership across industries and trades, these employers' unions are mostly based upon a specific industry, sector or trade. Some of them are still anachronistic in internal structure, having conserved much of the organisational elements handed over from the pre-industrial (Chinese) craft and merchant guilds. While some associations perform as a mutual fraternity like a friendly society, others tend to emphasise the more instrumental activities of industrial co-operation and liaison work affecting employment and labour market interests of their members.

Other than those which are legally registered as employers' trade unions, there are a number of private associations organising and catering to business interests, both industry-specific as well as of an economy-wide nature. These non-union trade and business associations often assume the quasi role of an employers' union and as such, can also perform labour and industrial relations functions (with varying degrees of rigour). In this connection, most of Hong Kong's key industries and trades, including both services and manufacturing, are organised by a single or multiple trade/business associations which are registered officially as either societies or limited companies. They are largely 'sectarian', given that the primary concern of these associations is to help promote their members' common business and trade interests. Some of them, especially the older associations in such traditional and craft-like industries as metal working, furniture-making, printing and building and construction have negotiated at intervals,

regular or otherwise, with labour unions in the industry concerned for a collective agreement or understanding about wages, work hours, annual leave and holidays, workers' compensation and other conditions of employment of mutual concern.

A more influential type of non-union employers' association in Hong Kong is probably made up of those which are constituted on a cross-industry basis. Among these bodies are the Hong Kong General Chamber of Commerce, the Chinese Manufacturers' Association, the Federation of Hong Kong Industries, the Chinese General Chamber of Commerce and the American Chamber of Commerce. This league of leading employers' and business associations has been a powerful 'transmission belt' for articulating common interests of the business elite in the mainstream domain of Hong Kong's establishment and political arena. These key employers' and business bodies, in spite of their non-union legal status, are actively involved in representing their membership and business' interests in the domain of labour legislation and employment matters affecting public policies, including issues of labour market stabilisation such as handling unemployment and imported foreign workers in Hong Kong.

It is well known that these 'union-like' as well as 'non-union' employers' associations have refrained from participating directly in collective bargaining as the employers' agents. However, as part of their back-up services, they provide and offer labour market information and advice to individual member firms who are engaged in negotiating employment conditions in collective deals with their workforce.

It is useful to give an abbreviated profile on each of the three employers' associations listed on the functional constituencies of the Legislative Council, as well as the union-equivalent Employers' Federation of Hong Kong.

The General Chamber of Commerce

The Chamber, founded in 1861, is the oldest and perhaps most established organisation of business and employers' interests in Hong Kong. Incorporated as a limited company under the Company Ordinance, it has a membership which exceeds 4,000 companies. The Chamber identifies as its primary role that of promoting and protecting its members' interests in commerce, trade and industry. As such, the Chamber has been closely consulted by the government on all policy matters relating to business investment and operations in Hong Kong. In this context, labour and employment issues have assumed growing importance on the Chamber's agenda, both in assisting its members as well as in lobbying for favourable policy decisions by the government. Such a role has become even more salient at a time when the once pervasive 'corridor' power of the business elite now comes under the increasing scrutiny of the public media — let alone the high-profile challenge of organised labour within the arena of 'electoral games' featuring the politics of the ballot box. The Chamber's membership has been enfranchised, under the officially sponsored political reforms, as the electorate to return an elected representative in the law-making assembly, the Legislative Council, under the functional constituency ticket.

The Federation of Hong Kong Industries

The Federation was created by statute in 1960, essentially as a self-governing body to facilitate the technical development of local industries in Hong Kong. However, it has also been audible as an employers' organisation on labour as well as other matters pertaining to the economy, society and employment at large. In this regard, it has promulgated a voluntary guideline on

equal opportunities at the workplace in collaboration with the Employers' Federation of Hong Kong and the General Chamber of Commerce. This initiative, begun in 1994, mirrors the growing consciousness in society and among employers about the normative importance now attached to the advancement and protection of gender equality in employment and beyond. With a membership of more than 2,400 industrial and non-industrial establishments, the Federation provides a host of industrial back-up and support services to its members, including the issue of certificate of origin, consultancy work or quality assurance, trade marks, copyrights and patents as well as trade enquiries and economic research. Similar to the General Chamber of Commerce, its membership has also been co-opted onto the law-making assembly of the Legislative Council election.

The Chinese Manufacturers' Association

The Chinese Manufacturers' Association contrasts with the General Chamber of Commerce in organising mainly the smaller and local Chinese enterprises, as the Chamber has been, by tradition, dominated by the modern corporations which are largely non-industrial and of western capital and management. Established in 1934 under the Company Ordinance, it is one of the oldest trade associations in Hong Kong and now has more than 4,000 members. The Association has been active in the sphere of trade promotion and industrial development, especially in representing the interests of Hong Kong's small and medium-size businesses in the government's public policy decision making process. It has also been enfranchised as a electorate in the functional constituency division of the Legislative Council.

The Employers' Federation of Hong Kong

The Employers' Federation, created in 1945 initially as a sub-committee of the Hong Kong General Chamber of Commerce, has been independent since 1948 as a general union of employers registered under the Trade Unions Ordinance. The principal objective of the Employers' Federation has been to organise employers in Hong Kong across all kinds of business, industry and trades, as well as to assist them in such a capacity in achieving harmonious labour relationships with their employees. It also seeks to articulate its members' interests when lobbying the government on public policies relating to labour legislation and admission of foreign guest workers into Hong Kong to help alleviate labour shortages and more recently, the controversial agenda of introducing collective bargaining rights to Hong Kong's workplaces by law. In 1995, the Employers' Federation had a membership of about 350 companies organised into ten functional groups according to the industrial nature of their business activities. Each Group elects a Chairman, who sits in the Council which is the governing body of the Federation.

Since the inception of the Federation, it has been engaged in collective bargaining with employees and their unions more as an exception than a rule. This is probably understandable, as it has been the Federation's declared policy to leave actual industrial negotiations to its individual members, rather than to centralise the conduct of such activities. Instead, it prefers to involve itself in labour disputes only indirectly by providing background advice and data to employers on its membership when negotiating collective deals with their workforce. However, if warranted by circumstances, the Federation could also negotiate collectively on behalf of its members, as in the instance of the stevedoring trade where wage standard norms have been actually negotiated by the Federation.

Basically, the functions of the Employers' Federation are less conspicuous in the arena of industrial negotiation but more by having performed to assist in the shaping of conducive labour-management and industrial relations practices. Such a role is articulated in consultative avenues pertaining to both public policy of the administration as well as the human resource policies of its members. For this purpose, the Federation has focused its activities largely in domains like commenting on labour legislation and manpower-cum-employment policies of the government, as well as furnishing members with information about prevailing patterns of wage levels, fringe benefits and welfare provisions, alongside the plurality of standards, both statutory and voluntary (non-mandatory), in workplace labour practices.

Collective Power of Employers and Their Organisation

It was estimated, back in the early 1980s, that both the employers' unions and non-union quasi employers' associations together organised a very sizeable sector of the economy, being responsible for about four-fifths of Hong Kong's employment in the private sector (Turner et al., 1980: 36-37; also Turner et al., 1980a:6). The same study elucidated a relatively complex pattern of labour market arrangements which suggests, the subtle influence of the employers' and business fraternities upon wage levels and pay adjustment decisions of individual enterprises belonging to these bodies. Many of these associations actually provide a forum for personnel and human resource managers to meet informally at periodical intervals to co-ordinate their pay and personnel policies or at least, act as a clearing house on the exchange of intra-industry/intra-sector data pertaining to wage levels and benefit packages which happen to prevail, as ascertained by pay surveys which they conduct. These harmonising activities are always perceived to be instrumental in helping enterprises within an industry/trade to take wage and employment matters out of their 'coercive orbit' of competition in the labour market.

Employee Associations

Trade unions in Hong Kong have always been viewed as industrially weak and ineffective, in part because of their historical legacy as political associations. The imagery which has accompanied labour unions since their heydays in the 1920s, when the embryonic labour movement was inspired and nurtured by the politico-social developments in Mainland China, was largely that of 'friendly societies' more concerned with 'political rhetoric, fraternal association, and mutual benefit provisions than the use of collective bargaining, strikes, and other conventional union methods in order to secure a better economic deal for the workers' (Lethbridge and Ng, 1995: 75). For the above reason, the trade union movement in Hong Kong was split at its beginning along politico-ideological lines, dichotomised into two rival blocs: on the left it was led by the pro- China Hong Kong Federation of Trade Unions (FTU) which was (and is) ideologically Communist and in opposition, the pro- Nationalist Hong Kong and Kowloon Trades Union Council (TUC) and its right-wing affiliates. Such a politically denominated and divided picture of the labour movement started to take root in 1949 when these two rival trade union centres were created and registered, for convenience, as societies under the Societies Ordinance. The vanguard labour movement, based fundamentally upon the blue-collar trade unions which the FTU and TUC organised primarily as their affiliates, remained recalcitrant politically and yet docile industrially throughout the 1950s and 1960s, until it was challenged by the ascending presence of the white-collar labour unions in the early and mid 1970s - which witnessed a large-scale expansion of unionisation in the civil service and the public sector at large. These civil service staff unions, alongside the new white-collar occupational unions like those organising the teachers, nurses, social workers, technicians and

even office clerks, coalesced loosely in constituting a third and politically independent wing of the labour movement. Assisted by church-backed labour organisations like the Christian Industrial Committee (CIC) and the Industrial Relations Institute (IRI), this 'bloc' grew quickly in popularity and organisational strength; and by the beginning of the eighties it superseded the right-wing camp as the second largest sector of the labour movement.

However, Hong Kong's labour unions have continued as amateur industrial combinations lacking efficacy and organisational resources to challenge the employers' domination at the workplace level. Paradoxically, Hong Kong's political reforms, have helped perpetuate and even accentuate the weak position of organised labour as workers' combinations in the industrial arena. Union reforms, plus the enhanced political participation of organised labour in electoral politics, have actually made more remote the prospect of unions' industrial agency role for adversarial collective bargaining. Given the changing nature of organised labour's participation in society, its growing incorporation into the mainstream establishment of the 'governing elite' has added to the politicisation of labour and employment in Hong Kong. As it has been documented:

The shift in the unions' developmental strategy tends to parallel the officially sponsored political reforms introduced since the early 1980s, which have made the use of legal enactment a more attractive option for the labour movement as leverage for bettering the social, industrial, and employment conditions of workers. The introduction of an increasingly wide measure of representative government by way of instituting, through stages, popular election to the Legislative Council has opened up avenues for directly elected labour (Lethbridge and Ng, 1995: 79).

The elected nature of the legislature and the incorporation of labour representatives into its membership have given Hong Kong trade unions a pervasive voice in the formulation of public policies affecting employment and labour welfare. Organised labour's enhanced access to political influence and electoral power has elevated it to a new realm of estate as a 'constituent' power in the governing elite.

However, the labour movement has always been internally divided and fragmented partly because of unions' proliferation in number along ideological, political, ethnic and other parochial lines. What has persisted is a pluralistic state of multi-unionism at all levels of the enterprise, industry and economy. While such permissiveness to union organisations probably attests to freedom of association as an enshrined principle practised in Hong Kong, labour's organisational diversity has always compromised the union movement's internal solidarity.

Although the historical polarisation between the left-wing FTU and the right-wing TUC has become nostalgic and waned away since the mid eighties, sectarian boundaries and inter-union rivalries have not subsided but actually been accentuated by the stimulus of the electoral game. Adding to and complicating the scene has been the increasing prominence of the new white-collar unions, mostly concentrated in public service, and posing as a third independent force outside the FTU/TUC ambits (Lethbridge and Ng, 1995: 79). These new unions later coalesced by forming a third trade union centre, the Hong Kong Confederation of Trade Unions (CTU) in 1990. Closely linked with Hong Kong's leading political party in the liberal bloc, the Democratic Party, the CTU has quickly gained popularity, literally displacing the veteran TUC

as the second largest trade union centre on the Hong Kong league table. What appears to have consolidated, on the eve of the 1997 political handover, is a tripartite state of union pluralism anchored upon the FTU, CTU and TUC circuit, alongside, possibly, a fourth centre of organised labour's power, the Hong Kong Federation of Labour Unions (FLU), whose affiliates organize mainly the new working class in the transport, technical and engineering trades.

Since Hong Kong entered a new era following its reversion to China, the politico-industrial profile of its labour movement has been elevated to a new 'estate of the realm' which is paradoxical:

The obsession of the trade unions with politicising their programmes and activities as a 'short-cut' passing lane to the realm of politico-social power, encouraged and made possible by the government-sponsored electoral reforms, has resulted in a lop-sided situation in which the Hong Kong labour unions, on the eve of the 1997 transition, remained no less immature, inarticulate and inept in negotiating conflict resolution and grievance settlement. Ironically, their new influence in the political arena proved to be of limited instrumentality in helping enhance their industrial strength vis-a-vis the employers at the workplace (Ng, 1997: 669).

Industrial Conflict

Strikes

Hong Kong has developed a reputation since the 1970s for a low propensity for collective industrial conflict. The economy has a low incidence of work stoppages and working days lost, vis-a-vis other industrialised nations like the United Kingdom, United States, Japan and those on the European Continent. During the five-year period of 1991-1995, the average number of working days lost each year through industrial conflicts was 1.66 per thousand wage earners and salaried employees. It rose slightly to an average of 1.84 for the subsequent five-year-period of 1992-1996 (Commissioner for Labour, 1996: 34). The incidence of industrial strikes is illustrated by the longitudinal profile given in Table 7.

Year	Number of Strikes	Number of Workers Involved	Number of Working Days Lost per Thousand Workers (salaried employees)
1991	5	127	0.08
1992	11	1832	1.35
1993	10	1479	6.37
1994	3	129	0.13
1995	9	1347	0.37
1996	17	1763	0.99

Source: Hong Kong Government, *Report of the Commissioner for Labour 1995 and 1996*, Fig. 10 and 11, pp.34-5.

Table 7 Incidence of Strikes in Hong Kong 1991-96

These strike statistics provide an indicative clue on the present state of industrial stability in Hong Kong. Such a relatively low level of open collective industrial conflict is perhaps explicable by reference to factors such as the underdeveloped state of collective bargaining, the ineffectiveness of the local union movement, the scarcity of union funds available to be mobilised for strike purposes, as well as the overall immaturity of industrial relations and associated

institutions (Ng, 1997: 257). However, that the government has provided a generally effective machinery for settling labour disputes, both collective and individual, could have helped explain the low level of work stoppages and other forms of industrial strife in Hong Kong.

A cursory look at the pattern and causation of collective labour disputes in Hong Kong's workplaces suggests that they are associated largely with substantive (materialistic) disagreements, pertaining to issues such as wage rates, dismissals, redundancy and employer insolvency. Much of the industrial action encountered in the 1980s and 1990s appears to have emanated in a spontaneous manner from the shopfloor, followed by the involvement of a labour unions. A few stoppages were well organised and orchestrated in the public transport sector. A prominent campaign was waged against a public bus company, where the effective leadership provided by the union local (which is a house branch of the Transport Workers' General Union, itself a vanguard affiliate of the leading trade union centre, the pro China Hong Kong Federation of Trade Unions) forced the embattled management to concede.

The profile of union involvement in industrial conflict demonstrates a generally conciliatory posture of non-militancy and self-restraint which suggests labour's aversion from any disrupting acts in favour of accommodation with capital. This is in part a sequel to the strategic re-alignment of the pro- China left-wing sector of the labour movement in order to harmonise better its programme with the appeasement of China in her international relations arena. In spite of their anxiety to maintain a visible presence in industrial episodes of labour-management tussles, the conciliatory and non-recalcitrant position adopted by the unions has proved conducive to mutual compromises and prompt settlement of contested issues by the disputing parties. This factor helps explain i) the low incidence of open industrial conflict like strikes and work stoppages, and ii) the virtual absence, up to present, of any prolonged of labour-management discord which would have led to the state's intervention as provided for under the 1975 Labour Relations Ordinance.

Probably symptomatic of the economy's recent downturn, large-scale industrial strikes of long duration such as those involving the Mass Transit Railway in 1984, Hong Kong Telecom in 1991 and Cathay Pacific Airways in 1993, have been conspicuous by their absence since the mid nineties. Instead, collective industrial conflicts have consolidated into a pattern of more frequent disputes, smaller in scale and shorter in duration. Understandably, business closures, insolvencies and corporate re-organisation and down-sizing have become a more common reason in explaining the bulk of these.

Grievances

Other than collective forms of industrial conflict, workplace grievances have also been pursued by individual employees or small groups of them, often as disputes over rights. These are officially recognised and classified as 'claims'. A claim normally arises from a breach or default of a party's statutory or contractual duty, so that the aggrieved party is expected to lodge a complaint and hence a claim against the party in default with the public authority. Such actions enable the former to recover any entitlements of which he/she has been deprived, given the appropriate redress.

The incidence of workplace grievances or claims is widely dispersed across different economic sectors and industries according to official statistics. According to a sampled investigation of a cluster of 700 claims processed by the Labour Relations Service of the Hong Kong Labour Department in 1987, these claims were located disproportionately in the non-unionised trades

and industries. These cases commonly involved small groups of workers taking spontaneous recourse to official agencies like the Labour Relations Service. Their complaints lodged were processed either by conciliation office of the Service or where an amicable settlement was not tenable, by referral to the Labour Tribunal for judicial determination. Jobs of lower paid employment, such as in retail services, were identified to be more prone to workplace defaults and grievances (Turner, Fosh and Ng, 1991: pp. 73-5). In addition, there has been a consistently huge number of unreported cases not recorded officially. An updated profile of official statistics on claims registered by the Labour Department, published for the years of 1995 and 1996, suggests that discharge, contract dissolution and non-payment of wages largely explained the causation of the bulk of these workplace grievances (see Table 8).

Nature of Claims Lodged with the Labour Department	Percentage of Total	
	1995	1996
Termination of Contract, Dismissal, etc.	61.3	54.8
Wage Non-Payment and Deduction etc.	14.2	19.2
Retrenchment	8.7	8.0
Non-Payment of Holiday Pay, Leave Pay and Rest Day Pay	5.2	5.5
Cessation of Business	2.4	2.4
Lay-off	0.3	0.5
Insolvency	0.2	1.0
Others	7.7	8.6
Total	100.0 (N=22175)	100.0 (N=22840)

Source: Hong Kong Government; Commissioner for Labour Annual Reports, 1995 & 1996, Hong Kong, Figs. 22 & 23, pp.64-5.

Table 8 Causation of Claims, 1995 & 1996

Key Processes

In Hong Kong, the pattern of industrial disputes and workplace grievances as discussed above indicates a low level of organised industrial conflict, in parallel with a low degree of institutionalisation of joint industrial relations arrangements. The lack of established procedures at the workplace level enabling representatives from both sides for handling individual grievances and disciplinary complaints, or negotiating collective deals about wages and other conditions of employment, underscores the key role performed by the state-sponsored system of conciliation for settling disputes and grievances. The popularity of the Labour Relations Service (of the Labour Department) and of the Labour Tribunal (as an industrial court equivalent) attests not only to public faith in the official machinery but also a heavy premium placed by the economy and society of Hong Kong upon the labour administration for maintaining industrial peace and rectifying deprivations at work.

Generally, the government sponsored institutions available for conflict resolution have proved to afford effective procedures enabling conciliation officers from the Labour Relations Service of the Labour Department to intervene to help disputing parties to reconcile and settle their differences amicably. Grievance disputes concerning rights and which later proved not amenable to conciliation are referred to either Labour Department's own functionary, the Minor Employment Claims Adjudication Board or the labour court equivalent, Labour Tribunal, for legal determination by way of quasi arbitral procedures. Where the dispute is collective in nature and involving arguments of interests beyond the Board's or the Tribunal's competence to decide, what are normally invoked after first-line conciliation are procedures authorised by

the 1975 Labour Relations Ordinance enabling the Labour Department to intervene with statutory prerogative by way of either ordinary conciliation or special conciliation. Should the dispute persist and escalate, the Chief Executive of the SAR government, advised by his Executive Council (namely, the Chief Executive-in-Council), can initiate either arbitration or inquiry procedures after hearing the report from the Commissioner for Labour. Where the dispute threatens to lapse into a prolonged impasse or menace and peril public interest at large, the Chief Executive-in-Council can declare a equivalent to a 'strike ban' as a 'cooling-off' period (of thirty days initially, but can be extended up to a maximum of sixty days). However, Hong Kong has not found yet it necessary to mobilise the extraordinary provisions of the Labour Relations Ordinance other than those authorising conciliation and special conciliation by the Labour Department.

Collective employee participation has been noticeable by its absence in most of the key processes affecting labour and employment within local enterprises, given the weakness of union-based collective bargaining, and other constitutional forms of workers' participation and employee representative system such as formal joint consultation, works council and other avenues of joint labour-management dialogue. The relative absence of these institutional arrangements from most of Hong Kong's workplaces has been documented already earlier as a phenomena of 'institutional permissiveness' which provides the local industrial relations pattern. Grievances procedures have been established by few enterprises apart from the civil service and primary sector corporate employers. Where they are available, labour unions, for want of their shopfloor organisational abilities and a properly instituted steward system, are typically excluded from any role in representing their members in grievances or negotiating collectively for a 'fair deal' at work.

Employee Relations Performance Indicators

It has been conventional wisdom to suggest that Hong Kong owes its rapid growth and economic success in the postwar years in a large part to its people, providing it with the human resources necessary to manage and staff its economic apparatus. Industrial harmony, alongside a highly adaptable, committed and non-recalcitrant labour force, has helped sustain a congenial business milieu and work context conducive to stable morale, improving productivity and high performance of the young economy and its working population. Underpinned by the Chinese workplace ethos of trust, reciprocity and altruism, Hong Kong has been able to whistle through testing crises like the recession of the late seventies, as well as the emigration exodus of the late eighties and early nineties in the wake of the 1989 June Fourth upheaval in Beijing and in anticipation of its political handover back to China by the 1997 dateline. Being essentially a hybrid economy predominated by small and medium-sized businesses, Hong Kong's spectacular growth and swift transition into a postindustrial city economy of tertiary service industries seem to vindicate the efficacy of the Chinese 'spirit of capitalism' as espoused by most of these smaller yet noticeably enterprising businesses (Redding, 1990; Hamilton, 1991), as well as the logic of non-adversarial Asian industrial relations approaches preached by scholars.

However, these indicators about employee relations performance in Hong Kong, as corroborated by consistent and spectacular advances in the economy's GDP, GDP per capita, general wage level and employment size, are contradicted by two persistent problems: income distribution and industrial accidents.

Income Distribution

The first problem pertains to the stubbornness of sharp income inequalities, persisting and even accentuated during the last two decades in spite of Hong Kong's conspicuous affluence. The Gini ratio, an international standard measure of income distribution (with literal equality at 'zero'), has been consistently rising in the last ten years and is now in the range of around 0.48 (Ng, 1998: 229). Such a concentration of wealth and income, places Hong Kong more on the league of the developing Third World economies than of the highly industrialised nations, and echoes an earlier note about the making of an urban 'sub-class' in the Labour Market section and helps explain antipathy of the labour movement towards politicised issues like labour importation.

Industrial Accidents

The second problem has been a notoriously high propensity of Hong Kong workplaces for industrial accidents, especially among building and construction sites. In 1995, the Labour Department recorded a total of 59,375 occupational injuries, compared to 64,416 cases comprehended in 1994 (Commissioner for Labour, 1996: 88-90). The working days lost due to work accidents and industrial injuries occurring in 1994 were estimated at 1,355,006 by the Labour Department. It appears that Hong Kong's hectic pace in infrastructural building and other public projects have contributed to the high incidence of industrial accidents in industries like the building and construction trades. This is in spite of enhanced safety consciousness in the workforce and among employers, as a result of promotion efforts by the (statutory) Occupational Safety and Health Council and stricter law enforcement by the Labour Department.

Current Human Resource Management Issues and Trends

Current Human Resource Management Issues

Unemployment

The major challenge ahead for Hong Kong human resource management is the problem of unemployment, now at 4.6 per cent (mid 1998). There are few signs that the current situation will change in the near future. Hong Kong's intrinsic economic problems of diminished competitiveness, due to increased wage and land costs have been exacerbated by the Asian financial crisis. The government's intervention in the private labour market has been of limited effect, in spite of its high-profile programs in activities like re-training, job-match placement and more recently, job creation by advancing public project schedules and eliciting proactively job opportunities from private sector employers.

Flexible Employment

At the enterprise level, the human resource agenda has shifted in emphasis from a concern with recruiting additional staff to the present pre-occupation with personnel flexibility and labour saving measures in order to cut costs. Many employers, both the large corporate as well as the medium-sized and smaller businesses, have introduced flexible hiring arrangements through increased outsourcing and use of part-time labour.

The drift of Hong Kong workplaces towards re-casualization as a 'new' human resource practice has presented a labour issue of some concern to both the government and the labour movement.

This is because of the relative absence, of any protective net in the statute book covering part-timers. The Employment Ordinance excludes from its coverage any employees working less than eighteen hours a week. Given such a vacuum, trade unions have become increasingly concerned that the gap of non-regulation might enable less scrupulous employers to exploit part-time hour employment as a way of saving on outlays otherwise payable as statutory employment benefits.

At the workplace level, human resource managers are beset by the dilemma encountered in balancing between their organisation-specific mission to help cut labour costs and their professional role to ensure a 'fair deal' for the part-time employees, (mostly housewives and other marginal workers), as compared to their full-time counterparts.

Retrenchment

A sensitive and difficult task currently facing human resource managers is handling retrenchments. Of concern are the means of retrenchment, in particular the selection criteria to be employed. Retrenchments are popularly packaged as 'voluntary wastage', often focusing on targeted non-mandatory early retirements. Staff are offered early retirement with the offer of a generous 'pay-off' formula significantly better than the legal minima. Some corporate employers having the back-up resources may also organise 'out placement' services for their retrenched staff, as in the case of Cathay Pacific Airways whose redundant engineering staff were referred en bloc to the Hong Kong Aircraft Engineering Company (an associate company) for new employment. Recently, it has also become a commonplace for the Labour Department to intervene after the closures of several leading enterprises, including banks, financial houses and department stores, to make available a placement service to assist workers retrenched from these defunct businesses in re-employment. Up to now, it appears that such special *ad hoc* employment registers, alongside the government programmes to re-package or transmit new skills by re-training the unemployed, have eclipsed private employers' initiatives of outplacement in catering to the needs of their displaced and redundant employees when transferring to other jobs and alternative careers.

Prospects and Development

The above issues contrast sharply with the optimism which pervaded Hong Kong at the beginning of the 1990s. There are three key issues on the human resource agenda of Hong Kong enterprises to help position their businesses proactively to cope with the exigencies of change and competition.

Organization and Performance Improvement

The first issue is how to achieve effective work organisation. Some corporate employers in the primary sector have been keen to benchmark themselves against the 'best practices' in western industrialised societies in the employment and human resource domain. Popular devices like performance pay and performance appraisal, as well as their refinements along prescriptions popularised by management consultants (a notable example being Total Quality Management), have been adopted by a growing number of Hong Kong workplaces, especially among the modern service-oriented establishments. Even large-scale power plants, with a reputation for their engineering tradition, are losing steadily their former 'professional' distinctiveness and giving way to a general commercial concern with customer services.

Human Resource Development

The second key issue concerns human resource development at all levels: the economy, industry and enterprise. Human resource development from a macro perspective has been discussed in the section on Training and Development. At the enterprise level, however, the human resource issue of skill formation and upgrading is a daunting challenge. While businesses are

keen to advance their competencies in order to consolidate their competitive edge, at the same time they are driven by the cost imperative to weed out and hive off skills which have become obsolete or substitutable by office and plant automation. In general at the workplace level there has been a weak tradition to train systematically and invest in human capital. Firms in Hong Kong have consistently indicated a preference for flexibilities and versatility in the people they hire at work. Local firms are more likely to recruit directly from external labour market.

The swift fall in prices, incomes and wages can probably help Hong Kong's economy to recover eventually from its present economic circumstances. However, the experiences are likely to be painful and will pose an agonising lesson for human resource administrators and business managers, who need to learn and decide whether the essence of Hong Kong competitiveness rests upon cheap prices or the high quality of its people and the ancillary infrastructure.

Employee Involvement, Information Disclosure and Dialogue

The third key issue on the human resource agenda concerns improvements in employee awareness about the implications of business strategies and their consequences for work and employment, particularly in relation to work re-organization, training and development, and potential redundancies. To date, Hong Kong workplaces have not placed labour-management dialogues on a stable, regular and institutionalised footing.

In this context of weak workplace labour relations, it will become incumbent upon Hong Kong's labour unions to strengthen their 'grass-roots' organisation to develop and consolidate what can be an equivalent to the western system of 'shop stewards' to represent and deputise for their members in the employing unit. How management is to cope with such a challenge, especially in regularising the disclosure of information to the workforce and its representatives, is likely to confront an increasing number of Hong Kong enterprises in their human resource domain in the coming new decade.

The politicisation of labour and employment issues, alongside the explosion of unions' political activities and influences, has led to a drift of labour law enactments in the latter half of the political transition period which rests heavily on the smaller and medium-sized enterprises, in terms of both labour costs and employment inflexibilities and rigidities (noticeable examples are the series of anti-discrimination laws discussed in earlier Sections). These 'counter-de-regulation' shifts, contradicting a business desire for liberalization and enhanced flexibilities, are liable to burden small businesses, and even large corporate bureaucracies in the primary sector. A key to rationalising labour's productivity and redeeming local firms' competitiveness, especially in the small enterprise industry, will lie probably with prospects as whether or not such public organs like the Labour Advisory Board can be reformed and perform better in institutionalising a tripartite policy dialogue among the state, labour and capital. This can be critical, at the central level of public policy formulation, to any search for a workable consensus, which can feature prudence and resilience in order to help sustain Hong Kong's economic activity and vitality.

Human Resource Management Profession

As Hong Kong industrialises and benchmarks itself against western industrially advanced societies, there has been a gradual process of modernisation in the average workplace. A notable development in this connection has been the rapid advance of human resource management. There has been a number of interesting developments including:- i) an enhanced consciousness of 'managerialism', reinforcing an authoritarian ideology that capital and management are competent and better qualified than the employed in decision-making for governing workplace matters; ii) the beginning of internal and enterprise-specific codification of 'in-house' and private

rules, based upon professional management principles and knowledge, which now complement the role of officially prescribed labour law in laying down standards of employment benefits and protection for the workforce, and iii) the modernisation of traditional Chinese management philosophy and values, often with appropriate adaptations in order to make more rational the application of these conserved norms and practices which Hong Kong employers and their workers still largely cherish.

A number of factors have led to the above HRM developments. The first factor has been the challenge emanating from the more refined aspirations espoused by the labour force. The workforce is increasingly drawn from the second and subsequent generations of settlers in Hong Kong. These workers are less affected by the 'refugee mentality' in which their parents were trapped. At the same time, they are also better educated and informed, so that they are more aspiring and articulate in their expectations for betterment in labouring conditions and quality of working life. Secondly, there is the changing profile of the labour market which has featured, until recently, sustained labour shortage and wage hikes due to Hong Kong's demographic maturation and its rapid economic development and industrial re-structuring since the late 1970s. A local labour market in transition has lifted substantially the premium of manpower as a key factor of production, so that it is increasingly essential for enterprises to rationalise the acquisition, application, commitment and conservation of their human resources. Thirdly, the arrival of the American and other foreign multinationals, since the 1960s has also been conducive to a local consciousness about professional development in human resource management. Such a repertoire of transferred skills includes, modern managerial concepts and organisational techniques applied to managing people at work. Fourth, the development of the Government's labour administration and the growing involvement and intervention of public policy into labour and social issues, noticeable in the government's heavy program of labour legislation, training and re-training plus a series of labour market stabilisation measures like labour importation, have presented a challenge to enterprise management. It has induced these employers to formalise their previously fragmented functions in personnel affairs by consolidating these activities into a specialised department's portfolio.

The movement to organise professionally among practitioners in this area of personnel and human resource activities has led to the inception of several professional bodies purporting to organise a more or less common basis of potential membership. Such a state of pluralistic organisations is perhaps a typical reflection on the Hong Kong picture of multi-unionism and proliferation (and fragmentation) of employer and trade associations. Of all these, the leading body is the Hong Kong Institute of Human Resource Management, founded in 1977 on the model of its British counterpart. The Institute was retitled to its present name in 1994, in order to mirror the latest development in this area of practice. With a membership of more than 2,550 in 1996, the Institute aims at developing the professional standard of human resource management, assisting in the promoting of harmonious industrial relations and contributing to the advances of labour productivity and human resource development among enterprises in Hong Kong.

Key Organisations Addresses

Government Departments and Public Agencies

Labour Department

16/F, Harbour Building, 38 Pier Road, Central, H.K.

Education and Manpower Branch, Government Secretariat

9/F, Central Government Offices, West Wing, Central, H.K.

Labour Advisory Board

16/F, Harbour Building, 38 Pier Road, Central, H.K.

Vocational Training Council

19/F, VTC Tower, 27 Wood Road, Wanchai, H.K.

Employee Re-Training Board

12/F, Carnarvan Plaza, 20 Carnarvan Road, Tsim Sha Tsui, Kowloon

Equal Opportunities Commission

Unit 2002 Office Tower, Convention Plaza, 1 Harbour Road, Wan Chai, H.K.

University Grants Committee

Suite 202, 2nd Floor, Hutchison House, 10 Harcourt Road, H.K.

Research Grants Council

c/o University Grants Committee, Suite 202, 2nd Floor, Hutchison House, 10 Harcourt Road, H.K.

Labour Tribunal

19th & 20th Floors, Pioneer Centre, 750 Nathan Road, Kowloon

Standing Commission on Civil Service Salaries and Conditions of Service

Rm 701, Tower Two, Lippo Centre, 89 Queensway, H.K.

Education Department

9th - 16th Floors, Wu Chung House, 213 Queen's Road East, H.K.

Immigration Department

2nd - 25th Floors, Immigration Tower, 7 Gloucester Road, Wan Chai, H.K.

Office of the Mandatory Provident Fund Scheme

Suite 1407 - 09 Pacific Place, 88 Queensway, H.K.

Labour Tribunal

19th & 20th Floors, Pioneer Centre, 750 Nathan Road, Kowloon

Employment Adjudication Board, Minor Employment Claims Adjudication Board

14/F, Ocean Centre, Straight Board, 5 Canton Road, Tsim Sha Tsui, Kowloon

21. Liaison Office of the Foreign Ministry, PRC
5/F, Lower Block, China Resources Building, 26 Harbour Road, Wan Chai, H.K.

Non-Government Organisations

Hong Kong Employers' Federation
Unit C3, 12/F, United Centre, 95 Queensway, H.K.

Hong Kong Federation of Industries
Rm 408 Hankow Centre, 5 - 15 Hankow Road, Tsim Sha Tsui, Kowloon

Hong Kong General Chambers of Commerce
22/F, United Centre, 95 Queensway, H.K.

Chinese Manufacturers' Association
3/F CMA Building, 64 - 66 Connaught Road Central, H.K.

Chinese Chambers of Commerce
7/F, 24 -25 Connaught Road Central, H.K.

Hong Kong Christian Industrial Committee
Room 301 - 2 , 3/F, 57 Peking Road, Tsim Sha Tsui, Kowloon

Hong Kong Federation of Trade Unions
2/F, 42 - 50 Ma Tau Chung Road, Tokwawan, Kowloon

Hong Kong and Kowloon Trades Union Council
3/F, Rex Building, 650 - 652 Nathan Road, Mongkok, Kowloon

Hong Kong Federation of Labour Organisations
2/F, Fook Yiu Building, 6 - 8 Tai Po Road, Sham Shui Po, Kowloon

Chinese Civil Servants Association
8 Wylie Road, King's Park, Kowloon

Hong Kong Confederation of Trade Unions
19/F, Wing Wong Commercial Building, 557-559 Nathan Road, Kowloon

Civil Servants General Union
2/F, No.17 Man Wan Building, Ferry Point, Jordon, Kowloon

Senior Non-Expatriate Staff Association
Rm. G13, Ground Floor, Central Government Office, East Wing, Lower Albert Road, H.K.

Hong Kong Institute of Human Resource Management
12/F, Paliburg Plaza, 68 Yee Wo Street, Causeway Bay, H.K.

Hong Kong Industrial Relations Association
4/F, Pat Tat Industrial Building, 1 Pat Tat Street, San Po Kong, Kowloon

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Indonesia

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Economy Context

Geography

Indonesia is the world's largest archipelago lying between mainland Asia and Australia. Extending between latitudes 6 degrees north and 11 degrees south, and longitudes 94 degrees west and 141 degrees east, it links the Pacific Ocean in the east and the Indian Ocean in the west. It consists of 17,508 islands and islets and, including the surrounding waters has a total area of about 10 million km., or approximately the size of the United States. The five biggest islands are Kalimantan, Sumatra, Irian Jaya, Sulawesi and Java. Because the greater part of the country falls within the boundaries of the equatorial tropical rain belt, Indonesia has a characteristically tropical climate. Abundant rainfall, high average temperatures (25 - 27^o Celsius) and a high degree of humidity (60 - 91%) characterize the average Indonesia lowland climate. There are two monsoon seasons: the 'dry' from May to September, and the 'wet' or 'rainy' from October to April. Most areas, however, experience some rain throughout the year. The driest month is August and the wettest is March.

In 1996, the population of Indonesia was an estimated 194.8 million; its annual average growth rate was approximately 2.0% in the previous decade. The country is the fourth most populous in the world after China, India, and the United States of America. The projected population is expected to be 222.8 million in 2005. Due to successful family planning programs promoted by the government since 1970, there has been a decline in the birth rate and in the proportion of the population under the age of 15. At the same time, improvements in health have led to greater longevity, and consequently an older average age. Table 1 shows the estimated population for 1980 - 2005.

Year	Population (in millions)
1980	146.8
1990	179.0
2000	209.5
2005	222.8

Source: Ananta and Anwar, 1994

Table 1 Estimated Indonesian Population from 1980 - 2005.

One of Indonesia's biggest social problems currently, however, stems not so much from the size of its population as from the unequal distribution of its population. Approximately 62% of the population live on the island of Java, which accounts for only 7% of the land area. In contrast, only 2% of the people live on the island of Maiuku and Irian Jaya, which represent 26% of Indonesia's land area. To address this imbalance, the government encourages population movement across islands through planned and voluntary transmigration programs.

Indonesia is divided into 27 provinces which, in 1996, comprised a total of 63 municipalities, 247 districts, and 66,158 villages. The most recently proclaimed province is East Timor, an area whose incorporation to Indonesia is still under heated international debate. The country's capital city is Jakarta, which is located at the northwest end of Java; inhabited by 9 million people (1996), it is also the largest city. Other large cities include Surabaya (3 million) and Medan (2 million).

Political System

Indonesia adopted a republican form of government based on its 1945 Constitution. It provides for a distribution of power among the executive, the legislature and the judiciary. The nation's ideology and philosophy are set out in the Pancasila (five basic principles) which consists of:

- 1 Belief in one supreme God.
- 2 A just and civilised humanity.
- 3 Unity of Indonesia.
- 4 Sovereignty of the people.
- 5 Social justice for all.

According to the Indonesian Constitution there are six organs of state: the People's Consultative Assembly (MPR), the Presidency, the House of Representatives (DPR), the Supreme Advisory Council (DPA), the State Audit Board (BPK) and the Supreme Court (MA).

The state's highest authority is the Majelis Permusyawaratan Rakyat (MPR, The People's Consultative Assembly). It is made up of 1,000 members drawn from three political parties, the armed forces, and regional representatives. The three political parties are the ruling Golongan Karya, Partai Persatuan Pembangunan (PPP, the United Development Party), and Partai Demokrasi Indonesia (PDI, the Indonesian Democratic Party). Members of MPR are both elected and appointed. The members are elected to the MPR in a five-yearly general election, which is based on the principle of proportional representation.

The MPR lays down Garis-garis Besar Halauan Negara (GBHN, the National Guidelines of State Policy) and elects the President and Vice President. The President is elected for a five-year term, with no limit on the terms he or she can serve. Given the recent political situation, however, the presidential term limit may be considered in the near future.

The Dewan Permusyawaratan Rakyat (DPR, the House of Representatives) performs the day-to-day legislative function. It has 500 members, all of whom are also members of MPR. Of these members, 400 are elected and the other 100 are appointed (by the President) to represent the armed forces who do not vote at the general election. In addition to their traditional military activities, the armed forces also have a socio-political role, often referred to as a dual function. Many retired generals serve in ministerial and other high level positions in the Cabinet or provincial governments.

Economic Context

The Indonesian economy has grown very rapidly in the past 30 years. From 1994 - 1996 inclusive, its real Gross Domestic Product (GDP) grew by 7.3%, 7.5% and 7.8% respectively. The main conditions for this rapid economic growth were political and economic stability, together with a series of continuous deregulation efforts encouraging investment activities. Investment expansion increased aggregate demand, and thereby nominal GDP per capita to US\$1,200 in 1996. Economic growth has created new middle classes. Consumption patterns have changed to reflect a growing demand for a wider range of consumer goods and services.

Inflation

The rapid growth of the Indonesian economy has not been without cost. It has always occurred with a relatively high level of inflation. In 1995 the inflation rate was 8.64%, slightly lower than that in the previous year (9.24%) (see Table 2). Higher inflation rates have been attributed partly to strong aggregate demand which could not be matched by the production sector. To cope with this, tight monetary and fiscal policies were introduced. However, continuous tightened monetary policy weakened investment. Since 1997, inflation has increased dramatically with the onset of the Asian financial crisis (see subsection on 'Latest Developments').

Year	Consumer Price Inflation Rates (%)				Total Inflation (%)
	Food	Housing	Clothing	Others	
1991	9.65	7.68	5.21	13.19	9.52
1992	6.01	4.56	7.23	3.39	4.94
1993	5.10	15.48	7.97	9.89	9.77
1994	13.93	9.09	6.08	4.89	9.24
1995	13.32	5.67	6.50	7.00	8.64

Source: Central Bureau of Statistics, Economic Indicators August 1996,

Table 2 Inflation Rates in Indonesia

Banking

Since early 1990, the performance of the Indonesian banking sector has been poor and, to date, shows no sign of improvement. By 1998, most banks faced liquidity constraints and, consequently, have been placed under the control of the Badan Penyehatan Perbankan Nasional (BPPN), a state-owned body set up to restore the banking sector. A major cause of the current economic crisis has been poor banking practices and inadequate government bank monitoring following the implementation of banking deregulation from the late 1980s through to the early 1990s.

When the government eased the conditions for the establishment of banks in 1988, many new banks were established. At that time, there were insufficient professional bankers to operate them. The new banks were not operated prudently and created an over-heated economy. Furthermore, the government did not enforce the banking regulations it had in place. These factors caused the banks to take accumulated credit risks that they could not handle. This led to a serious deterioration in Indonesia's economic system and its performance.

Investment

Increasing amounts of foreign direct investment (FDI) contributed significantly to the growth of the national economy. Up to early 1997, there was an FDI boom in Indonesia. The total value of the invested capital was about US\$40 billion in 1995. To attract foreign investors to Indonesia, the government has provided a tax holiday for FDI schemes. FDI has mainly come from Japan and has been used primarily for manufacturing projects. Table 3 shows the cumulative realized FDI by country from 1967 - 1996. It is seen that most of the investment comes from Pacific Rim economies. Meanwhile, domestic investment schemes (DIS) also increased from Rp (Rupiah) 53.3 billion in 1994 to Rp 69.9 billion in 1995. By 1996, approved DIS rose to almost Rp 100 billion.

Country	US\$ millions
Japan	13,176.8
United States	4,426.4
Hong Kong	4,179.1
Singapore	4,018.5
United Kingdom	2,355.7
Netherlands	2,023.4
Australia	1,904.8
South Korea	1,682.2
Taiwan	1,324.0
Germany	923.6

Source: Indonesia Investment Coordinating Board (BKPM)

Presented at: http://www.state.gov/www/about_state/bus...guides/1999/eastasia/indonesia99_10.html

Note: Data excludes the oil and gas and financial sectors.

Table 3 Cumulative Realized Foreign Investment by Country (1967 - 1996)

Taxation

Indonesian residents are taxed on income earned world-wide. Income is widely defined and includes capital gains. The tax rates comprise three brackets: 10% for annual taxable income up to Rp. 25 million, 15% for income between Rp 25 and 50 million, and 30% for income over Rp 50 million. Non-residents are subject to withholding taxes on income gained in Indonesia in forms such as dividends, interest and royalties. Additionally, they are taxed at 0.1% of the transaction costs on the sale of stocks of Indonesian firms, provided the stocks are not attributable to a permanent establishment in Indonesia.

Value-added Tax (VAT) at 10% is charged on the delivery of most goods and services at import, manufacture, wholesale and retail levels. In most cases, VAT is not considered a cost of doing business since it can generally be passed on to the ultimate customer. In addition to VAT, there is a sales tax on luxury goods (PPn BM). This tax is imposed on a wide range of goods at the import or manufacture levels at various rates ranging from 10% to 35%.

A property tax is payable annually on land, buildings, and permanent structures (PBB). The tax rate is 0.5% of a specified percentage of the assessed value which, according to Government Regulation No. 46 of 1985, is 20% of the market value. The tax applies to those who have rights over land, possess or control buildings, or obtain benefits from land and buildings.

Transportation and Communication

The primary mode of inland transportation is by road, except for some remote areas such as in Kalimantan, where river transportation is used. Many publicly and privately owned buses connect cities or islands (via ferries). Almost all provincial cities are also served by major airlines. Soekarno-Hatta on the outskirts of Jakarta is the national airport, and Balikpapan, an oil city in Kalimantan, has the busiest airport in the country. Like many major cities in the world, Jakarta has particular problems in terms of parking and commuter traffic. Similar congestion problems apply in most major cities in Indonesia, especially those in Java.

Telecommunication facilities have been greatly improved in recent years. PT Telekomunikasi Indonesia provides the major telephone communication system. Its joint operation with several multi-national firms, has seen the Indonesian telecommunications system extended. A state-owned enterprise, PT Pos Indonesia, provides an extensive mailing service to all areas within the country. In addition, private couriers provide services to some major cities.

Latest Developments

The financial crisis that has afflicted Southeast Asia since mid-1997 has radically changed Indonesia's economy. By early 1998, the rupiah (Rp the Indonesian currency) had fallen by more than 60 per cent against US\$, and the stock market index has dropped by more than 30 per cent. As the creditworthiness of the highly indebted private sector fell, many foreign creditors stopped renewing maturing debt to Indonesian companies, and exacerbated the rapid decline in the value of currency.

The sharp depreciation of the rupiah and high interest rates are pushing the Indonesian economy into stagflation. Table 4 clearly shows the expected effect of the crisis on real GDP, with falls anticipated in almost every sector.

	Change* 1998 Over 1997
Agriculture	0.3%
Mining and Quarrying	-6.9%
Manufacturing	-12.0%
Electricity, Gas and Water	-2.2%
Construction	-35.4%
Retail and Wholesale Trade, Hotels and Restaurants	-21.4%
Transportation and Communication	-11.6%
Finance, Rentals, and Company Services	-18.6%
Services	-5.2%
GDP	-13.1%
GDP excluding Oil/Gas	-14.1%

Source: Central Bureau of Statistics.

Presented at: http://www.state.gov/www/about_state/bus....guides/1999/eastasia/indonesia99-02.html

Table 4 Change in Real GDP, 1998 Compared with 1997 (percent)

Inflation, on the other hand, is rising rapidly. Within only four months, consumer price inflation jumped from 5.1% in July to 8.8% in October 1997. It is projected that the inflation rate will be 80% by the end of year 1998. Table 5 shows the rapid increases in the Consumer Price Indices from 1996 to September 1998. The economic crisis has led to a number of social problems. Many people have lost their jobs, and those still working are faced with incomes that have much decreased purchasing power. There are four macroeconomic causes of this crisis in Indonesia.

	GROUP							
Month	Food	Prepared Food, Beverages & Tobacco Products	Housing	Clothing	Health	Education, Recreation & Sports	Transportation & Communication	General
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1997								
December	120.54	108.88	107.84	110.58	114.18	117.27	105.24	111.83
1998								
March	166.71	142.23	128.61	161.39	155.88	134.74	119.74	142.15
April	176.56	153.16	131.56	168.39	164.12	136.76	125.65	148.83
May	183.42	159.28	136.99	176.01	168.06	138.69	147.33	156.63
June	196.39	167.92	139.17	195.29	171.97	140.84	150.38	163.89
July	220.27	184.01	146.93	219.23	186.41	150.44	155.57	177.92
August	240.31	200.02	153.51	225.73	197.99	160.18	159.83	189.13
September	261.00	205.95	155.92	225.22	204.49	162.17	163.18	196.23

Source: Central Bureau of Statistics.

Presented at <http://www.bps.go.id/statbysector/cpi/table1.shtml>

Table 5 Consumer Price Indices Indonesia (1996 = 100)

First, there has been a rapid build-up of private external debt in recent years. Between 1992 and July 1997, about 85% of the increase in external debt was due to private sector borrowing. Such a large stock of external debt with short maturities made Indonesian corporations particularly vulnerable to changes in outside sentiments. Second, Indonesia's banking system went into crisis with several well-recognised flaws even as credit growth was rapid. The practice of classifying loans by repayment performance rather than collectability masked the actual condition of loan portfolios. Accounting practices and banking rules had not kept pace with the increased sophistication of the banking system and did not provide 'early warning' signals on the true financial health of banks. Not surprisingly, numerous banks were seriously undercapitalised, and some even insolvent, well before the crisis.

A third factor contributing to the crisis was the question of governance. Even before July 1997, a survey depicting investors as bullish about the Indonesian economy also showed them displaying strong concerns about the bureaucracy, red tape, corruption, insider trading, and the soundness of the financial system. The fourth and final factor was the unfortunate political juncture at which the crisis hit Indonesia. The government was entering its final six months of a five-year term and faced the usual uncertainties of Presidential election. The deteriorating economic situation, increased food and fuel prices, and the call for Mr Soeharto's resignation and political reforms reached a crescendo in May 1998.

Given the economic and financial crisis, the Indonesian government asked the International Monetary Fund (IMF) for assistance. The IMF promised to provide a US\$43 billion bailout package. However, many Indonesian economists argue that the IMF is not seriously helping this country, given the long list of requirements it must fulfil before all of the US\$43 billion is given: such as revising the budget for the 1998/1999 fiscal year and cutting tariffs on a number of imports. These Indonesian economists suggest the government search for alternatives to end this crisis rather than depending too much on the IMF.

On April 10 1998, the former President Soeharto and Hubert Neiss from the IMF made a new agreement called The Five Pillars. They are:

- a set of principles for restructuring the corporate sector's large foreign debt stock and a prompt start to negotiations with creditors;
- a renewed effort to restructuring the banks and to pump liquidity into the banking system, which had contributed to a level of credit growth deemed imprudent by the IMF;
- a fiscal austerity program allowing for continued subsidies of food and energy to protect the poor and minimise social unrest;
- a tightening of monetary and credit policies aimed at strengthening the rupiah's exchange rates, with cash in circulation and bank deposits being permitted to increase by a maximum of 11-12%;
- a renewed commitment to the dismantling of crony capitalism, including those monopolies granted to relatives and associates of Soeharto.

Socio-Cultural Context

Although Indonesians are strongly aware of their unity as a nation, the country's ethnic diversity is very broad. There are four main ethnic or racial groups: Melanesian, Proto-Austronesian, Polynesian, and Micronesian. They are subdivided into hundreds of ethnic groups and sub-groups, each of which has its own cultural and social heritage. More than 250 local languages and dialects are spoken. However, Bahasa Indonesia is the national language.

With roughly 85% of the population adhering to the Islamic faith, Indonesian has the largest Moslem population in the world. However, Indonesia has no state religion and the Constitution guarantees freedom of worship for all. There are four major religions recognized by the state - Islam, Christianity, Hinduism, and Buddhism.

Recent History

Indonesia declared its independence from Dutch colonisation on August 17 1945, after a brief period of Japanese occupation in World War II. The Republic of Indonesia's first President was Soekarno and Mohammad Hatta its first Vice President. In the four years that followed, a number of hardships were endured in order to defend the nation's new freedom against attempts by the Dutch to re-establish sovereignty over Indonesia. The Soekarno administration remained in power until 1965, ending with the ill-fated communist coup attempt in September 1965. Soekarno issued an instruction known as the March 11 Order, authorizing General Soeharto to take whatever measures to restore public security and stability, insure the safety of the President, and safeguard the unity of the nation.

Soeharto took over the Presidency late in 1965 to start an era of national renewal emphasizing economic development. His rule has been term the New Order which has been characterised by a program called Pembangunan Lima Tahun (PELITA, the Five Year Development Program). 1994-1999 was the sixth term of this program.

On May 21 1998, under the pressure for reform brought forward by college students and the general populace, Soeharto resigned from his positions. The Presidency was transferred to the Vice President, B J Habibie. President Habibie announced a new Cabinet termed the Development Reformation Cabinet. Some of the ministers under Soeharto were substituted by new persons considered to be the reformist. There is a general recognition of new beginnings. In the immediate term, the people demand that government improves the difficult economic situation, particularly of that related to provision of basic needs.

President Habibie now seems to have accepted that he cannot serve out his full term, which is scheduled to run until 2003. The President now seems committed to calling early parliamentary elections, to be followed soon after by a presidential election. Political reform is now on everyone's agenda, but there are wide differences in the interpretation of its meaning. President Habibie has made some reformist gestures - releasing political prisoners, legalising previously banned trade unions, and promising to investigate 'corruption, collusion and nepotism'.

Labour Market

Overview

According to Indonesian law, the labour force is defined as those who are 15 years old, and have jobs or are still trying to find jobs. Having a job means that someone has worked specifically in order to get income or profit for at least one hour in the previous week. Although employment law stipulates that the labour force are those who are at least 15, many people who are under 15 and over 65 years of age also work or are trying to find work, due to the problem of fulfilling basic living needs.

Tables 6 and 7 respectively provide details of the population, the labour force, their main activities, and of those working, their main employment status.

(In thousands)

Type of Activity	1994	1995	1996	1997
Population 10+	147,807.3 (100.00)	152,515.0 (100.00)	154,464.8 (100.00)	157,393.3 (100.00)
Labor Force	85,775.6 (58.03)	86,361.3 (56.62)	90,109.6 (58.34)	91,324.9 (58.02)
Labor Force Participation Rate	82,038.1 (95.64)	80,110.1 (92.76)	85,701.8 (95.11)	87,049.8 (95.32)
Working	3,737.5 (4.36)	6,251.2 (7.24)	4,407.8 (4.89)	4,275.2 (4.68)
Seeking Job	62,031.7 (41.97)	66,153.6 (43.38)	64,355.2 (41.66)	66,068.4 (41.98)
Unemployment Rate	28,898.2 (46.73)	30,353.8 (45.88)	30,175.3 (46.89)	29,898.1 (45.25)
Not in Labour Force	22,412.6 (36.13)	28,157.9 (42.56)	24,256.6 (37.69)	26,254.9 (39.74)
Schooling	10,629.9 (17.4)	7,641.9 (11.55)	9,923.3 (15.42)	9,915.3 (15.01)
House Keeping				
Others				

Source: National Labour Force Survey 1994, 1996, 1997, and Intercensal Population Survey 1995
Presented at: <http://www.bps.go.id/statbysector/employ/table1.shtml>

**Table 6 Population Labour Force and Type of Activity
1994, 1995, 1996 and 1997**

Main Employment Status	1994	1995	1996	1997
Self Employed	16,601.913 (20.24)	20,025,275 (25.00)	18,345,530 (21.41)	19,978,117 (22.95)
Self Employed Assisted by Family Member/Temp. Help	18,923,370 (23.07)	15,566,052 (19.43)	21,294,955 (24.85)	18,046,722 (20.73)
Employer	783,626 (0.96)	1,255,895 (1.57)	1,198,225 (1.40)	1,480,154 (1.70)
Employee	27,063,324 (32.99)	28,498,330 (35.57)	28,951,741 (33.78)	30,489,206 (35.03)
Family worker	18,665,876 (22.75)	14,764,508 (18.43)	15,911,362 (18.57)	17,055,557 (19.59)
Total	82,038,109 (100.00)	80,110,060 (100.00)	85,701,813 (100.00)	87,049,756 (100.00)

Source: National Labour Force Survey 1994, 1996, 1997 and Intercensal Population Survey 1995
Presented at <http://www.bps.go.id/statbysector/employ/table3.shtml>

**Table 7 Employed Population 10 Years of Age and Over by Main
Employment Status 1994, 1995, 1996 and 1997**

The composition of the labour force by age group is shown in Table 8. It indicates a significant projected shift in the age structure of the workforce. The figures predict that an older workforce will characterise the labour market. This trend is similar to the demographic pressures that other Asian and European countries are currently encountering. Another prominent trend in the changing workforce structure is the relative increase in the ratio of working women to working men, rising from 0.49 in 1980 to 0.56 in 1990. It is estimated that the ratio will be 0.63 in 2005. This indicates the increasing contribution of working women in the labour market.

Age (years)	1996	2005 (estimated)
10 - 14	1,922,810	1,947,783
15 - 19	8,402,533	8,689,663
20 - 24	11,235,405	15,052,100
25 - 44	44,371,972	39,731,325
45 - 59	17,575,013	22,914,812
60 - 64	3,286,274	4,080,258
65+	3,315,575	5,126,986

Table 8 Indonesian Labour Force by Age Group

Unemployment

The large size of the labour force and its rapid growth on the one hand, and the economy slow down on the other, have led to unemployment and disguised unemployment problems. The 1990 census showed that the number of disguised unemployed - those who work for less than 35 hours per week - was 26.3 million or 36.6% of the labour force at that time. The number of unemployed - those who work for less than one hour per week - was 3.6 million or 4.37% of the 1990 labour force. Unemployment is dominated by senior secondary school graduates, who accounted for about 1.2 million of the total unemployed in 1995; they are referred to as the 'educated unemployed'. In the current economic recession, the unemployment rate has increased significantly. For example, Table 9 clearly shows effects of the financial crisis on employment in the manufacturing sector.

Industrial Subsector	% Utilized Capacity	Pre-Crisis Workforce	Terminated Workforce
Metal, Machinery & Chemical Industries	42.4	2,583,000	1,487,800
- Metal	32.5		
- Machinery, Engineering	28.4		
- Automotive	15.5		
- Chemical	59.2		
- Non-metallic minerals (cement, glass, ceramics)	62.9		
Multifarious Industry	62.1	4,304,000	1,631,200
- Textiles	63.9		
- Leather, footwear	59.7		
- Electronics	64.4		
- Multifarious (sports, musical articles, toys, clocks, etc)	59.2		
Agricultural & Forestry Products	72.3	3,270,000	905,790
- Food	55.9		
- Drinks & Cigarettes	49.0		
- Wood & Rattan	80.2		
- Pulp & Paper	83.1		
Total Manufacturing Industry		10,157,000	4,024,800

Source: Ministry of Trade and Industry (extrapolated), July 1998

Presented at: www.state.gov/www/about_state/bus...guides/1999/eastasia/indonesia99_10.html

**Table 9 Unemployment and Utilized Capacity by
(Manufacturing) Industrial Sector**

Sectoral Composition

The transformation of the economy in Indonesia has brought changes in production. The agricultural sector not only experienced a fall in the employment rate relative to total employment during the period from 1980 - 1990, but also faced a decline in productivity relative to the other sectors. Conversely, there was an increase in the industry and service sectors, both in relative employment and production growth. In all three aforementioned sectors, the increase of the employment rate was slower than the production rate for the period 1980 - 1990. (See Table 10).

Sector	1980		1990		Production Growth Rate 1980-1990
	Persons	% of Total	Persons	% of Total	
Agriculture	28,834,041	(56.3%)	35,747,447	(50.4%)	2.10%
Industry	6,790,539	(13.3%)	11,957,189	(16.8%)	5.66%
Service	15,615,858	(30.4%)	23,228,931	(32.8%)	3.94%
Total	51,240,438	(100%)	70,933,567	(100%)	

Source: State Ministry for Population Affairs, 1995

Table 10 Absorption of Labour Force by Economic Sector and Production Growth Rates

Table 11 shows an updated breakdown of employment by main industry. It confirms the continuing shift of employment away from agriculture (41.18% of total employment in 1997) to the service sector.

Main Industry	1994	1995	1996	1997
Agriculture, Forestry, Hunting and Fishery	37,857,499 (46.15)	35,233,270 (43.98)	37,720,251 (44.01)	35,848,631 (41.18)
Mining and Quarrying	741,283 (0.90)	643,332 (0.80)	774,211 (0.90)	896,611 (1.03)
Manufacturing Industry	10,840,195 (13.21)	10,127,047 (12.64)	10,773,038 (12.57)	11,214,822 (12.88)
Electricity, Gas & Water	182,845 (0.22)	216,128 (0.27)	164,142 (0.19)	233,237 (0.27)
Construction	3,558,344 (4.34)	3,768,080 (4.70)	3,796,228 (4.43)	4,200,200 (4.83)
Wholesale Trade, Retail Trade, Restaurants and Hotels	13,967,234 (17.03)	13,883,682 (17.33)	16,102,552 (18.79)	17,221,184 (19.78)
Transportation, Storage and Communications	3,376,711 (4.12)	3,458,155 (4.32)	3,942,799 (4.60)	4,137,653 (4.75)
Financing, Insurance, Real Estate and Business Services	632,899 (0.76)	658,497 (0.82)	689,733 (0.80)	656,724 (0.75)
Community, Social and Personal Services	10,755,020 (13.11)	12,121,869 (15.13)	11,728,495 (13.69)	12,637,533 (14.52)
Others	135,079 (0.16)	-	10,364 (0.01)	3,161 (0.00)
Total	82,038,109 (100.00)	80,110,060 (100.00)	85,701,813 (100.00)	87,049,756 (100.00)

Source: National Labour Force Survey 1994, 1996, 1997 and Intercensal Population Survey 1995

Presented at <http://www.bps.go.id/statbysector/employ/table2.shtml>

Table 11 Population 10 Years of Age and Over Who Worked by Main Industry 1994, 1995, 1996 and 1997

Employment Law

Overview

Indonesian employment law is a set of written or unwritten rules which regulate the relationship between employers and employees. Civil servants - about four million people - are covered by separate legislation. Implementation of the law is the responsibility of the Department of Manpower, which sets policy in areas including: labour protection, national manpower planning, Pancasila Industrial Relations and the exportation of manpower.

According to Indonesian employment law, a worker is defined as someone who works for another person for a monetary consideration. The espoused purposes of this law are to guarantee justice to employees, and to provide workers with protection, socially, technically and economically. In reality, however, much employment legislation does not provide such protection because it is too general, lacks specific regulation, guidance and enforcement sanctions.

Indonesian employment law has been much influenced by Dutch colonial laws which are no longer suitable in present day Indonesia. Following the recent political changes, many experts predict that new employment laws will be drafted. It is expected that any new law should give labour more freedom, including the right to form organisations of their own choice.

Sources of Employment Law

Ordinances

Ordinances are the main and most important source of labour law in Indonesia. The President pronounces the ordinance following endorsement by the House of Representatives. In addition to the ordinance, there is also the Peraturan Pemerintah Pengganti Undang-Undang/Perpu (the government's regulation as a substitute for the ordinance) which performs a similar function to an ordinance. In a similar manner to ordinances, the President pronounces it following endorsement by the House of Representatives.

Subordinate Regulations

There are also subordinate regulations which guide the implementation of Ordinances. These include:

- 1 Governmental regulation
- 2 Presidential decree
- 3 Departmental or government agencies' regulation/deGREE.

Custom and Practice

Custom and practice or unwritten law, is a prominent source of labour law, especially since formal employment legislation has not kept up with the expansion of employment affairs, and the regulations still on the books stemming from the Dutch colonial era are no longer relevant.

Jurisprudence

Given the prevalence of custom and practice and the general nature of much employment law, it falls upon the judiciary to determine law through cases.

International Treaties

Indonesia has ratified eleven International Labour Organization (ILO) Conventions relating to employment. The most recent of these, ILO Convention No. 87 (Freedom of Association and Protection of the Right to Organise, 1948) was ratified in June 1998. Furthermore, the Indonesian Government has signalled its intention to ratify other ILO Conventions, including No. 105 (Abolition of Forced Labour, 1957), No. 111 (Discrimination - Employment and Occupation, 1958) and No. 138 (Minimum Age, 1973).

Termination

Termination of employment normally arises at retirement, at the end of a working contract, or upon the liquidation of the corporation. Where employees breach disciplinary rules, notice of termination by employers normally requires three steps: first, an oral warning; second, a written and final warning; and third, written notice of termination of the employment contract. In practice, most employers are reluctant to dismiss employees.

There are regulations which forbid employers to terminate employees where:

- employees are unable to come to work due to medically certified sickness up to a maximum of 12 months;
- employees are unable to perform their duties in order to undertake citizenship obligations;
- employees are required to perform a religious service;
- employees get married, are pregnant, give birth or have a miscarriage;
- an employee has a blood relative and/or marriage relationship with another employee in the same corporation, except where it is forbidden by company rules;
- employees form or become members or administrators of a labour union.

Hours of Work, Overtime and Time Off

According to regulations issued by the Minister of Manpower, the following patterns of work hours are available to employers:

Day work hours, which can take place between 6.00am and 6.00pm.

- 40 hours per week for six workdays in a week
- 40 hours per week for five workdays in a week.

Night work hours which can take place between 6.00pm to 6.00am.

- 35 hours per week for 6 workdays in a week
- 35 hours per week for 5 workdays in a week.

If the employer wants to employ staff on overtime, permission is to be sought from the Department of Manpower.

In addition to working hours and overtime, employees are legally entitled to a rest break of at least 30 minutes' duration after working for 4 hours, and a maximum of 3 days time off after working for at least 6 months in a corporation.

In many cases, however, the employers do not meet their legal obligations such as seeking permission for overtime working, or giving employees their rest breaks. Knowing that the workers badly need the money, employers feel they have stronger bargaining power and are able to set terms and conditions of employment that suit them.

Female Labour

There are no anti-discrimination laws for female employees. Female workers have special rights such as 2 days off during menstruation and 3 months off for pregnancy. They also have the rights to equal pay for equal work, and to retire at 55 years of age.

Maternity Law

Pregnant employees are entitled to:

- the right not to be dismissed because of pregnancy. An employee who is unable to work or cannot do her job without breaking the law because of pregnancy must be offered suitable alternative work.
- the right to return to her job after maternity leave. Her employer must give her back her job or provide suitable alternative work.
- the right to obtain time off for the preparation of birth and antenatal care. The maximum period of maternity leave is three months. Any such time off must be paid for at the normal rate.

Women and Night Shift

There are also regulations concerning night shift for female employees. Employers are permitted to arrange night shift working for women, subject to the following conditions:

- the employee is not pregnant
- the employee is at least 18 years old or married
- the employer provides transportation for her to and from work
- the employer provides meals
- the employee has permission from her husband/parents/or other relative to work night shifts
- the work environment is safe.

In practice, female employees often experience discrimination. The availability of a large number of female workers means employers seldom pay them proper wages, and lay them off first if the firm faces budgetary or production problems.

Child Labour

According to Law No. 1/1951, a child (defined as a person between 8 and 14 years of age) is forbidden to work. However, because of its unspecific nature, this law is ineffective. As a compromise, the government forbids children to work night shifts between 8.00pm and 5.00am. In practice, there are many instances of employers engaging children for work. The government seldom intervenes due to the socio-economic impact of such work. For one, the children usually come from poor families which need the money. Furthermore, child employment is considered better than allowing them to become street kids or criminals.

Wages

In Indonesia, the government sets down provisions for minimum wages through the Upah Minimum Regional (UMR, the Minimum Regional Wages) which stipulates the minimum wages to be paid, including a fixed amount of benefits for the various regions throughout Indonesia. The UMR is determined with union involvement. Every region has its own UMR based on the Consumer Price Index. Employers often have a different view from the UMR about wages. They pay workers based on their costs of production, sometimes without considering whether such pay meets workers' basic needs. For their part, workers do not feel protected by the law, because it lacks clarity and specificity. Consequently, wages are mainly a matter for managerial prerogative.

Workplace Health and Safety

Law No. 1/1970 concerning safety at work was promulgated in order to protect employees from work injuries. An obligation of employees is to wear personal protective equipment provided by employers. The government also requires employers to provide a hygienic working environment and health insurance for the employees. As part of the government regulations, organizations are also required to have in place a policy on health and safety at work.

Exportation of Manpower

Tenaga Kerja Indonesia (TKI, Indonesian Manpower) are those Indonesians who work overseas, such as in Malaysia, Korea, Singapore or Saudi Arabia. They are considered an important source of the foreign exchange, and also help with the local unemployment problem. However, Indonesian laws are inadequate to protect the TKI from improper treatment abroad due to the different labour laws and policies of other countries. Some major examples are improper wages they receive, being abused by the employers and illegal entry into destination countries.

Recruitment and Selection

Overview

Recruitment is an important issue for every organization. It is the first step in obtaining suitably qualified employees. In the past, family ties were widely used by firms as a means of recruitment. Thus, even if the candidate(s) were of substandard capability, they might still be employed by the company. However, since the early 1990s, there has been a change in recruitment practices whereby candidates' qualifications are increasingly considered ahead of references from relatives. A more demanding business world in Indonesia requires more qualified, more skilled, and smarter employees. In particular, the growth of the industry and service sectors has led to increased demand for employees with ability to have special skills.

Recruitment of Civil Servants

Manpower planning for and recruitment of civil servants are coordinated by the State Employee Administrative Office, in cooperation with the respective government departments. The State Employee Administrative Office, together with the State Minister for Administrative Reform, determine the number of additional employees to be allocated to each department. They are also responsible for managing the government's personnel system, including promotion, discipline and termination.

Methods of Recruitment

The use of management consultants by large firms in recruiting new employees to management and staff positions is quite commonly employed nowadays. The company, together with the consultant, specify the requirements for the job(s) offered. Advertisements through newspapers, magazines, and commercial broadcasts are arranged to attract those who meet the job needs. Recruitment advertisements through the Internet are also becoming popular, especially for large firms and multinational corporations. The consultants manage the applications, then conduct entry tests to assist the client firm in deciding who are the most suitable for the jobs offered. For blue collar workers, the most common recruitment method used is word of mouth.

Employment of Foreign Citizens

Many foreign citizens work in Indonesia, especially as language teachers, technical advisers or management consultants. One of the main purposes of employing foreign citizens is the transfer

of technology through education and training of local employees. To be eligible for work in Indonesia, foreign workers have to meet certain criteria relating to qualifications, skills, culture and language. The regulations which restrict the use of foreign employees are as follows:

- if the job has been held by Indonesian employees, it is not to be offered to foreign workers
- jobs that can be offered to foreign employees are those which involve special skills which no Indonesian employees can supply
- a job may be temporarily offered to foreign employees because it is critical to the needs of the business; for example, the position of Finance Manager.

It is expected, however, that these regulations will become less restrictive over time.

Selection

Management consultants are also used by some large firms in managerial selection; they administer various selection devices and forward their recommendations to the client firm for a final decision. For blue collar workers, labour supply almost always exceeds demand, and because generally they do not have to have sophisticated skills to do the job offered, there is no complicated selection process.

Training and Development

Overview

The development of national education has been a top priority of the government. Increasing numbers of school age children and youths are going to schools or attending out of school education programs (see Table 12).

Selected Indicators					1997		
	1993	1994	1995	1996	Female	Male	Total
School Enrolment (%)							
Population aged 7-12 years	92.81	94.06	93.9	94.43	95.62	95.13	95.37
Population aged 13-15 years	68.94	72.38	73.2	75.84	76.72	78.27	77.51
Population aged 16-18 years	42.63	45.31	44.6	47.59	47.36	49.89	48.64
Educational attainment of population aged 10 years and over (%)							
No schooling	13.04	11.73	12.33	11.66	14.16	6.28	10.27
Some Elementary School	32.44	30.32	30.57	28.35	26.82	26.30	26.56
Elementary School	30.79	31.97	31.22	32.34	32.53	33.45	32.99
Junior High School	11.32	12.16	11.94	12.72	12.98	15.06	14.01
At least Senior High School	12.41	13.83	13.94	14.92	13.51	18.90	16.16
Proportion of population 5 years of age and over	84.61	86.41	85.78	86.92	85.74	91.45	88.58
Proportion of population 10 years of age and over who were literate	85.71	87.26	86.26	87.36	85.08	93.16	89.07

Presented at: <http://www.bps.go.id/statbysector/socwel/table2.shtml>

Table 12 Education

The national education system is made up of seven types of education. They are:

- 1 general education, which prioritises the expansion of general knowledge and improvement of skill for students;
- 2 vocational education, which prepares students in mastering a number of specific vocational skills needed for employment;
- 3 special education, which provides important skills and abilities for students with physical and/or disabilities;

- 4 service-related education, which aims at increasing abilities required in preparation for a position as an official or a civil servant candidate for a governmental department or agency;
- 5 religious education, which prepares students to perform a role demanding specific knowledge about religion and related subjects;
- 6 academic oriented education focusing primarily on improving mastery of sciences;
- 7 professional education, which prepares students primarily to master specialised or job related knowledge and skills.

General Issues

Having planned to establish an industrial society, Indonesia needs to enhance the skills of its basic education graduates in order for them to become productive workers. The government has built large numbers of schools through the Presidential Instruction Program for primary school (INPRES SD) to assure the implementation of 6 year compulsory schooling. In 1998, the number of years of compulsory basic education was extended to 9 years, which includes primary school for six year and secondary school for 3 years.

There has been a significant increase in student enrolment in secondary and higher education. From 1986 to 1996 the number of junior secondary school graduates increased twofold, while senior secondary and higher education graduates increased almost threefold and more than three times respectively. However, the proportion of higher-grade graduates (above high school) is only 2.5% of the population. There is also an imbalance of those who graduate from the social sciences and humanities compared with those from basic science and technology; the ratio is 2:1. For a developing country such as Indonesia that wants to develop its high technology capability, this imbalance is problematic. In response, the government has attempted to increase the levels of science and technology education, including the use of funds from many international agencies.

Vocational and Higher Education

Vocational secondary education is classified into six different groups: agriculture and forestry, technology and industry, business and management, community welfare, tourism, arts, and handicrafts. Graduates are expected to have acquired specific skills in order to make it easier for them to find jobs.

Higher education is an extension of secondary education; it consists of academic and professional education. There are several kinds of higher education in Indonesia, including the academy, polytechnic, college, institute, and university. During the last few years, there has been an increasing demand for higher education graduates in the field of business and management, languages and computer science. To meet these needs, many new MBA schools have emerged, including those who form joint ventures with foreign universities, such as that between the Institut Pengembangan Manajemen Indonesia (IPMT) and the Australia's Monash University. In the near future, competition among the schools will intensify, since the government intends to ease the regulations allowing foreign universities to fully own and operate schools in Indonesia.

Training Policies

Overall skill levels have grown in Indonesia's labour force as a result of improvements in general education gains, increased investment in training facilities and various forms of on-the-job training. Skills training is now available through a number of means, including vocational senior secondary schools, which account for more than 1.3 million (or one-third) of senior secondary enrolments; 153 public training centres (BLKs and KLGs) which offer short, specialised courses; numerous privately run programs, largely in general skills with little capital investment needs; and some large enterprises that provide training for their workers.

Despite the large supply of training facilities, demand for training appears to be weak. A World Bank (1991) study of employment and training issues in the export-oriented manufacturing sector found that training activities were weak even in this subsector. The key issue in skills training, as in basic education, appears to be one of poor quality rather than limited quantity.

Pay and Benefits

Overview

For white collar workers and managers, pay and benefits are an important consideration in deciding whether to work for a particular enterprise. Many corporations competitively offer appropriate pay and benefits in order to attract the best persons they can. For example, in addition to salary, they often offer car expense reimbursement, payment of tolls and parking, and health insurance coverage.

Blue collar workers do not have as many options. Since labour supply always exceeds demand, it makes it hard for these workers to exercise bargaining power with employers over a proper rate of pay. Even though the government has established regional minimum wages (UMR), which some consider inadequate as a living wage, blue collar workers are often unable to turn down work at rates even below the minimum in an attempt to fulfil basic living needs. Government employees are subject to a separate set of rules in the determination of their pay and benefits.

Minimum Rates of Pay

Refer to the 'Wages' subsection in 'Employment Law'.

Variations in Pay

Tables 13 and 14 respectively show the weekly wage rates of production workers below supervisory level by sector, and by subsector in manufacturing.

Year	Month	Industry		Hotel		Mining	
		Mean	Median	Mean	Median	Mean	Median
1996	December	45.1	39.6	51.1	53.0	149.2	109.2
1997	March	46.9	41.5	50.2	35.7	138.3	104.9
	June	50.2	43.8	49.0	37.0	130.1	108.0
	September	49.9	42.9	50.6	35.7	128.8	105.0
	December	51.4	-	59.5	-	111.6	-

Source: Control Bureau of Statistics

Presented at: <http://www.bps.go.id/statbysector/wages/table1.shtml>

Table 13 Weekly Wage Rate of Production Workers Under Supervisory Level by Sector, 1996 and 1997 (thousand Rupiahs)

Subsector	December		March		June		September		December
	Mean	Median	Mean	Median	Mean	Median	Mean	Median	Mean
31 Food	36.6	32.1	37.5	32.1	42.0	35.6	41.8	35.6	42.8
32 Textile	42.2	41.0	44.2	41.0	46.1	43.5	45.0	42.9	47.0
33 Wood	47.9	42.1	50.6	44.4	55.2	45.1	57.5	46.5	56.5
34 Paper	62.2	44.5	62.2	44.5	70.0	66.9	63.9	52.7	70.1
35 Chemical	50.2	44.9	49.6	48.4	53.0	49.8	52.5	46.8	53.9
36 Ceramic	43.4	34.1	47.2	40.2	48.1	44.4	48.6	45.5	50.0
37 Basic Metal	80.1	72.4	74.4	63.1	78.2	62.6	78.6	64.8	79.0
38 Metal	52.3	38.3	56.6	43.8	62.4	47.5	62.7	44.8	65.3
39 Others	34.9	32.9	38.3	35.2	40.5	35.2	40.1	33.9	41.8
Total	45.1	39.6	46.9	41.5	50.2	43.8	49.9	42.9	51.4

Source: Central Bureau of Statistics

Presented at: <http://www.bps.go.id/statbysector/wages/table2.shtml>

Table 14 Weekly Wage Rate of Production Workers Under Supervisory Level in Manufacturing Industry, by Subsector, 1996 and 1997 (thousand Rupiahs)

Performance Based Pay

Merit-based or performance-based payments are more popular nowadays than 10 years ago; more so in the private than the public sector. In the public sector, tenure is still the main factor in determining pay. In addition, the position grades held by public sector employees are considered more important than their performance for pay-setting purposes. Many state-owned enterprises are in transition to a more performance oriented system. Changing the remuneration system means changing the organizational culture and this is not easy. Further, state-owned corporations are proving better at implementing performance oriented pay systems than the ministries.

Income Tax

Refer to 'Taxation' in the Economic Context subsection.

Social Security System

Over the past 20 years, the employee social security system (Jaminan Sosial Tenaga Kerja or Jamsostek) has been remarkably successful. It is a system to protect employees against occupational sickness and death, and old-age risks. Specifically, there are four kinds of protection covered by Jamsostek:

- Health Protection Coverage - Jaminan Pemeliharaan Kesehatan (JPK)
- Working Accident Cover - Jaminan Kecelakaan Kerja (JKK)
- Old-age Coverage - Jaminan Hari Tua (JHT)
- Death Coverage - Jaminan Kematian (JKM).

Jamsostek is legislated for under Law No. 3/1992. Under this law, Jamsostek not only provides covers for work accidents and death, and a provident fund, but also a health care scheme. A challenge for Jamsostek is how to protect employees working for smaller employers. The aim of the law is to extend coverage of membership to smaller employers including family businesses. However, this has proven problematic in Indonesia because of the employers' lack of finances, coupled with seeking to operate a minimal payroll.

The level of statutory benefits are subject to the contributions made; however, these benefits are generally much lower than those provided by commercial insurance. The government's top priority for developing social security in Indonesia during the last 20 years was to provide protection for employees working in formal economic sectors.

Pension Program

Law No. 11/1992, provides for several types of the pension programs. They are: Program Pensiun Manfaat Pasti (defined benefits plan), Program Pensiun Iuran Pasti (defined contribution plan), and Program Pensiun Berdasarkan Keuntungan (profit based plan). This ordinance also enables companies to form multi-employer plans. For civil servants, the pension program is managed by the State Employee Administrative Office; when eligible, they receive 75% of their basic salary as pension, paid monthly.

Public Holidays

Public holidays in Indonesia are as follows:

- New Year's Day
- Celebration of the end of Ramadhan Day
- Nyepi Day
- Good Friday
- Celebration of Haj
- Waisak
- Ascension of Jesus Christ
- Islamic New Year
- Birth of Prophet Muhammad SAW
- Indonesian Independence Day
- Ascension of Prophet Mohammad SAW
- Christmas Day.

Employee Relations

Hubungan Industri Pancasila (HIP, Industrial Relations) is an industrial relations system which follows the basic principles of Pancasila and the 1945 Constitution in terms of the relationships among members involved in the production of goods and services - labour, employers, government. The seven principles on which HIP is based are:

- The Principle of Benefit
- The Principle of Collaboration and Brotherhood
- The Principle of Democracy
- The Principle of Justice and Equality
- The Principle of Balanced Life
- The Principle of Acknowledgment of the Law
- The Principle of Self-Confidence.

A number of key tools are considered necessary for the implementation of HIP:

- A Bipartite Body: a body which is jointly established by workers and employers at the enterprise level.
- The Tripartite Body: a cooperative institution with representatives from government, the union movement and employers.
- The Collective Labour Agreement, a device aimed at the maintenance and the development of harmonious relationships, a good working environment, and the well-being of all parties.
- Employment rules and regulations.
- Bodies for the settlement of industrial disputes.
- Training and information on HIP.
- An organization to dealing with socio-economic matters affecting manpower.
- Other institutions, such as cooperatives, family planning organizations and sports clubs.

Trade Unions

On February 20, 1973 with the Declaration of all Indonesian Labour unions, the Federasi Buruh Seluruh Indonesia (FBSI, Federation of Indonesian Labour) was founded, which consisted of 21 organized trade unions, formed on the basis of occupations. This federation was established as a democratic institution, with no discrimination on the grounds of race, gender, social status, and religion. It was also set up as independent from any other parties or organizations. Its espoused purposes were to protect and prevent the rights of labour, guarantee social welfare, and provide improved employment and working conditions. The program was called 'Panca Karya'; it consisted of five main programs:

- to develop and consolidate the organization
- to increase worker participation in order to progress national development
- to promote the rights of the workers based on fairness and welfare
- to be active in handling unemployment problems and in trying to broaden working opportunities
- to cooperate with international labour organisation.

One year after its establishment on March 11, 1974, FBSI was listed in the Departments of Manpower, Cooperation, and Transmigration. Since that time the FBSI has been empowered to form labour contracts with employers or legalized employers unions, based on Ordinance No. 21/1954.

In 1985, the second National Conference of FBSI decided to change its name to Serikat Pekerja Seluruh Indonesia (SPSI, the Indonesian Workers Union). It also changed its form and simplified the former 21 labour unions into nine departments consisting of:

- Department of Agriculture and Industrial Plants
- Department of Chemistry, Energy and Mining
- Department of Travel, Food and Drinks
- Department of Trade, Banks and Insurance
- Department of Textile and Skin Products
- Department of Pharmaceuticals and Medical Apparatus
- Department of Metal, Electronics and Machinery
- Department of Public Works
- Department of Transportation.

By the late 1980s, the SPSI considered it necessary to restructure in order to reflect emerging labour specialisation. Therefore, at its third National Conference held in November 1990, the SPSI split the nine departments into 13 sectors. In 1994, SPSI re-organized once again by shifting from the unitary to a federation form, and converted the 13 sectors into Industrial Unions. Until recently, the SPSI has continued in its efforts to protect the rights of workers through schemes such as minimum wages, social guarantees, protection for women and child labour, safety and health at work, and overtime benefits.

Strikes

Table 15 below sets out basic statistics on strikes that took place in Indonesia from 1989 - 1994.

Year	No. of Strikes	No. of Workers Involved	Hours Lost
1989	19	4,245	41,425
1990	61	31,324	262,014
1991	130	64,530	582,477
1992	251	143,005	1,019,654
1993	185	103,490	966,931
1994	307	159,059	1,703,296
Main Reason for Strikes		Per Cent	
Wages		63.27	
Working condition		17.01	
Collective Labour Agreement (CLA)		4.08	
Festivity bonus		8.16	
Union		6.12	
Social insurance		1.36	

Table 15 Strike Statistics

Current HRM Issues and Trends

There are at least three major trends with regard to human resource management (HRM) in Indonesia. First, the role of labour unions in undergoing considerable change. The unions have been under relatively tight government control for more than three decades. The current political climate calls for less government involvement, and this has given the unions more opportunity to form and run their own organizations. It is expected that union membership will have more bargaining power in negotiations with employers and government which, in the near future, will be likely to increase the quality of the employment laws leading to improved employee welfare.

The second HRM trend concerns the increasing importance of professionalism in management. The labour market in Indonesia has become increasingly competitive. The demand for manpower, including management, has diminished due to the current economic situation. Many young executives are being laid off and waiting for the opportunity to be rehired. Increased competition for management positions will raise employers' expectations of applicants. At the same time, many business schools have been admitting twice as many students as before. Two or three years from now, these students will graduate and will also enter the market for limited jobs. Moreover, these domestic graduates will have to compete with foreigners who want to work in Indonesia. These factors will place increasing pressure on individuals to develop and demonstrate professional competency in their roles as managers.

The third major HRM trend concerns the worsening problem of unemployment. While there has been continuous debate amongst academics over how education should match the needs of the labour market, all are agreed on one thing: the labour market and the educational system have been out of balance for some time. The educational system remains unable to provide the labour market with the skills required for a productive workforce. Recently, government extended compulsory schooling from six to nine years. This policy may help students to complete secondary school, but it does not solve the real problem of extensive skill shortages.

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Japan

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Economy Context

Geography

Physical Dimensions

Japan is an island country situated on the eastern edge of the Asian continent, and is surrounded by the Sea of Japan, the Pacific Ocean, and the East China Sea. Japan is made up of four main islands (Hokkaido, Honshu, Shikoku, and Kyushu) and about 6,800 smaller islands. The total land area is 377,829 square kilometres, and the four main islands area make up 99% of this total land area. Japan is a mountainous country; about 60% of the land is given to mountains and volcanoes. Nearly 70% of the total area is covered by forests and fields, about 15% is farm land, and only 2.6% is residential land (Statistics Bureau 1997).

Climate

From the northeast to the southwest, Japan covers a distance of about 3,000 kilometres. Though Japan is a narrow country, it enjoys three climatic zones (the sub arctic zone, the temperate zone, and the sub tropical zone). For example, the city of Sapporo sits in the sub arctic zone, while the city of Tokyo sits in the temperate zone, and the city of Naha sits in the sub tropical zone. Therefore, the length of the seasons and the weather at the same period differ widely by region. In January, the average temperature in Sapporo is -4.6°C , while the average temperature in Naha is 16.0°C , and the average temperature in Tokyo is 5.2°C . The summer in Naha lasts for nearly 200 days (days with the highest temperature of more than 25°C) from late-April till early-November, while in Tokyo it lasts for about 100 days from mid-June to late-September, and in Sapporo it lasts for about 50 days between mid-July and early-September (Asahi Shimbun Publishing Company 1993).

Population Statistics

As of October 1st 1996, Japan's total population is around 125 million, and it is ranked the 8th largest in the world. It consists of 61 million males, and 64 million females. The population density amounts to 338 persons per square kilometre, among the world's highest (Statistics Bureau, 1997). Currently, the following problems related to Japan's population are attracting increasing attention: aging, the decline in the birth rate, and the future prospect of population decrease (see Table 1). Japan's population is aging rapidly. By the year 2020, it is estimated that one out of four Japanese will be over 65 years of age. After the Second World War, Japan's life expectancy at birth has almost consistently been increasing. The decreasing number of women giving birth and the decreasing number of children born per woman, have caused the birth rate to decrease. In Japan, the age of women getting married and the age of their first childbirth are rising; and in 1996, the total fertility rate (the average number of children born to each woman) was 1.43.

This trend and the problems of decreasing total population, aging working population, and an insufficiently young labor force, are directly connected. Since there is no large-scale population immigration from abroad (Garson 1998:8), measures for encouraging younger generations to have children, such as leave and compensation for childbirth, are considered necessary.

Year	Population (1000)				Percentage by Age Structure (%)			Aging Index (C/A *100)
	Total	0-14 years old (A)	15-64 (B)	65 & Over (C)	0-14 years old	15 - 64	65 & Over	
1920	55,963	20,416	32,605	2,941	36.5	58.3	5.3	14.4
1925	59,737	21,924	34,792	3,021	36.7	58.2	5.1	13.8
1930	64,450	23,579	37,807	3,064	36.6	58.7	4.8	13
1935	69,254	25,545	40,484	3,225	36.9	58.5	4.7	12.6
1940 ¹⁾	73,075	26,369	43,252	3,454	36.1	59.2	4.7	13.1
1945	71,998	26,477	41,821	3,700	36.8	58.1	5.1	14
1950 ^{a)}	83,200	29,428	49,658	4,109	35.4	59.7	4.9	14
1955 ^{a)}	89,276	29,798	54,729	4,747	33.4	61.3	5.3	15.9
1960	93,419	28,067	60,002	5,350	30	64.2	5.7	19.1
1965	98,275	25,166	66,928	6,181	25.6	68.1	6.3	24.6
1970	103,720	24,823	71,566	7,331	23.9	69	7.1	29.5
1975 ^{a)}	111,940	27,221	75,807	8,865	24.3	67.7	7.9	32.6
1980 ^{a)}	117,060	27,507	78,835	10,647	23.5	67.4	9.1	38.7
1985 ^{a)}	121,049	26,033	82,506	12,468	21.5	68.2	10.3	47.9
1990 ^{a)}	123,611	22,486	85,904	14,895	18.2	69.5	12	66.2
1994	125,034	20,415	87,034	17,585	16.3	69.6	14.1	86.1
1995 ^{a)}	125,569	19,957	86,927	18,597	15.9	69.2	14.8	93.2
2000	127,385	19,336	86,350	21,699	15.2	67.8	17.0	112.2
2005	129,346	20,229	84,390	24,726	15.6	65.2	19.1	122.2
2010	130,397	21,348	81,304	27,746	16.4	62.4	21.3	130.0
2015	130,033	21,244	77,404	31,385	16.3	59.5	24.1	147.7
2020	128,345	19,833	75,774	32,738	15.5	59.0	25.5	165.1
2025	125,806	18,247	75,118	32,440	14.5	59.7	25.8	177.8
2030	122,972	17,427	73,551	31,994	14.2	59.8	26.0	183.6
2035	120,132	17,531	70,667	31,933	14.6	58.8	26.6	182.2
2040	117,290	17,989	66,483	32,818	15.3	56.7	28.0	182.4
2045	114,432	18,069	63,872	32,491	15.8	55.8	28.4	179.8

¹⁾ including Japanese military personnel and military civilians overseas, but excluding foreigners other than those whose native place was in old Japanese overseas areas.

^{a)} including age not reported.

Note: Data is based on the Population Census. However, for 1945, on the Population Survey, and for 1994, on the Population Estimates. All of them are as of October 1, except for 1945 as of November 1. For 1995, data is based on Results of Prompt Sample Tabulation.

Source: Statistics Bureau, Management and Coordination Agency.

Source: Institute of Population Problems, Ministry of Health and Welfare.

Table 1 Statistics and Estimation of Population by Age Group

Non-Japanese Population

After the War, the Japanese government did not positively adopt policies to encourage immigrants into its labor force; even today, the policies taken towards the acceptance of labor from abroad is limited to intellectual workers. In 1996, the population of non-Japanese national residents in Japan was 1.41 million, which is the highest on record (Japan Immigration Association 1997). The percentage of foreigners in the total population is much lower compared with OECD (Organization of Economic Cooperation and Development) countries (Garson 1998:9). Table 2 shows the number of registered foreign nationals by region of origin. Though the foreigners of Asian origin distribution ratio is decreasing, they are the most numerous. In recent years, the South American origin population has risen.

Year	Total	Asia	America North	America South	Europe	Africa	Oceania	Unknown Nationality
1970	708,458	672,280	20,892	1,290	11,902	232	1,044	818
1975	751,842	706,784	23,970	2,324	14,480	366	1,242	2,676
1980	782,910	734,476	24,743	2,719	15,897	795	1,561	2,719
1985	850,612	789,729	32,239	3,608	19,473	1,109	2,472	1,982
1990	1,075,317	924,560	44,643	71,495	25,563	2,140	5,440	1,476
1993	1,320,748	1,027,304	51,057	196,491	31,046	4,749	8,601	1,500
1994	1,354,011	1,050,211	52,317	203,840	32,529	4,909	8,571	1,634
1995	1,362,371	1,039,149	52,681	221,865	33,283	5,202	8,365	1,826
1996	1,415,136	1,060,081	54,668	248,780	35,136	5,609	8,753	2,109

Note: Data is based on the Aliens Registrar (as of the end of the year stated)

Source: Judicial System and Research Department, Minister's Secretariat, Ministry of Justice

Table 2 Number of Registered Foreign Nationals

Language

The only language recognized by the Japanese government as the official language is Japanese. There exist a great number of dialects representing each region (district or areas). The language mainly used in education and in mass media is Japan's standard language, which is based on the dialect used in Tokyo. This standard language prevails to the extent that people in every region can communicate in it without any difficulties. In public services, in broadcasting, foreign languages other than Japanese are rarely used except for broadcasts targeted to foreigners. However, recently in accordance with the increase of foreign residents, some self-governing and public bodies are providing data in foreign languages, and have made an effort to increase announcements in foreign languages.

Political Context

Structure

Public administration in Japan is divided into the following levels: the country, prefectures (including metropolis, circuit, and city prefectures), special wards, and municipalities such as cities, towns and villages.

National Government

The Japanese government is made of the legislative, juridical, and executive branches; each branch complies with the principle of respective independence of the three powers, and takes a mutual check and balance approach. The Diet is the legislative branch. It determines the budget, approves treaties, and nominates the Prime Minister. In the Diet, there is the House of Representatives and the House of Councillors; the decisions of the House of Representatives take precedence over the House of Councillors. Generally, bills are adopted after agreement of both Houses, but in case of disagreement, they go through prescribed procedures, and the decisions of House of Representatives are supported. There is a Cabinet which operates under the Parliamentary Cabinet System. The Cabinet is composed of the Prime Minister and the Ministers of State. The Ministers of State command and respectively supervise each ministry. Under each Minister there is a vice-Minister and a Secretary. These Secretaries are state bureaucrats who are selected by the internal promotion system in each respective ministry, and who are appointed to their position by the Ministers of State.

Local Government

The present local government system was enacted in 1947, in line with the Local Autonomy Law. Figure 1 lists these kinds and numbers of Local public entities. Local public entities come in two layers: the mid-scale range prefectures level and the municipalities which adhere to the region.

At both levels the right of autonomy is recognized; the chief executive, the assembly, the administration, and the board are guaranteed independence from the national government. The local assembly holds the right to plan its own activities, to decide the draft budget, and to enact bills. Also, different from the National Administration, the local residents have the chance to participate much more in the administration and management of local government.

Prefectures	47	Metropolis (to)		1
		Circuit (dô)		1
		City prefectures (fu)		2
		Prefectures (ken)		43
Municipalities	3,232	Cities 669	Government-designated cities	12
			Core cities	17
			Other cities	640
		Towns		1,993
		Villages		570
Special wards				23
Regional Affairs Associations				2,818
Regional Amalgamation				4

Note: Figures as of April 1, 1997 (those of Regional Affairs Associations as of July 1, 1996)

Source: Local Internationalization Association 1997

Figure 1 Number of Local Public Entities

The residents elect the chief executive usually once every four years. They also have the right to request the adoption and improvement of local ordinances, assembly dissolution, and auditing. Local public entities carry out their own projects, such as the provision of regional infrastructure, welfare, and education on one hand; on the other hand, they implement national social security plans and residents registration on behalf of central government (Local Internationalization Research Association 1997).

Constitutional Arrangements

The Constitution of Japan was enacted in 1946. The Constitution was drafted on the basis of demilitarization and democratization. Both of these bases were advocated in the Potsdam Declaration which demanded the unconditional surrender of Japan at the end of World War II. Three major principles are found in the Constitution: the sovereignty of the people, pacifism and peaceful cooperation with foreign countries, and the respect for fundamental human rights. The emperor who had sovereignty in the previous Constitution, has become a symbolic monarch and is not involved in actual political and governing processes.

The present Japanese social and political system follows the above principles. The sovereignty of the people forms the present electoral system. The respect for fundamental human rights is reflected in many specialized laws such as the rights to be treated equally at work, and in education. Following the adoption of the pacifism and peaceful cooperation with foreign

countries principle, the Constitution prohibits the use of military power to solve international disputes. Japan has a Self Defence Force (SDF) aiming only at defence against external invasion. However, the constitutionality of the SDF and its proper function have continuously been a controversial issue in and outside the country.

Political Processes

All adults of Japanese nationality older than 20 years of age have the right to vote. Japanese nationals over 30 years old can be a candidate for the House of Councillors and prefectural governors, and those over 25 years old can be a candidate for the House of Representatives and other offices. Currently, the House of Representatives has 500 seats, and the House of Councillors has 252 seats. For the House of Representatives, 300 members are elected by the single-member system, and the remaining 200 are elected by proportional representation. Of the members of the House of Councillors 152 are elected from the constituencies of each prefecture to which 2-8 seats are given, and the rest are elected under the proportional representation system.

Although numerous parties exist on the Japanese political scene, the largest and most powerful Liberal Democratic Party (LDP), kept the majority of seats and dominated the cabinet from 1955 to 1993. The Social Democratic Party of Japan (SDPJ) was at the centre of the opposition parties. As a result of the 1994 election for the House of Representatives, LDP, SDPJ and another small party formed a coalition cabinet and the 2 main party opposition regime ended. Since then, the political process has gone into flux and many parties were dissolved and restructured into new parties. However, the LDP is still at the centre of politics. The previous Cabinet of Prime Minister Hashimoto was dominated by LDP members even though LDP did not have a majority of seats. All of the Ministers in the present Cabinet of Prime Minister Obuchi are also appointed from LDP members, except one economist who was appointed to the Director General of Economic Planning Agency.

Process of Legislation

The characteristics of Japanese legislation is a high adoption rate of bills by the Cabinet. For example, during the 140th ordinary session of the Diet (1997.1.20-1997.6.18.), 92 bills were presented by the Cabinet and 56 bills by the diet members, and 90 of the former and 13 of the latter were adopted. The bills presented to the Cabinet are, in most cases, written by the government officials of related ministries (Atarashi 1998). In drafting bills, councils which are composed of stakeholders of the target of bills and specialists, such as university professors, are thought to play a very important role. In the case of labor related bills, the representatives of employers and unions as well as specialists participate in the councils. This process is regarded as an opportunity for government officials to understand the needs of the people, and also as the place for the coordination of benefits among stakeholders. From this point of view, the Japanese political process can be characterised as a kind of corporatism (Dore 1989).

Economic Context

Economic Size and Structures

The GDP in 1996 was US\$4,594,969 million, and the GDP per capita was US\$36,507 thousand. The GDP was the second largest, and the per capita GDP was fourth highest in the world. The GDP in yen increased by 3.1% over the preceding year, and this figure has been improving since 1992 when the second lowest increase of 0.6 % since 1955 was recorded (Economic Planning

Agency 1998). The composition of GDP by industry has been changing during the last two decades. As Table 3 indicates, the composition ratios of primary and secondary industries have decreased, and the ratio of tertiary industry has increased. Among tertiary industries, services, and real estate, have recorded remarkable growth.

Kind of Economic Activity	1975 Yen (billions)	%	1995 Yen (billions)	%
Agriculture, Forestry & Fisheries	8,141	5.3	9,325	1.9
Mining	776	0.5	1,020	0.2
Manufacturing	44,801	29.1	119,294	23.7
Construction	14,322	9.3	49,693	9.9
Electricity, Gas & Water Supply	3,002	1.9	13,650	2.7
Wholesale & Retail Trade	21,934	14.2	61,200	12.2
Finance & Insurance	7,796	5.1	23,422	4.7
Real Estate	12,138	7.9	62,290	12.4
Transport & Communication	9,546	6.2	31,469	6.3
Services	16,251	10.5	82,095	16.3
Producers of Government Services	13,128	8.5	38,968	7.7
Producers of Private Non-Profit Services to Households	2,363	1.5	10,883	2.2
Total	154,199	100	503,308	100

1) Producers of private non-profit services to households

Source: Economic Research Institute, Economic Planning Agency.

Table 3 Industrial Break Down of Real GDP in 1995 and 1975

Trade Surplus

The trade surplus of Japan has been a source of trade conflict with other countries. This trade surplus has diminished over the last four years. However, the present trends for the weak yen are evoking a fear of it rising once again. According the latest statistics in May 1998, the trade surplus has been continuously increasing for last 14 months, and has shown a 66% increase compared to the same period of 1997 (*Nihon Keizai Shinbun* 1998). This is because the economic recession has weakened the yen and in turn dampened domestic consumption and decreased imports. It is considered that the key to avoid another increase in the trade surplus is to reverse the downturn trend of the economy.

Economic Performance

The Japanese economy has been in recession since 1991. The main reason for the downturn is the delay of the liquidation of bad debts, which has accumulated in the financial sector following a steep decline of land and stock prices. The government and Bank of Japan (BOJ) have tried to support the financial sector by lowering interest rates. In December 1993, the long-term lending rate of BOJ fell below the lowest rate in previous economic downturn. The rate continued to fall and now stands at 1.625 percent which is the lowest figure recorded in Japanese financial history. However, these policy measures have not proved effective in reversing the recessionary conditions.

In the mid 1990s indices of industrial production seemed to recover toward pre-recession levels, but deteriorated again after the rise of the consumer tax ratio in April 1997. Other economic indices such as stock prices and money supply have not yet improved. In this period of economic slowdown, the effects of the aging population on the national economy have been marked.

During the last thirty years, the social security burden rate, indicated by the proportion of national social security expenditure to national income, has increased threefold (Asahi Shimbun Publishing Company 1997: 89). This has led to discussions about reforming the social security system.

Monetary Policy

Japanese monetary policy is mainly implemented by the Ministry of Finance (MOF) and the Bank of Japan (BOJ), through such methods as official rate adjustment, open market operation and adjustment of reserve-deposit requirement ratio. Current Japanese monetary policy is shifting towards deregulation, reflecting financial globalization and demands from inside and outside of the country. The target of this deregulation is to promote competition in the business fields of banking, securities and insurance. Competition in the market has been stimulated by the entry of foreign companies into Japanese markets. For example, foreign exchange transaction law was amended in April 1998 with the result of increased services offered by foreign banks. Secondly, the government plans to remove restrictions on foreign banks and securities trading by 2001. Then banks will be able to undertake securities trading, and securities companies will be able to offer banking services to their customers. Along with this policy shift from protection to promoting competition, the government itself is forced to develop new policy options and methods. The establishment of clear and plain rules for financial markets and the supervisory system are seen as essential. The revision of related laws and administrative regulations as well as organizational reform of related institutions, including MOF and BOJ, is considered to be one of Japan's primary policy objectives.

Industry Policy

Just after World War II, Japanese industry policy, which comes under the Ministry of International Trade and Industry (MITI), has played a key role in the Japanese economy. According to the targets of the specific planning period, various policy options were selected such as protection of infant industries, industrial adjustment, guidance on policy finance, special taxation measures and support for research and development activities. However, the competitiveness of Japanese industries is not only due to the above mentioned MITI policy guidance and options. Komiya (1984) argues it is easy to find Japanese industries with high competitiveness in the world which were not considered by the policy or which fought against MITI guidance. Furthermore, as many Japanese industries attained their competitiveness in the world economy, the selection of MITI policy options shifted in emphasis from regulation and protection to creating a future vision in order to develop new industries or make existing industries much more competitive.

Transportation

As shown in Table 4, automobiles and railways are the most popular methods of domestic transportation. Aircraft transportation is expanding rapidly though it is still a small component of total volume. In Japan, economic infrastructure such as highways, airports, railways, is built in accordance with national land planning. The facilities related to the infrastructure have been mainly dominated and managed by government or special public corporations. However, some of them have been privatized in order to be rationalized and gain an international competitive edge.

Item	F.Y. 1985	F.Y. 1990	F.Y. 1995	F.Y. 1996	Change From Previous F.Y. (%)
Index of domestic transport (1990=100)	—	100.7	107.7	110.4	2.4
Volume of freight transport: (million ton-km)					
Railways	21,919	27,196	25,101,020	24,967,691	-0.5
Motor vehicles	205,941	274,244	294,648	—	—
Coastwise vessels 1)	197,816	233,950	229,411	234,135	2.1
Aircraft (domestic scheduled services)	430	635	761,911	800,917	5.1
Volume of passenger transport (million passenger-km)					
Railways	330,083	387,478	400,056,289	402,151,272	0.5
Motor vehicles	489,260	853,060	917,419	—	—
Aircraft (domestic scheduled services)	33,118	51,623	65,014	69,046	6.2

1) Steel and wooden vessels.

Source: Ministry of Transport.

Table 4 Volume of Transport

Communication

In Japan one in two people subscribes to ordinary phone services; additionally, mobile phone usage is rapidly increasing in business and family life. Other communication facilities and services such as digital data exchange and facsimile network services also are increasing rapidly in usage.

Socio-Cultural Context

National Values and Traditions

Japanese culture and tradition formed under the influence of ancient China and Korea, has developed its own style throughout its long history. The oldest record indicating the existence of a nation in the present location of Japan was found in a Chinese historical document dated 57AD. The periods before modern times, which are characterized by the existence of political entities and their style of governance, are follows:

- Nara period 710-794
- Heian period 794-1185
- Kamakura period 1185-1333
- Muromachi period 1333-1568
- Azuchi-Momoyama period 1568-1600
- Edo Period 1600-1868.

Japanese traditional cultures which are well known outside the country have various historical roots. Famous Buddhist statues were mostly created in the Nara to Kamakura periods. The tea ceremony, Japanese flower arrangement, and *No* theatre have their roots in Muromachi period. The Azuchi-Momoyama period is famous for the formulation of castle architecture styles. In the Edo period, the ordinary people held cultural movements, originated *Kabuki* and *Ukiyoe* and more popular cultures compared to preceding eras.

Philosophical Ideologies

No specific and strong philosophical ideology characterizes Japanese life. However, it has been a widely held notion that principles regulating Japanese behaviour are quite different from those common in western countries. The widely held understanding is that Japanese

culture is strongly influenced by social settings unique to Japan and by the relationship between individuals and the group of which he/she is a member. Recently, with diversification in lifestyle and the generation gap, it is getting harder to express such a trait in one word.

Groupism is an example of such a common understanding. The term groupism indicates a tendency by the individual to give precedence to what benefits the group in deciding personal action over that of oneself. However, Hamaguchi (1992) pointed out that Japanese groupism does not reveal personal servitude to the group, but the personal belief that voluntary participation in group activity or respect for group coordination will eventually benefit him or her. Recently, researchers such as Sugimoto (1995, 1996) and Okuno (1993), are claiming that concepts insisting on the distinctiveness of Japanese thoughts and behaviours should be treated within certain limitations such as economic circumstances, period, and social strata of the people. For example, Sugimoto (1995) also asserts that people belonging to similar social strata will come to have similar behavioural traits beyond difference in nationality and culture, in accordance with globalization.

Religious Movements

In Japan, there is no national religion; personal freedom of religion is guaranteed by the Constitution. The most popular religions are Buddhism, Shinto and Christianity; however, countless new religious movements exist. Most Japanese do not seem to have strong faith in a specific religion, except confessed Christians and supporters of new religions. Rather they seem to be very open to various forms of religion and find an important role for each religion in guiding the ceremonies in life; Buddhism is for funerals and taking care of ancestor spirits, Shinto for weddings and celebrating new born children, and Christianity for weddings. This openness seems to be shown in the following statistics; in 1994, 231,428 religious bodies claimed existence with about 220 millions adherents - almost double the Japanese population (Kodansha International 1996).

Ethnic Minorities

Ethnic minorities in Japan are divided into three major groups; aboriginal people (*Ainu*), old comers and new comers. The *Ainu*, established the original cultural sphere covering the north part of Honshu and Hokkaido. The Meiji government took measures to assimilate them, however, and their original culture has been sustained by a small number of *Ainu* people.

The first generation of old comers are Chinese and Korean people who were brought over or came to Japan as Japanese nationals, during the time of colonization of their mother country by Japan. After the war their nationality was automatically reverted into their original ones. Since then, they have been treated as foreigners, except that they can take a measure of naturalization. The second and later generations do not possess Japanese nationality, if they do not have father or mother with Japanese nationality, or if they do not request naturalization. Under the Japanese legal system, nationality plays a very important role. In order to exercise the right to vote, to get a job in government or public schools, and to become specialists with public authorization such as lawyers, people must have Japanese nationality. As a result of this regulation and its effects on the private sector, children of old comers have been restricted in occupational choice and civil rights, even though they were born and brought up in Japan. There has been a long history of law suits about whether this treatment should be understood as discrimination or not. Recently, judgments are increasingly treating these conditions as discrimination. The Japanese government has accordingly started to improve such regulations little by little (Tanaka 1997).

Recent History

As mentioned above, to express Japan and Japanese society in a few words is getting harder and less meaningful than before. Japanese society has begun to identify and understand its diversity, which was not often discussed previously. This diversity seems now to lead the Japanese system, including government and enterprises, to reconsider its extent and how it is to be treated. In order to understand the process of how the Japanese people started to appreciate Japan's diversity, examination of the change in the meaning of "internationalization" is helpful. Internationalization in its early stages, and until recently, meant the Japanese left the country for several purposes. Many Japanese in leader positions went out of the country to study social systems or technology for subsequent implementation back in Japan. They headed to other advanced countries; to United States for some cases and to Europe for other cases.

With its economic recovery and development, Japan started to export its products which were recognized as cheap at first and of good quality later. In the mid 1980's, Japanese enterprises began to expand their overseas production in accordance with the high appreciation of Japanese yen partially due to its export expansion. Through these processes of economic growth, large numbers of Japanese business persons went abroad, in order to research their markets and to manage their production sites. Japanese people also went abroad for leisure activities with the help of a strong yen. The Government then began to consider its contribution or leadership in international spheres, and became enthusiastic in overseas assistance activities. At the end of 1980's, Japan enjoyed an economic boom, and at the same time faced a labor shortage. In particular, small sized companies were seriously affected by manpower shortages and in the worst cases failed. At this point the Japanese government and people come to realize the necessity of accepting non-Japanese people into the country for the first time. After a nationwide discussion on the pros and cons of accepting non-Japanese neighbours, the immigration law was revised. In local communities which inevitably accept foreign people as neighbours, volunteer associations for supporting them started to be organized at the grass-roots level. Many local governments which needed to take care of foreigners on a daily basis moved into various mutual-understanding activities far faster than national government which acted at a relatively slow pace.

Currently, the center of nationwide discussion has shifted to employment security and the future of the Japanese economy, apart from the internationalization of daily life. However, the problems surrounding non-Japanese nationals has begun to be considered more seriously than before despite a slower intake. Now the Government is taking action about the nationality problem of non-Japanese nationals and their descendants in Japan and the voting rights of Japanese nationals residing in other countries.

The above international engagements seem to have given the Japanese people a new meaning to 'internationalization'. In other words, through an increased awareness of the diversity in its own country, the Japanese government and nationals are starting to reconsider the principles of social organization and redefine the meaning of membership. At this stage, internationalization does not necessarily mean bringing in new things from outside, but reconsidering the meaning of rationality and validity of the present internal systems. In the coming decades, a key issue for the Japanese system and society will be that of diversity. The integration and coordination of each social system such as corporations, communities, and of course, the nation, will be a major challenge for the members and leaders of each system to face. In what manner and based on what principles are the systems to be managed? How are the rights of each member to be protected?

Labor Market

Overview

The labor mobility rate in the Japanese labor market for the past 20 years has been around 15%. Based on a 1995 survey of enterprises employing more than five people, the accession rate of the newly employed (which includes part-time) was 13.5%, and the separation rate was 14.3%. From 1980 to 1993, the accession rate continued to slightly surpass the separation rate, but in 1994 and 1995, the separation rate surpassed the accession rate. This shows that enterprises were shedding labour. In particular, large enterprises (more than 1000 people) were pursuing downsizing; in 1995 their separation rate was 11.8 while their employment rate was 9.7. The balance between these two figures was 2.1 percentage points, which is much larger than that of other smaller sized enterprises (Ministry of Labor, Minister's Secretariat. 1997b). This trend is reflected in the recent sensational increase in the unemployment rate. From 1987 to 1992, during the economic boom, the unemployment rate decreased. Since 1992, due to the economic recession, it has risen. In March 1998, the unemployment rate was reported to have reached 3.8%, the worst record since July 1993 (Nihon Keizai Shinbun 1998.4.28).

Such a deterioration of internal and external employment has created a demand for a flexible human resource management system. Furthermore, changes in the labor market structure described below, namely the aging of the labor force, the increase of female participation and part-time work, have influenced human resource management and national support.

Workforce Characteristics

Year	Total	15--19	20--24	25--34	35--44	45--54	55--64	65 and over
1975Av. (%)	5,323 (100.0)	168 (3.2)	651 (12.2)	1,406 (26.4)	1,286 (24.2)	1,011 (19.0)	557 (10.5)	245 (4.6)
1980	5,650 (100.0)	147 (2.6)	552 (9.8)	1,438 (25.5)	1,393 (24.7)	1,208 (21.4)	633 (11.2)	279 (4.9)
1985	5,963 (100.0)	151 (2.5)	582 (9.8)	1,260 (21.1)	1,597 (26.8)	1,297 (21.8)	776 (13.0)	300 (5.0)
1990	6,384 (100.0)	181 (2.8)	653 (10.2)	1,225 (19.2)	1,615 (25.3)	1,418 (22.2)	932 (14.6)	360 (5.6)
1993	6,615 (100.0)	169 (2.6)	731 (11.1)	1,270 (19.2)	1,515 (22.9)	1,504 (22.7)	1,009 (15.3)	417 (6.3)
1994	6,645 (100.0)	159 (2.4)	741 (11.2)	1,295 (19.5)	1,443 (21.7)	1,571 (23.6)	1,002 (15.1)	434 (6.5)
1995	6,666 (100.0)	146 (2.2)	740 (11.1)	1,327 (19.9)	1,378 (20.7)	1,616 (24.2)	1,014 (15.2)	445 (6.7)
1996	6,711 (100.0)	144 (2.1)	734 (10.9)	1,374 (20.5)	1,337 (19.9)	1,633 (24.3)	1,033 (15.4)	455 (6.8)

Source: Statistics Bureau Management and Coordination Agency

Table 5 Age Structure of Labor Force (in 10,000 persons, %)

Aging Labor Force

In 1996, the Japanese population of 15 years and over was 105.7 million. As shown in Table 5, the labor force population was 67.1 million, 63.5% of the population of 15 years and over. Within the labor force population, the largest age group is from 45 to 54 years of age with 16.33 million people, or 24.3% of the total. The next largest group is from 25 to 34 years of age with 13.74 million people, or 20.5%. In 1975, the 25 to 34 year age group was the largest, followed by the 35 to 44 year age group. Within about 20 years, the percentage of these two age groups has decreased by about 5 percentage points, while the 45 to 54 year age group and the 55 to 64 year age group has increased by about the same amount (Statistics Bureau 1997).

Female Labor Force Participation Ratio Increase

The total labor force participation rate is decreasing, but the participation of women is gradually increasing. Although the Japanese female labor force rate curve has an “M” shape, it has been changing the shape during last two or three decades. That is caused by the increase of the labor force participation rate in several age groups, and also by the change of the age group where the labor force participation ratio diminishes.

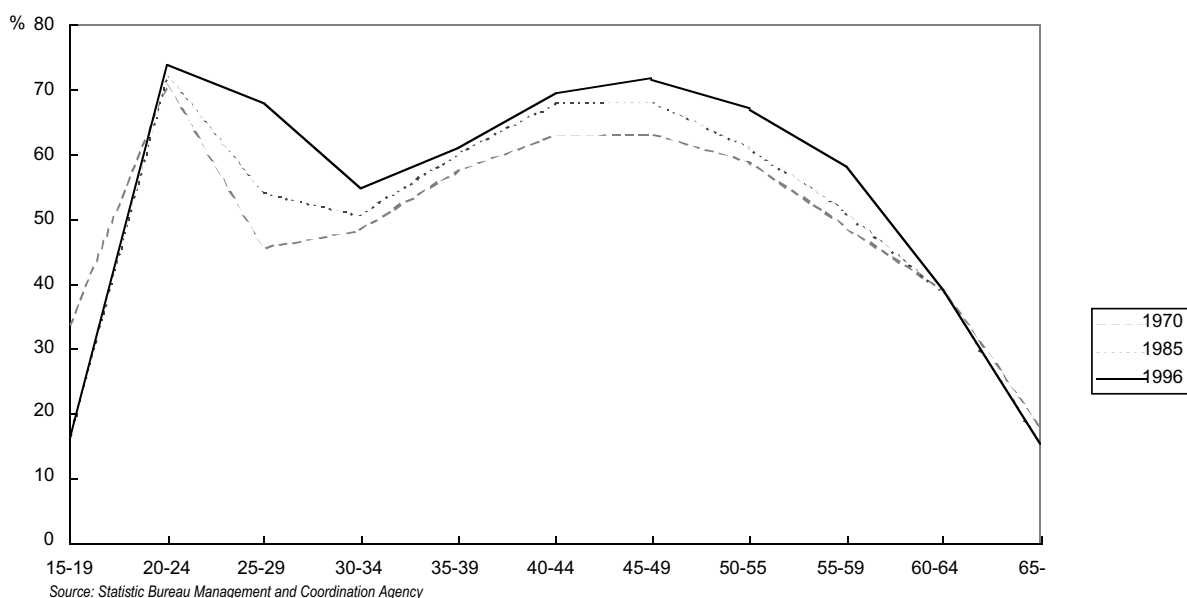


Figure 2 Changes in Female Labor Force Participation Rate

As shown in Figure 2, there are two peaks in the female labor force participation rate curve. The first peak appears in the 20-24 age range and occurs because new graduates are joining the labor force. After that, due to marriage or childbirth, women quit their job, causing the female labor force participation rate to decrease. Recently, the age for the downturn from the first peak has been rising due to the following factors: the age for women to get married is getting higher; when they do get married they do not necessarily quit their job; and they might only quit their jobs for childbirth. The second peak appears in mid-age, when the burden of child raising gets lighter. However, the first peak represents full-time employment, while the second peak mostly represents part-time employment. Therefore, in order to properly utilize the female labor force, care for working mothers and, at the same time, secured working conditions for part-timers has become important.

Immigrant Workers

The legal foreign labor force is growing, but the real number is still small. For people not holding Japanese nationality, in order to stay in Japan a resident purpose visa is required. Among these resident purposes there are: A) working purpose; B) recognized as partial work; C) resident status without limitation. In order to work as a legal full-time employee, it is necessary to hold either A) or C) status. For acquiring A) status, an employment contract with a specific enterprise is required. 98,301 people held this status in 1996, which represented 6.9% of the total foreign residents.

The number of non-Japanese people with C) status is much larger compared to that of A) status. In 1996, the largest group in the C) status are "Permanent Residents," which amounts to 626,040 people and 44.2% of the total foreign residents. The remainder, 789,096 non-Japanese, are classified as having non-permanent resident status. "Spouse or Child of Japanese Resident" and "Long Term Resident," respectively represent 18.3% and 12.2% of the total residents.

98.2% of the total permanent residents and 56.4% of non-permanent residents are of Asian origin. Most Asian permanent residents are "old comers." The new comers are voluntary immigrants who came after 1945, especially during the recent economic boom. In the non-permanent resident category, second to the Asian, the group of South American origin represents 31.3%. The increase in the South American origin population is due to the revision of immigration laws in 1991, which provide long term resident status in Japan for descendants of Japanese who formerly emigrated overseas. Most of them are provided with this long term resident status and allowed non-limited activities in Japan.

As for the people with no-limitation status, the decision to work or not depends on personal will and condition.

	1994		1995		1996	
Total	1,354,011	100.0	1,362,371	100.0	1,415,136	100.0
Occupation						
Craft & Manufacturing Workers	160,168	11.8	170,170	12.5	190,071	13.4
Clerical & Related Workers	86,322	6.4	88,507	6.5	91,414	6.5
Service Workers	53,229	3.9	39,833	2.9	43,552	3.1
Sales Workers	41,557	3.1	41,508	3.0	41,673	2.9
Managers & Officials	26,211	1.9	26,840	2.0	27,526	1.9
Educational Workers	22,925	1.7	23,215	1.7	24,162	1.7
Others	77,418	5.7	72,358	5.3	75,652	5.3
Unemployed & Unknown	886,181	65.4	899,940	66.1	921,086	65.1

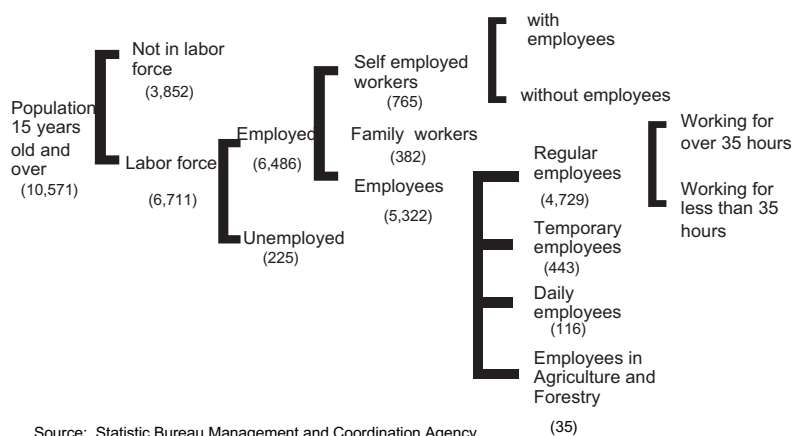
Source: Japan Immigrant Association (1997: 24)

Table 6 Numbers of Foreign Residents by Occupation (persons, %)

Since their working situation is unclear, the size of foreign labor force cannot easily be estimated. Recent statistics have started to analyze the professions of foreign residents, and show trend that the number of working foreign residents is growing (see Table 6). But there are still insufficient points, like the high rate of people who are falling into "unemployed and unknown."

Occupational/Demographic Distributions

The total labor force situation in 1996 is given at Figure 3.



Source: Statistic Bureau Management and Coordination Agency

Figure 3 Composition of Labor Force in 1996 (in 10,000)

Among the employed, the employee ratio is increasing, and the self-employed and family workers ratios are decreasing yearly. In 1981, the ratio of self-employed workers, family workers, and employees was respectively 16.9%, 10.6%, and 72.3%, while in 1996 it changed respectively to 11.8%, 5.9%, and 82.1% (Statistic Bureau Management and Coordination Agency 1997: 8-9).

Along with the changes in the economic structure, the ratio of occupations in the primary industry and secondary industry is decreasing, and the ratio of occupations in the tertiary industry is increasing (see Table 7). Furthermore, by looking at employees by the scale of enterprises, it can be seen that the number of employees working for large enterprises with 1,000 people or more is less than 20% of the total of people employed. The number of employees working for enterprises with less than 100 people represents about half the total people employed.

Industries	Total	Firm Size					
		1-4 Employees	5-29	30-99	100-499	500-999	1000 & over
Total	5,322 (100.0)	402 (7.6)	1,356 (25.5)	865 (16.3)	871 (16.4)	291 (5.5)	962 (18.1)
Primary Industry	39 (0.7)	9 (0.2)	13 (0.2)	4 (0.1)	2 (0.0)	1 (0.0)	0 (0.0)
Agriculture & Forestry	29	7	13	4	2	1	0
Fisheries	10	2	5	2	1	0	0
Secondary Industry	1,864 (35.0)	128 (2.4)	551 (10.4)	348 (6.5)	329 (6.2)	108 (2.0)	396 (7.4)
Mining	6	0	2	1	1	0	1
Construction	551	75	264	94	49	16	52
Manufacturing	1,307	53	285	253	279	92	343
Tertiary Industry	3,721 (69.9)	263 (4.9)	783 (14.7)	508 (9.5)	558 (10.5)	181 (3.4)	564 (10.6)
Electricity, Gas & Water	37	0	1	1	2	1	22
Transport & Communication	389	6	62	72	73	22	108
Wholesale & Retail Trade, Eating & Drinking Places	1,160	136	373	186	201	71	185
Finance, Insurance & Real Estate	239	19	23	16	31	17	128
Services	1,361	102	324	233	251	70	121
Government	535						

Source: Statistics Bureau.

Table 7 Number of Employees by Firm Size and Industries (in 10,000 persons, %)

Non-regular Employees

In 1996, there were 47.45 million regular employees, 4.48 million temporary employees, and 1.2 million daily employees. In Japan, the general meaning of the term “non-regular” employee includes contract employees and part-timers, in addition to temporary and daily employees.

	Total Workforce	Male	Female
1989	13.1	5.9	25.2
1990	15.2	7.5	27.9
1991	16.3	8.3	29.3
1992	17.3	8.9	30.7
1993	18.2	9.8	31.8
1994	18.8	10.2	32.5
1995	17.4	8.4	31.6
1996	19.4	10.2	34.0

Source: Statistics Bureau.

Table 8 Proportion of Short Time Employment

Ordinarily, international statistics such as that of OECD, define part-timers as short time workers who work less than 35 hours per week. In 1996, the number of Japanese people belonging to this group was 3.24 million men, and 6.92 million women. The rate for total non-agricultural employees is 34% for women, and 10.2% for men. There is an increasing trend in the proportion of these short-time employees, especially for women.

Whether the number of employees that work less than 35 hours a week accurately reflects the part-timers existing in actual labor markets, is another problem. In Japan, there are many non-regular employees who are hired on regular basis, work over 35 hours a week, but are called “part-timers” since they are different from regular employees in terms of labor agreements and compensation package. Based on a 1995 survey by the Ministry of Labor, about 1/3 of the people who are called “part-timers” at the workplace, are working more than 35 hours a week (Ministry of Labor, Minister’s Secretariat. 1997c). Due to this, a law regulating the condition of part-timers, which defines part-timers as those who work shorter hours than regular employees, is planned to be extended to cover the part-time labor force that works more than 35 hours a week.

Government Policies

Labour Policy and its Legislative Foundation

According to the Constitution, the Japanese government has two major duties to the nation: to avoid unemployment or promote employment, and to secure working conditions. Since the oil crisis in the early 1970s, the Ministry of Labour and related public institutions have aimed at full employment and promoted policies to actively intervene and take positive actions in the labour market. Japanese labor policy involves regulations and positive actions to encourage companies to secure employment and develop human resources, based on their long-term and stable employment practices (Suwa 1995:12). In this context, some parts of the “Japanese HRM system”, featuring long-term and stable employment as well as in-house development of a wide range of skills, have been supported by government policy.

A typical example is found in the government's program mainly financed through an unemployment insurance fund. Besides providing unemployment allowances, the government offers three types of employment promotion services. One of them is financial support to firms suffering from structural recession of the industry. Under the scheme the government provides financial support or subsidies to companies that do not dismiss workers or retrain their workers for internal and inter-corporate transfers as the means of adjusting employment.

In line with legal requirements, the government adopts policy targets in the Employment Action Plans which take the present labor market conditions into consideration. The Eighth Basic Employment Action Plan, which covers fiscal years from 1995 to 2000, is now being carried out with reference to coping with the recent changes in the labor market. The new policy targets of note in the current plan are actions toward older workers, especially raising the mandatory retirement age and job placement for them, and also the deregulation of employment placement services to provide improved job opportunities and information for those who wish to change their occupation.

Skills Development Policies

Most large companies in Japan recruit new graduates and develop their skills and abilities through various in-house training programs starting with those for new employees. The government's vocational training programs serve as supplements to the companies' programs, or as training opportunities for workers who can not enjoy in-house programs such as those in medium and small-sized enterprises, and unemployed and retired workers.

Of particular note is the government's significant efforts in supporting enterprises to re-develop the job ability of their own employees. To avoid dismissal even under the recession, Japanese companies transfer their employees to other positions by changing their duties, and thereby secure flexibility of their internal labor force. Part of the cost of this kind of employment system is subsidized by the government out of the employment insurance fund. When a company employs older workers and gives them appropriate training, similar supports are provided to the company. The government is also seeking to introduce measures to meet requirement of job transfer through the external labor market. For example, in order to settle the issue that company specific skills of white-collar workers are difficult to evaluate when they work in other companies, the government is making efforts to establish and promote a public competency grade system to scale their competences.

Employment Law

Overview

Written laws in Japan can be viewed as a hierarchy. The Constitution dominates the hierarchy, followed by statute laws enacted by the Diet, Cabinet orders and ministerial ordinances (Oda 1992: 36-37). In the field of employment law, several labor-related statutes have been established based on the rights of individuals or workers, which are guaranteed in the Constitution. Employment laws are influenced by ratified international conventions such as those of the ILO. In addition, laws are also influenced by the civil code when validity or propriety of a contract is argued. Ministerial ordinances, written notices and other rules enacted by government and administration organs, provide clear frameworks and specific conditions such

as practical and numerical standards. This is most frequently observed in the labor protection laws. In the process of establishing a new law, the government usually organizes a representative committee and listens to stakeholders' opinions on its introduction or amendment. Therefore, though the general direction guiding each labor related law is designed under the influence of the private sector and the labor movement, detailed conditions are set by the administrative authority based on its legal understanding (Sugeno 1992: 70-71). Labor contracts and work rules, which are agreed upon by labor and management, are regarded as the standards by which to settle conflicts in the field of employment law.

Sources of Employment Law

Table 9 shows how the Constitution influences the government's administration and other more practical and specialized laws. First, Article 25 of the constitution guarantees "the right to maintain the minimum standards of wholesome and cultured living", which is generally called "the right to live". This article is not a direct source of statute labor law, but is considered to be one of labor-related laws because it guarantees "the right and duty to work," which are prescribed in Article 27 and 28. The laws derived from Clause 1, Article 27 are generally called the laws of the labor market. They form the basis of Japan's active labor market policy. The laws, called Labor Protective Laws, which are derived from Clauses 2 and 3, Article 27, include the Labor Standards Law, and regulation of individual employment relationships.

Constitutional Provision	Related Policy Requirements	Actual Labor Laws Derived
The right to maintain the minimum standards of wholesome and cultured living (article 25 paragraph 2)	An active political role for securing to people lives worthy of human beings	
The right to work (article 27 paragraph 1)	To intervene in the labour market so as to enable workers to obtain employment consistent with their occupational ability	Employment Security Law (1947) Employment Measures Law (1966) Vocational Ability Development Promotion Law (1960) Disabled persons Employment Promotion Law (1960) Law Concerning Stabilization of Employment of Older Persons (1971)
	To guarantee the livelihood of those workers who do not have an opportunity to obtain such employment	Employment Insurance Law (1974)
The obligation to work (article 27 paragraph 1)	No obligation to countenance those who do not work despite their ability	Employment Insurance Law (1974)
Establishment of Labor Standards (article 27 paragraph 2)	To establish by legislation the standards for wages, hours, rest and other working conditions	Labour Standards Law (1947) Minimum Wage Law (1959) Security of Wage Payment Law (1975) Industrial Safety and Health Law (1972) Pneumoconiosis Law (1960) Workers' Accident Compensation Insurance Law (1947) Seafarers' Law (1947)
Prohibiting the Exploitation of Children (article 27 paragraph 3)	To devise measures to prevent the exploitation of children	Labor Standards Law (1947) Child Welfare Law (1947)
The right of workers to organize and to bargain and act collectively (article 28)	To provide legal basis for industrial autonomy through pivotal collective bargaining device	Trade Union Law (1949) Labor Relations Adjustment Law (1946)

Source: Sugeno (1992)

Table 9 Sources of Employment Law: Constitutional Provisions and Labor Laws

Collective labor relations laws are derived from Article 28 and regulate union activities. The characteristics of the labor market have been much changed from those of 50 years ago when the Constitution was established. Workers' characteristics have also changed. Therefore, some specific laws to cover workers, for example part-time workers and female workers, have been newly adopted. However, the basic rights of such workers are also regulated by older employment laws (labor market, individual worker protection and labor union); new laws are formulated to cover any inadequacy.

Individual Employment Contracts

Labor Protective Laws

The Labor Standards Law (LSL) is the most important law that protects workers and is applied to any establishment or employer that employs one or more worker(s). LSL regulates basic labor conditions, such as a labourers' charter, wages, work hours, holidays and work rules, and sets minimum labor conditions. LSL also prescribes the role and authority of Labor Standards Management Bureau and Prefectural Labor Standards Offices, and regulates administrative functions and government services in order to secure proper working conditions. Independent laws regarding discrimination by sex, minimum pay and safety have been established respectively to supplement LSL.

Preserving Working Conditions and Work Rules

The Labor Standards Law (LSL) manifests the following principles in order to secure working conditions. It is important to secure working conditions in employment and the conditions should be decided by the employer and labor on an equal footing (Art. 2), and the conditions have to be made known to the employees. The conditions prescribed in LSL indicate the minimum standards, thus efforts to set the better conditions than the prescription in LSL should be made (Art. 1). For that purpose, establishments with ten or more employees are requested to establish work rules (Art. 89) and to make them known to every employee (Art. 106). Different from the labor contracts, work rules can be set by employers. However, an employer is requested to ask for the opinions of the labor union or the representative of employees in the process of establishing or modifying the rules, and also to report rules to a local Labor Standards Office. The work rules must cover work hours, payment, and rules concerning retirement or termination of labor contracts. In addition, if training, reward and punishment, safety and health, or special monetary rewards including bonus are fixed as rules, these also need to be included in work rules. If the conditions in work rules are inferior to those of labor contracts, then the labor contract will have precedence.

Labor Contracts

The rights and duties concerning labor contracts are basically guaranteed by civil codes. Practical procedures for employment or dismissal are mainly regulated by LSL and civil codes. It is well known that employment in Japan is based on a long-term stable employment system, or so-called "life-time employment" system. Under this type of employment contract, workers are employed without fixing the employment period. LSL admits only the following three types of employment period: 1) without fixed employment period, 2) for a fixed period necessary to complete duties and 3) for fixed period not less than one year. For any type of contract, the place of work, duties and other conditions described in work rules should be specified. Under the Japanese practice of long-term stable employment, dismissal of employees is severely restricted by case law. Therefore, employers are very careful in making contracts without

fixing the employment period. Taking this fact into account, case law allows employers to have the freedom to hire. In order to enforce this freedom, employers are provided with freedom to examine a candidate to the extent that would not be a discriminative action and would not violate basic human rights to live, and further, freedom not to hire the candidate based on the result of examinations.

Dismissal

The civil code entitles employers and employees the freedom to dissolve the labor contract. However, from a humanitarian point of view, LSL prohibits an employer from dismissing a woman during a period of rest before and after childbirth and 30 days thereafter and also a worker during a period of rest for medical treatment with respect to injuries or illnesses resulting from employment and 30 days thereafter (Art. 19). In the event that an employer wishes to dismiss a worker without fixed period of employment contract, he/she must provide at least 30 days advance notice or otherwise is required to pay the average wage for a period of not less than 30 days (Art. 20). The same rule is applied even to workers with fixed period of employment terms, if the contract is repeatedly renewed (Art. 21).

Since long-term and stable employment is generally accepted in Japanese society, the issue of dismissal has been argued particularly with reference to workers employed for an indefinite period. Whether a dismissal is admissible or not depends on juridical decisions, which are called the Doctrine of Abuse Dismissal by Case Law (see Table 10).

The contents of the doctrine are categorized into two types; ordinary dismissal and adjustment dismissal. Either type requires reasonable grounds for dismissal shown in the table. If an employee is dismissed without these reasonable grounds, the dismissal will be judged as invalid. The employee should continue to be employed and be given the right to claim compensation for loss during the dismissal proceedings. Dismissal made by business necessity includes case law for workforce adjustment under the recession. Adjustment dismissal also requires reasonable grounds. Even when workforce reduction seems to be inevitable to manage the company, dismissal cannot be done before taking general steps including staff transfer, loaning workers to other companies (*Shukko*), temporary layoff, to the final stage of offering voluntary retirement plan. Even after these steps, the company can not execute dismissal unless it sets subjective and rational criteria to choose candidates, and goes through the process of forming management-labor agreement described in work rules and labor contracts (Sugeno 1992: 401-410). For this reason, adjustment dismissal is rare in Japanese companies where a well-organized labor union is present.

Requirements of Reasonable Grounds for Dismissal	Examples of Basis for Judgement
Ordinary dismissal	
1 Worker's incompetence, the worker's lack or loss of the skills of qualification required for performance of the worker's job	<ul style="list-style-type: none"> • Loss of occupational ability resulting from an injury or sickness or a disability following its medical treatment • Exceptionally unsatisfactory job-performance rating • A prolonged absence due to other personal reasons • A loss of confidence resulting from a worker's serious misrepresentation concerning his or her past
2 Worker's engagement in an act that violates a disciplinary rule (serious disciplinary matters)	<ul style="list-style-type: none"> • Falsification of one's past record • Neglecting one's duties • Violation of job-related orders, workplace discipline, of rules and duties associated with an employee's status • Misconduct in one's private life • Dual jobs (if prohibited by work rules) • Violation of the duty of faithfulness
3 Business necessity	<ul style="list-style-type: none"> • An employer's elimination of a job as a result of rationalization coupled with the impossibility of transferring the worker to other jobs, and adjustment of the number of employees required by business downturn
4 A union demand for dismissing a worker based on a union-shop agreement	
Adjustment dismissal	
1 A need to reduce the number of employees	<ul style="list-style-type: none"> • The personnel reduction measures is sufficiently based on a business slump or measures are unavoidable
2 A need to take the measure of adjustment dismissals	<ul style="list-style-type: none"> • Sufficient endeavour to avoid dismissals, such as transfers, farming out of workers to other companies, temporary layoffs, the solicitation of retirement requests, and the like, should be made by employer before taking measures of adjustment dismissals
3 Adequacy of the selection of the person or persons to be dismissed	<ul style="list-style-type: none"> • The employer must establish reasonable standards and apply them fairly when selecting people to be dismissed
4 Adequacy of the procedures	<ul style="list-style-type: none"> • The employer must consult with the union or obtain its approval according to the regulation stated in the collective agreements.

Source: Sugeno (1992)

Table 10 The Doctrine of Abuse Dismissal by Case Law

Sex Discrimination

The Labor Standard Law (LSL) prohibits discrimination in wages, work hours and other labor conditions because of nationality, creed or social status (Art. 3). The LSL prohibits discrimination against female workers in wages (Art. 4). However, the law does not refer to discrimination in other conditions. In fact, the law contains protective provisions for female workers and prohibits women's night work, and draws a set of duties for which female workers should not be employed. The protective provisions for female workers such as restriction of night work, overtime and work on holidays prescribed in LSL are scheduled to be removed in April 1999, because these provisions narrow the fields for women to work ([Japan Labor Bulletin](#) 1997).

Until 1985, it was common among companies to hire male and female regular employees for different job categories. Male workers were treated as future executives candidates while female workers were assigned to routine work. Intentional and apparent discrimination against female workers, for example, an exclusive rule for them to retire on marriage as well as having a lower retirement age, have been considered to be illegal in civil codes. In case law however, management discrimination by type of workers or job categories are allowed unless it is against work rules and labor contracts. This labor practice tends to place more restrictions on working conditions for positions mostly taken by female workers. Furthermore, this practice erodes

women's status in general, supporting a division of work by gender. As a result, this often causes discrimination by sex when a woman is employed in a position which requires the same qualifications as male worker. In order to improve such a situation, the Equal Employment Opportunity Law (EEOL), which was established in 1986, provides equality in opportunities concerning recruitment, payment, promotion, training, between male and female workers of the same job category, for the sole reason of gender. Under present regulation, even though the management discrimination by type of workers or job categories is not against the law, job advertisement directed at only male or female workers is regarded as illegal.

Enforcement for Preserving Working Conditions

Violation of the LSL calls for a penalty (maximum 3 million yen) or imprisonment (10 years maximum). The degree of penalty is fixed in accordance with the type of violence. The LSL defines employers as "the owner or manager of the enterprise or any other person who acts on behalf of the enterprise" (Art. 10). Thus, a penalty can be imposed upon the manager in charge as well as the employer. When an employer comes to know a manager's intention to violate laws, and takes actions to avoid violations in advance, the employer will not be accused. However, if an employer fails to take sufficient action or allows the manager violate the law, he/she is also accused. In order to secure labor conditions, employers have the following duties: duties to make the law and rules known to employees, to prepare a roster of workers and a wage ledger, to preserve records, and to appear and report to the Labor Standards Management Bureau. The last means that an employer has a duty to appear and report about working conditions and other matters at the request of the Labor Standards Management Bureau. For example, an employer has an obligation to report the work rules to Labor Standards Management Bureau (Art. 89), and the Bureau has a right to order amendment, if the rules are illegal or not in accordance with labor contracts (Clause 2, Article 92). In other words, an employer has a legal duty of labor administration, and the government administration is authorized to have the right to investigate and advise, as well as to supervise employers.

Enforcement Against Discrimination

EEOL was originally designed to improve women's social status and labor practices currently applying to women, rather than to impose penalties on offenders. The law did not have penalty regulations, but just encouraged employers to provide equal treatment. However, penal regulations were introduced in a 1997 revision and will be enacted from 1999. After enactment, if a company violates the law, its name will be made public by the Minister of Labor as a penalty. In addition, under the revised law, a mediation committee by appointment of the Minister of Labor can be convened upon a claim from either the employer or the female employee. Before this revision, the committee was held only in response to claims by both parties.

Collective Employment Law

Definition of Labor Union and Employee Protection

The laws which regulate collective employment relations in Japan are the Trade Union Law (TUL) and Labor Relations Adjustment Law (LRAL). The TUL aims to elevate the status of workers by promoting their equal standing with their employers in bargaining. For that purpose, first of all, employees are entitled to the right to designate their representatives and to organize an autonomous union for collective action. The law supports their association and exempts liability from civil and criminal laws which may result from their activities. Additional

protection of union rights comes from the specification of unfair labour practices. Unions are able to approach a Labour Commission for remedy in the event of unfair practices.

Unions entitled these rights are those formed autonomously and predominantly by the workers for the main purpose of maintaining and improving conditions of work and raising the economic status of the workers. These unions must not come under the following categories (Art. 2): (1) admit membership workers at the supervisory post and other persons who represent the interest of the employer or the owner; (2) receive the employer's financial support in defraying the organization's financial expenses; (3) objectives are confined to mutual-aid work or other welfare work; or (4) principally aim at engaging in political or social activities (Sugeno 1992 :423). Although it is not prohibited for those included in the above categories to form organizations, they cannot receive the full range of assistance from the Labor Commission nor access rights such as exemption from responsibility provided for under the Trade Union Law.

Collective Bargaining and the Labor Contract

Collective bargaining is an important opportunity for labor and management to form mutual agreements and rules. The issues negotiated in collective bargaining include terms and conditions of employment, personnel matters, subjects concerning management and production, and the management of collective bargaining. In Japan, employers are required to engage in collective bargaining but do not have to reach an agreement with the union. Therefore, if the two parties cannot agree with each other, labor disputes arise which may be referred to the Labor Commission. If there is more than one union in a company, the employer must engage in collective bargaining with those unions in accordance with the discipline of "plural representation" (Sugeno 1992: 471-472). Labor contracts made in collective bargaining precede work rules. When the number of union members exceeds 75 percent of the total number of regular employees in the company, the union's labor contracts are applied to the rest of the employees.

Company Unions and Union Closed Shop

The most common type of labor union in Japan is the in-house union. The Trade Union Law does not restrict in-house unions, since they are autonomous as long as the union's independence from employers and unions' democracy are secured, and employers fulfil the duty of collective bargaining (Sugeno 1994: 417). In-house unions are often operated on a closed shop membership basis. On conclusion of a union closed shop clause, employers theoretically have to dismiss any worker who does not subsequently join the union or who leaves it after joining. However, whether such dismissal is executed or not depends on the rules of the closed shop. Closed shop clauses in Japan often do not refer to dismissal of non-union members or what should be done when a union member leaves the union, or sometimes adopt various conditions to exempt dismissal. It is said that a large number of Japanese unions have these rules; thus in general, even when a member leaves the union, he/she does not necessarily have to be dismissed (Ministry of Labor, Policy Planning Bureau 1997: 306).

Enforcement: Labor Commission

In addition to the direct efforts of labor and management, the Courts and the Labor Commission are engaged in settling labor disputes. First of all, both labor and management must make appropriate efforts to avoid a dispute or to settle the dispute by themselves (LRAL Art. 2). When the two parties fail to settle the issue, they can ask for support or an order from the Labor Commission, or can seek arbitration. There are two categories of Labor Commissions:

Central Labor Commissions and Local Labor Commissions. The authorities and functions of each type of Commissions are shown in Figure 4.

The Labor Commission consists of representatives of labor and management as well as members to represent the public interest. The Central Commission members representing labor and management are nominated by each party, and then appointed by the Prime Minister. The other members are appointed by the Prime Minister upon an agreement of labor and management. In the cases of Local Commissions, each prefectural executives appoints the members. Members representing the public interest play the most important role in the Commission. The head of the commission is elected from them. In the Central Commission, there are equal numbers of representatives of each party. In Local Commissions, the majority of commission members have to be the members representing public interest. Moreover, these members representing public interest exclusively examine a labor union's qualifications and judge unfair practices.

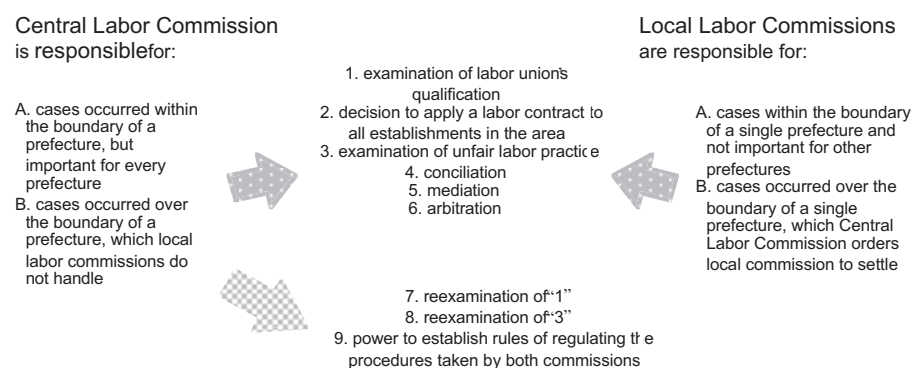


Figure 4 Power of Central and Local Labor Commissions

If the Labor Commission finds these to be unfair practices, it can order remedial actions. If either labor or management is dissatisfied with the decision, the party can claim for re-examination of the practice or refer the matter to a local judicial office. However, if either party offends the judicial order, the party will be imprisoned or fined (TUL, Art. 28). Upon the request of either labor or management to settle a labor dispute such as strike, sabotage and lock-out, the Labor Commission takes actions of conciliation, mediation, or arbitration. Above all actions, arbitration, by which the third party decides labor conditions, has the same binding effect as a labor contract; however, it is seldom used in practice.

Recruitment and Selection

Overview

When there are job openings, Japanese enterprises tend to hire very few people in mid-career from outside, but often redeploy employees to the vacant position. Therefore, greater attention has been paid to recruitment at the earlier stage of the personal career and retirement from the internal labor market. Almost all Japanese enterprises use the mandatory retirement system; the workers automatically leave their enterprise on that fiscal year end (March) when they reach the defined age of about 60 years old. Based on the estimated number of people that will retire and separate, recruiting activities for new recruits start a year earlier. All recruited new

graduates (from schools, colleges or universities) start work at the beginning of the next fiscal year (April). Following this process, enterprises hire new graduates without clarifying a specific job to be assigned to them. Therefore, through the recruitment selection process of new graduates, the candidates' potentiality or trainability is better appreciated than their specialized but limited knowledge and skill for one job. This is the general pattern of employment supply from the external labor market for Japanese enterprises. The above practice is most commonly seen in large enterprises that have been long established. However, small and medium size enterprises and enterprises that achieved rapid growth do hire people from outside who are in mid-career. Recently, large enterprises have also started to hire outside mid-career employees with excellent abilities.

Table 11 presents the number of new employees in 1995. Among the employees who were hired in 1995, 57.6% were people who changed occupation, and 42.4% were people who did not have an occupation before. The percentage of new graduates hired amounts only to about 20% for all industries. The larger the size of the enterprise the larger the percentage of new graduates hired. For enterprises with more than 1000 employees, one out of four people hired is a new graduate, whereas for enterprises with 5 to 29 employees, only one out of eight is a new graduate. Statistically the percentage of the new graduates hired is not very high. But as the recruitment of new graduates occurs once a year, for the students who get hired and for the enterprises that are hiring, it is one of the most important events of the year.

Company Size (No. of Employees)	Total	Those Who Did Not Have a Job							Thousands people (%)	
									Changing Their Occupation	
		Sub-total	New Graduates					Others		
			sub total	junior high	high school	junior college	university			
Total	5,179.1 (100.0)	2,198.4 (42.4)	1,043.9	27.2	407.7	284.4	324.7	1,154.6	2,980.6	(57.6)
1000 over	807.4 (100.0)	449.4 (55.7)	220.9	2.6	79.2	95.4	95.4	228.6	358.0	(44.3)
300-999	546.0 (100.0)	291.4 (53.4)	192.8	0.3	49.8	80.9	80.9	98.6	254.6	(46.6)
100-299	814.8 (100.0)	412.2 (50.6)	221.2	1.8	92.9	61.8	61.8	191.0	402.6	(49.4)
30-99	1,172.5 (100.0)	464.0 (39.6)	176.4	3.4	90.8	38.1	38.1	287.6	708.5	(60.4)
5-29	1,706.2 (100.0)	527.6 (30.9)	209.2	18.9	91.2	39.6	39.6	318.4	1,178.6	(69.1)

Source: Ministry of Labor

Table 11 Number of New Employees in 1995

Sources of Recruitment

Internal Recruitment

The general method for internal recruitment in Japanese enterprises is the personnel transfer. As mentioned in the section on employment law, while the employers' right to dismiss is severely restricted, the right to place or transfer employees is very strong. The company can order employees to change workplace and job content without this being seen as infringing the employee's rights. If transfers are provided for by the enterprise agreement and company regulations (and it is actually mentioned in most instances), the refusal of an employee to comply with a transfer is seen as a breach of management's prerogative, and can be a cause for dismissal.

Personnel reassignment has an educational function as it allows employees to learn a wide range of business knowledge and skills. At the same time, it is used to adjust internal labor shortages and surpluses. This type of education is company specific, but it produces managers with a wide range knowledge and skills, who are able to adapt to different business situations,

and for these reasons it has been regarded as a very important human resource development practice.

The method of *shukko* is similar to an internal reassignment that does not use external labor markets. "*Shukko*" is where employees transfer to other companies without changing the contract relationship between employees and original employers. This practice is often seen in companies belonging to corporate groups, or among firms with a deep business relationship. According to Nagano (1997: 127-130), there are four main reasons for large enterprises to have inter-corporate personnel deployment: to strengthen corporate group integration through human resource exchange; to reinforce relationships with subsidiaries; to sideline surplus manpower; and to train and educate the employees in other corporate circumstances. On the receiving side, the build up of a trust relationship between enterprises, and the difficulty, especially for small and medium size enterprises, to have access to excellent employees, is a reason to accept these employees from the large corporations.

External Recruitment and Agencies

The most common external recruitment method is to hire new graduates at the beginning of each fiscal year (April). New graduates usually start their job search and decide on their potential future employer while in school, college, university or high school, before graduation. Therefore, when they are searching for jobs, the educational institution performs an important role. The institution's occupational guidance office advertises enterprises' job offers and supports student employment search activities. For people changing jobs and part-timers, national placement agencies, private placement agencies, job advertisements, and personal introduction are the main ways to look for employment.

Since the public employment office also deals with unemployment insurance benefits, it registers people who are out of work, and it provides them with employment seeking services. However, the people who actually change jobs through the public employment office tend to be unskilled workers and blue-collar workers. To address the current inadequacy of the public employment office, the government is taking several measures; chief among these is the deregulation of placement services entailing the expansion of approved fee-charging placement agencies and the relaxation of restrictions for manpower supply agencies. Many placement agencies that work for a fee, do not only match employees and employers, but they will also engage in scouting, consulting, and training that will be necessary to handle the new occupation. These companies, which are called "manpower businesses," are starting to form a new industry (Terai 1997: 169-171).

Public placement offices and private placement services, while handling different customers, are supposed to coexist (Sano 1997: 41). Many of private placement agencies are scouting excellent employees still working for some other companies in order to meet the enterprises' needs, and they usually concentrate on large cities where there are most opportunities. On the other hand, public placement offices have branches all over the country, have access to large records of unemployed or separated people, and lastly, their services are free.

Methods of Recruitment

People who do not use the above-mentioned agencies tend to use employment information magazines, newspapers advertisements and individual introductions. According to a 1994 survey on workers who changed their job, the job-hopping paths thought most useful by the white-collar respondents were personal connections, headhunting, private placement agencies,

employment information magazines or newspapers advertisements. Public placement institutions were not really considered (the Japanese Trade Union Confederation 1995: 157). Moreover, most employment information magazines are targeting users' needs like part-timers (including students), technicians, labourers, women, etc. Several sorts of newspapers like tabloids, standard newspapers, business newspapers, also publish job advertisements that meet the social situation of the readers. According to the Association of Job Journals of Japan, in 1997 2.5 million job advertisements were run in the 80 of papers and journals published by its 30 member companies (Association of Job Journals of Japan, 1998).

Recruitment Law

Since the Japanese Constitution regulates the right to work, related to this right, special laws such as the Employment Measures Law (EML) and the Employment Security Law (ESL) have been enacted. In order to promote employment security, and balance both quality and quantity between demand and supply, the Employment Measures Law provides for: (1) increasing vocational guidance and placement services; (2) fostering undertakings for skills training and skills testing; (3) assisting workers in changing jobs, in movement between regions, and in occupational adjustment and the like; and (4) aiding workers who have been mandatorily retired and are seeking other employment (Sugeno 1992: 38). In addition, as mentioned above, there has been the deregulation of placement services to make the labor market in Japan more flexible.

Shortage and Surpluses

With unemployment rates increasing, employees facing difficulties are older people, new female graduates, and large city area white-collar workers.

Region

Until the mid 1980s, the unemployment rate in rural areas was high. However, in the current recession, the employment situation in large cities areas is becoming worse than in local areas. One reason is that the industries that have been badly affected by the recession are located in large cities areas. Another reason is that manufacturing plants that are dispersed in rural areas, had already rationalized their workforces to the limit in former recessions. Large city areas' enterprises hit by this current recession have started the rationalization of their office white-collar workers and managers. As a result, the labor population which concentrated in large cities areas, and was sometimes seen as a problem in Japan, is now the moving back to rural areas (Ministry of Labor, Employment Security Bureau 1997).

Older Workers

As noted in the Labor Market section, the proportion of older workers in the labor force is increasing, but the demand for these workers is decreasing. Further, due to the difficult economic situation, the age at which the labor demand declines is getting lower (Ministry of Labor, Minister's Secretariat. 1997b).

Gender and Work Organization

It is not necessarily more difficult for a woman to find an employment than for a man. Generally, during recession, Japanese enterprises tend to decrease the number of expensive full-time employees, and recruit part-timers. In 1995, among regular workers, the accession rate of male and female full-time workers and male part-time workers fell below the separation rate, while only the employment rate of female part-time workers surpassed the separation rate by 1.3 percentage points (Ministry of Labor, Minister's Secretariat. 1997B). When comparing

female and male new graduates holding similar degrees, it is more difficult for female new graduates to find employment; and conditions are getting relatively worse. Up to the 1980s, it was common that female new graduates would be hired for full-time clerical positions. Then, due to the progression of office automation, the recruitment of women for full-time clerical positions was frozen, or drastically downsized in enterprises, and the labor market for female full-time workers has been falling. In 1985, after the enactment of EEOL, due to the prohibition of hiring only males for “non-clerical white collar” occupations, the number of women applying for this kind of occupation has been growing. However, there are still enterprises that do not like to hire female workers, and tend to give favourable treatment to males. In the actual selection process, the cases of women being harassed and discriminated against are diminishing; nevertheless, between April and October 1997, the number of reported cases amounted to 8,355 (Ministry of Labor Women Policy Section 1997).

Recruitment of Foreign National/Immigrant Workers

General Conditions and Legal Framework

As mentioned in the Labor Market Section, in order for foreigners to work in Japan, they must either hold a non-limited activities visa or they need to possess a working visa. Types of recognized working-permit visas (by occupation) and the number of residents falling under these are given at Table 12. The present form of the resident status that allows employment was completed in 1991 following revision of the Immigration Law. Since the 1980s, Japanese enterprises have become actively involved in international business and have needed to hire foreign business persons and researchers in Japanese headquarters. In addition, due to the increase of foreign enterprises having subsidiaries and offices operating in Japan, new permits such as “intra-company transferees,” “specialists in humanities/international services,” and “engineers,” have been newly established or expanded. At the same time, foreigners of Japanese descent were recognized as long-term residents, and obtained non-limited activities resident status. There is also another permit called “trainee,” which allows its holders to go through technical training at private firms with training facilities. But the holders of this permit are prohibited to be treated as a wage worker.

	1993	1994	1995	1996
Total	95,376	105,616	87,996	98,301
Specialists in Humanities & International Services	23,455	24,774	25,070	27,377
Entertainers	28,528	34,819	15,967	20,103
Engineers	9,222	10,119	9,882	11,052
Skilled Labourers	5,913	6,790	7,357	8,767
Instructors	6,195	6,752	7,155	7,514
Intra-company Transferees	5,718	5,841	5,901	5,941
Investors & Business Managers	4,429	4,548	4,649	5,014
Religious Activities	5,733	5,631	5,264	5,010
Professors	3,182	3,757	4,149	4,573
Researchers	1,477	1,697	1,711	2,019
Journalists	383	419	442	454
Artists	174	220	230	272
Medical Services	195	177	152	140
Legal & Accounting Services	72	72	67	65

Source: Ministry of Justice

**Table 12 Number of Foreign Residents by Working-Permit Visas
(by occupation)**

Recruitment of Foreign White-Collar Employees

For Japanese enterprises, the recruitment channels for foreign white-collar employees are mainly universities, Japanese enterprises' overseas subsidiaries, and personal contacts. The main occupations are language teaching, technological research and development, international business and overseas liaison, which are characterized by cultural background or knowledge, and language abilities. Whether the content of the contract is broad (similar to a Japanese one), depends on whether that foreigner is a contract employee, or if he/she is a regular employee similar to a Japanese. The choice between regular employee and contract employee, basically depends on personal request and the contents of the position for which one is responsible. Furthermore, foreign employees who graduate from Japanese universities tend to be regular employees since they get their employment through the same recruitment channel as the Japanese (Hosogaya 1998).

Recruitment of Immigrant Labourers

Foreigners working in factories and on construction sites, are employed as unskilled or semi-skilled workers; legally, they are required to hold a non-limited working permit, like foreigners of Japanese descent. After the collapse of the "bubble" economy in the early 1990s, mid and small size enterprises, where many of these workers were employed, got into difficulties. This led to the outbreak of diverse labor problems. In order for these workers to hold an appropriate permit, the Ministry of Labor provides employment placement services in foreign languages at several offices in many regions, and also have special placement center for Japanese descent foreigners in Tokyo and Osaka.

A relatively serious problem is the existence of illegal workers. They are the ones who enter the country without working permits, or they have a working permit but stay longer than actually allowed. Between 1993 and 1997, the yearly number of illegal residents was estimated at 300,000 people (Iguchi 1998:176). Apart from the case of foreigners already residing in Japan as students or as white-collar employees, there are many workers, though holding a valid permit, who came with the intention to work, using mediators or coordinators to negotiate with enterprises, ensure lodging, and deal with application documents. If these mediators and employers are found to exploit legal or illegal workers' vulnerability and deny them their rights, they are subject to penalty under labor laws.

Selection

When companies intend to recruit a mid-career employee for a job opening, evaluation of applicants' past experiences and skills or their professional knowledge through curricula vitae and job interviews is the most commonly used method in selecting applicants. However, selection for new graduates is made through a more carefully constructed and multifaceted procedure: companies usually not only scrutinize applicants' personal documents but also require them to take the company's own selection examination and attend a series of interviews. In general, the personal documents to be submitted by applicants include a curriculum vitae, a score report of their scholastic achievements, a medical examination report, letters of recommendation from their supervisors and various certificates issued by their schools. A company's selection examination is usually intended to assess applicants' potential which will contribute to company's benefit. This examination assesses the following abilities: common sense, native and foreign languages, mathematics, intelligence, personal characteristics and so on. In some case companies require applicants to write an essay on various issues in order to find their ability to analyze and argue as well as their suitability to the organizational culture.

Job interviews are conducted for each applicant individually or in small groups. At the very early stage of recruitment, interviewers tend to be younger staff and therefore persons in lower positions of the company. They are expected to reduce the number of applicants by eliminating interviewees the company would find undesirable. Every time applicants pass a selection step and go on to a subsequent interview, a more senior company person will become involved. At the final stage, it is often executives who will have the final interview with an applicant and decide whether to hire him/her or not. The form and content of personal documents, selection examinations and styles of interviews, however, are naturally different among various companies.

According to a recent survey, the above selection process is usually carried out over three months, April to June in the year prior to the applicants' graduation (Rosei Jiho Research Section 1998). In addition to this actual selection process, the educational background of the applicants is often considered as a good index to screen their potential. In Japan, universities form a sort of hierarchical order according to how difficult their entrance examinations are. (Students are believed to have been already selected by the level of their universities.) Therefore, some companies even decide ahead how many new graduates they will employ from each school on their own evaluations of Japanese universities. This custom, although being sometimes regarded as discrimination by a school's label, is still seen as a useful selection device.

Training and Development

Overview

Companies carry out the core part of human resource development. They tend to look for trainable students rather than students with specific knowledge, and place those newly recruited at the lower level of the job ladder, promoting them to higher positions after providing the necessary training. The public development program by the Ministry of Labor is derived from the situation of the total labor market. It considers the whole country's human resource development, and also prepares the programs for those who are not provided with in-house training. Local governments formulate their plans following the national program. The public training program is carried out either by the Employment Promotion Corporation and related educational organizations, which come under the Ministry of Labor, or by professional educational organizations operated by local governments.

Education System

Schools

Japanese schools and years of education are shown in Figure 5 below. There are national, prefectural, and private organizations at each level. The statistics on school, teachers and students at each level are summarized in Table 13. Except for universities and junior colleges, most students go to public schools. One characteristic of the Japanese education is the high enrolment ratio at every level of education. At present, elementary school and middle school are compulsory education; the actual enrolment ratio is close to 100%. Although high school does not fall into compulsory education, in 1996, out of the people who graduated from middle school, 95.6% went on to a higher level of education.

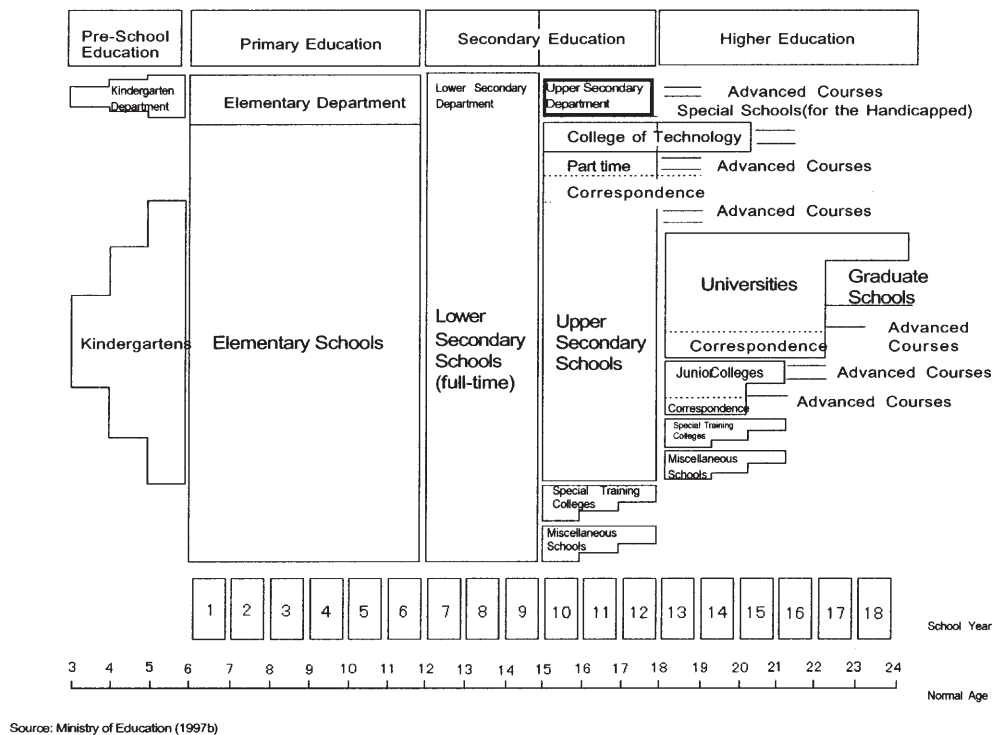


Figure 5 The School System in Japan

Higher General Education

In Japan, the ratio of people who go on to higher education is high. In 1996, among high school graduates, 41.9% of men and 24.6% of women went on to university, and 2.3% of men and 23.7% of women went on to junior college. The proportion of people going on to university continues to grow, while those going on to junior college is falling. The ratio of people going on to graduate school is also increasing; in 1996, among university graduates, 10.7% went on to graduate school. With today's rapid technological progress, it is becoming more common for science students to go on to graduate school (Ministry of Education 1997).

Vocational Education System

Vocational education is divided into specialized schools under the Ministry of Education's jurisdiction, and various vocational training under the Ministry of Labor and local governments' jurisdiction. The Ministry of Education specialized schools are mainly for people who graduated from high school, and their purpose is to provide vocational training in areas such as computers, engineering, secretarial and clerical work. On the other hand, the characteristic of the vocational training of the Ministry of Labor and local governments is to complement the enterprises' internal training. This governmental vocational education and its support focuses on small and medium size enterprises, and on middle aged and aged employees who have difficulties adapting to technological change.

Since the 1960s, the Ministry of Labor has offered basic skills programs for school graduates. In the beginning, this program targeted junior high school graduates. As the number of students who proceed to high school increased, the program target shifted to high school graduates. However, companies tended to place this new labor force to work immediately after graduation after providing them with a short period of in-house training. Thus, the importance of governmental training for younger new graduates has declined (Izumi 1985). Today's focus by the Ministry of Labor is on provision of training facilities and opportunities for middle

aged and aged people who separated from their job, for small and medium size enterprises' employees, and for the self employed. These purposes are fulfilled through establishment of public training centers, implementation of standard skills qualification exams, providing consultation concerning program content, and support funds for business owners carrying out vocational training. The vocational training support funds usually bear a part of the expense of business owners who provide training opportunities; funds are not directly granted to individuals. Currently, using employment insurance funds as a source of revenue, there are 13 grants available to companies to upgrade employees' skills. In 1996, the Ministry of Labor prepared vocational training programs for approximately 393,557 people; among them, 356,247 were people in work, 27,520 were new graduates, and 3,530 were the people with handicaps (Ministry of Labor 1997: 167-170). These numbers are small compared to the size of the labor market.

Job/Employment Training and Industry Training Systems

Most enterprises develop their human resources through in-house training. Based on a 1995 survey of 4,000 enterprises employing more than 30 people, in the previous year 86.2% of enterprises had some form of human resource development, and 4.5% had plans to implement it. Training is offered through enterprises providing on-the-job training (OJT) and off the job training (Off-JT) opportunities, and self-development support. The participation of employees in OJT and Off-JT is decided mainly by the superiors (69.3%), and by the personnel division (57.3%). Self-development is where employees are individually developing skills and knowledge necessary for their own job during non-working hours. In many cases (80.0%), enterprises (based on their own internal standards) support the partial cost for self development and help employees take time off for participating in programs (Ministry of Labor Human Resource Development Bureau, 1996).

The enterprises' internal education is divided into training by position, and technical skill/special knowledge training. The former is to provide all employees who get a new position with the business related knowledge, laws and human relations skills necessary for each position: from new employees to senior management. Generally such programs are conducted through Off-JT in groups within the enterprise. Besides lectures, Off-JT groups learn through case study, role playing, and discussions.

Item	Schools				Teachers (full-time)				Pupils or students enrolled			
	Total	National	Public	Private	Total	National	Public	Private	Total	National	Public	Private
Kindergartens	14,790	49	6,140	8,601	103,518	301	25,035	78,182	1,798,051	6,827	360,168	1,431,056
Elementary Schools	24,482	73	24,235	174	425,714	1,781	420,754	3,179	8,105,629	47,248	7,990,020	68,361
Lower Secondary Schools	11,269	78	10,537	654	270,972	1,683	257,488	11,801	4,527,400	34,423	4,255,168	237,809
Upper Secondary Schools	5,496	17	4,164	1,315	278,879	641	213,247	64,991	4,547,497	9,971	3,165,873	1,371,653
Schools for the Blind 1)	71	1	68	2	3,523	86	3,396	41	4,442	219	4,120	103
Schools for the Deaf 1)	107	1	105	1	4,830	88	4,709	33	6,999	294	6,646	59
Schools for the Handicapped except the Blind & the Deaf 1)	797	43	740	14	44,370	1,245	42,925	200	74,852	2,768	71,380	704
Technical Colleges 2)	62	54	5	3	4,345	3,790	387	168	56,396	49,171	4,521	2,704
Junior Colleges 2)3)	598	33	63	502	20,294	1,038	2,220	17,036	473,279	49,171	4,521	2,704
Universities 2)4)	576	98	53	425	139,608	58,258	8,509	72,841	2,596,667	610,219	87,878	1,898,570
Special Training Schools	3,512	148	223	3,141	36,830	786	2,624	33,420	799,551	18,241	36,278	745,032
Miscellaneous Schools	2,714	3	55	2,656	15,792	6	223	15,563	306,544	58	3,536	302,950

1) Data is based on the School Basic Survey, 1 May 1996

2) Figures for pupils or students enrolled include students enrolled in advanced courses etc.

3) Graduates refer to regular courses only.

4) Graduates refer to students of faculties only.

Source: Ministry of Education

Table 13 Statistics on Schools

Technical skills training is done in order to enhance the necessary skills and knowledge to accomplish each employee's task, and the ability to detect problems in order to make improvements. Depending on the purpose and the form that fits the number of trainees, one or more of the following methods are chosen: OJT, Off-JT by internal instructor, private educational providers, participation in university lectures, and self-development.

The primary form of training used in Japan has been OJT, and it is still considered important. It is common, especially for employees working in manufacturing and on production lines to start from simple jobs in one work group, to be taught skills OJT by senior employees, and be trained to be able to perform more difficult tasks. However, amongst the expanding white-collar job categories, the skills and knowledge required are changing rapidly. Among such skills and knowledge, training programs are often provided for: language abilities, computer literacy, necessary international business negotiation abilities, and knowledge concerning several different products and laws (see Table 14). As for these white-collar workers abilities, it is considered that OJT is not necessarily appropriate form of education (Ministry of Labor, Minister's Secretariat 1997e). Therefore, in addition to OJT, the importance to support Off-JT and self-development is growing.

Items for training	Answers from the Companies (n=385)				Answers from the Employees (n=1991)			
	Off-JT by position	Off-JT by function	OJT	Self development	Off-JT by position	Off-JT by function	OJT	Self development
Planning	36.4	48.3	55.6	43.1	23.2	47.8	47.8	38.4
Collection & Analysis of Information & Data	33.2	49.9	66.2	40.3	20.9	45.3	53.8	38.8
Coordination	43.6	15.6	67.5	17.1	33.1	16.6	63.4	18.4
Negotiations	38.2	32.7	76.1	22.6	27.8	25.7	67.4	22.4
Management, Leadership	80.3	17.7	61.3	28.8	65.5	16.9	46.6	29.9
Language Proficiency	6.2	28.1	15.3	83.1	7.6	20.9	15.9	83.5
Specialized Knowledge	15.1	69.1	59.5	66.0	9.8	58.8	47.4	59.6

Note: The numbers represent the ratio of respondents who answered that each method of training is effective for obtaining each skill and ability. The answer is given in the manner of M.A.

Source: Ministry of Labor, Minister's Secretariat (1997 d)

Table 14 Effective Method for Developing Skills & Abilities of White-Collar Employees (percent)

The cost of education and training activities differs by the way of calculation. Firstly, a monthly average expense for training and development is ¥1,305 per employee for all companies (see Table 15), and is ¥1,870 per employee for companies with 5,000 employees and over (Ministry of Labor, Minister's Secretariat, 1996). In a situation where most employees take part in OJT, it is not surprising that the cost is as small as this. On the other hand, the cost per person for a single group Off-JT program amounts to ¥32,000 (Nikkeiren, 1996). Furthermore, based on a different survey, an enterprise on average spends ¥61,869,047 per year for Off-JT, which also include the maintenance costs for the equipment necessary for training (Ministry of Labor, Minister's Secretariat, 1997e).

Management Development

The education of subordinates is one of the important duties of supervisors and managers, especially for middle management where the number of subordinates tends to be large. Thus, the ability to instruct is thought to be important. For this reason, supervisors have been strongly required to acquire leadership or management skills to help and encourage subordinates' learning as well as extensive knowledge on jobs in his/her department.

Due to recent rapid change in the business environment, top and senior management now require the ability to collect necessary information and to decide on the proper course of organizational action. Thus management development programs that emphasize specific functions such as strategic planning, vision construction, and decision making are highly valued. Reflecting this trend in programs, emphasis in training style and method are also considered to be changing. Management development programs in the near future are going to target a more limited number of people and the specific functions necessary for each trainee, especially when compared to the present programs which are prepared for larger numbers of people and carried out in groups about more general management topics (Sanno University Research Center 1996).

The above changes in training style and content are actually starting to be seen in management development activities through training by position. Fuji Xerox Learning Institute Inc. and JMA management center (1997) reported a new trend in management development seminars. Such seminars differs from the traditional training by managerial position in the following points: they target more limited and selected people, intend to train future executives, take a longer period and deal intensely with practical matters. Such courses often take some days in a week over a period of six to twelve months, focusing on actual problems in the management of participants' own companies utilizing case studies and/or simulation, and also reviewing latest management theories. Many companies also send their employees to graduate schools and on MBAs in order to provide them with the opportunity to deepen specialized knowledge and broaden personal exchange with people in related fields. However, the evolving in-house seminar will have greater salience for Japanese management development compared to corporate subsidized study provided only to a few people in any one year.

All the efforts to improve programs, including the above mentioned cases of Japanese companies, may well intend to make the programs more effective. How will the effectiveness or cost-performance of these training programs be measured in Japanese companies? Currently, there appears to be a lack of empirical evidence. In masking a number of human resource personnel, the effects of training programs are often explained in terms of enhanced competitiveness for the whole firms. In their view (HR personnel), participation in programs such as executive seminars or studies in graduate schools are not a guarantee of promotion, but are considered as one of the opportunities to develop skills and abilities. It is not common practice for private enterprise in Japan to decide on "fast trackers" according to educational background or training experiences in a specific field. Nor is it common to require the trainee to sign a bond or to promise to contribute the company in return for even for significant educational investment such as a transfer to overseas graduate programs. The return for investment in management development is often considered to be obtained in following manner: management development activities grow "good managers," which leads to good performance of managers' subordinates, and lastly to the whole firm's competitiveness. In this sense, the relation between development cost and personal performance is difficult to identify in Japanese

private enterprise. However, when firms require their managers not only to lead, but also to draft and execute strategy, managers are given feedback on their business results. Recently the “annual wage review” for senior managers (explained in the following section), has attracted increased attention by firms. Since the annual wage review is intended to link personal and corporate performance to the wage outcome, it is viewed as one form of feedback to managers about the contribution of their strategic decisions to the corporate business results. With this increased attention directed to the development of the manager’s strategic function and the reflection of their performance in pay outcomes, a clearer relationship can be seen between investment in management development and its effectiveness.

Pay and Benefits

Overview

The private wage determination, called the “Spring Labor Offensive” (SLO), is negotiated between a labor union delegation and an employer delegation at a national level. The SLO, conducted every year from March to May performs the role of setting a national leading wage rise standard. As a consequence of the 1998 SLO, the average monthly wage increase of 258 large enterprises was ¥8,293, a 2.62% increase compared to the previous year. This was the lowest percentage increase since the beginning of the offensive in 1956. With regard to small and medium size enterprises, the rise was ¥6,439, a 2.51% increase compared to the previous year (Nikkeiren Times 1998). These results are reflected in the revision of firms’ wage schedules.

Composition of Pay and Benefits

Table 15 presents the average monthly labor costs for a regular employee in 1995 based on a survey of over 5,300 enterprises (Ministry of Labor, Minister’s Secretariat 1997d). The salary and a bonus in cash, which is directly paid to the employees, represents about 85% of total labor costs. Generally, bonuses are paid twice a year, in summer and winter. The statutory welfare costs are insurance fees (health, pension, employment, and worker’s compensation), which are prescribed by law to be partially borne by enterprises. Among the non-statutory welfare costs, housing support accounts for the larger half, and those concerning meals, culture and recreation represent the rest.

Total	483,009	(100.0)
Salary for a Month	305,801	(63.3)
Bonus (Divided by 12 Months)	94,847	(19.6)
Statutory Welfare Expense	42,860	(8.9)
Non-Statutory Welfare Expense	13,682	(2.8)
Expense for Allowance in Kind	2,207	(0.5)
Reserve for Retirement Allowance	20,565	(4.3)
Expense for Training & Development	1,305	(0.3)
Others	1,741	(0.4)

Source: Ministry of Labor, Minister’s Secretariat (1997d)

Table 15 Total Monthly Labour Cost for One Employee in 1995 (Yen, %)

Legal Framework

An important law covering pay and benefits is the Labor Standards Law. Furthermore, there are special laws for each of the following: the minimum wage, insurance, pension, etc. Matters that require labor union approval, such as overtime work and holidays, are restricted by the conditions of labor agreements.

Pay Determination

The pay for regular employees is generally decided by a system based on the enterprise's internal wage schedules. If there is not such a schedule, the pay reflects the market price of similar professions and geographical locations. The enterprises that systematically determine wages are mostly large enterprises. Based on a 1992 Ministry of Labor survey, 43.5% of enterprises employing 30-99 people were using wage schedules, while 77% of enterprises employing 1000 people or more were using them (Ministry of Labor, Minister's Secretariat 1994). In Japan, wages are generally composed of a basic wage and various kinds of allowances (family, commuting, housing, managerial position, special abilities, etc.). Basic pay represents 90% of the total wage, and the various allowances represent the remainder. Research concerning wages focuses mainly on the basic wage.

Basic Wage: Pay for Person and Pay for Rank and Function

The basic wage is usually composed of several pay components based on different factors: "pay for person", and "pay for rank and function" or "pay for job". However, pay-for-job is not often adopted in Japan. "Pay for person" automatically rises as one's age and length of service increases. Pay for rank used individual competence assessment as the basis of wage determination. As for competence, however, length of service and seniority are introduced as one of the primary factors (Sano 1997: 75-77). In 1992, the proportion of enterprises that had a pay system based on a single factor ("pay for person" or "pay for rank and function" or "pay for job"), was only 18%, the balance were using a system which reflected some combination of these wage factors.

Figure 6 represents a model of a rank and function grade structure. For employees within the company, their accomplished function is ranked based on this frame. Each grade has a standard length of service, as well as a minimum and maximum number of years for promotion to the next grade. The minimum number of years demonstrates that length of service is regarded as one important element in skill development. As for grade determination by the maximum number of years, once these are fulfilled, one can be automatically transferred up to the next level. But movement through grades by serving the maximum number of years tends to lead only to a relatively low grade.

Job Qualification				Prerequisite Years of Service for Promotion		
Grade	Grade Name	Grade Description (duties)	Equivalent position on the managerial line	Average	Minimum	Maximum
Managerial Grade			Title			
9 (M3)	General Manager	Senior management, advanced specialty	Department Head	-	-	-
8 (M2)	Deputy General Manager	Management, responsibility for important plans, senior specialist	Deputy Department Head	5	-	-
7 (M1)	Manager	Junior management, planning, specialist	Section Head	5	-	-
Supervisory Grade			Title			
6	Deputy Manager	Senior supervisor, decision making on important subjects	Deputy Section Head	4	3	-
5	Supervisor	Supervisor, decision making	Subsection Head	4	2	-
4	Deputy Supervisor	Junior supervisor, judgment	Chief	3	2	-
Staff Grade			Initial Grade for New Graduates			
3	Senior Staff	Difficult routine work	Graduate school (Master course)	3	2	6
2	Staff	Routine work	College	3	2	6
1	Junior Staff	Assistant and easy routine work	Junior college	2	2	6
			High school	4	4	

Source: Shimizu (1991: 97)

Figure 6 An Example of Rank-&-Function Grade Structure for a Large Firm

In this structure, the superiors' evaluation of the employees' ability and performance plays an important role in addition to the length of service. In general, several superiors evaluate performance using broad performance factors such as the accomplishment of job objectives, numerical results, and work attitudes. It is this assessment component that leads employees to compete for the wage increments associated with promotion as follows. Firstly, the monthly wage schedule reflects the hierarchical order of the grades in this structure. Secondly, there are several wage levels which slightly differ from each other within each grade. The employee who moves into an upper grade, starts at a relatively low level in that grade and moves up the wage ladder within that grade for several years. The evaluations of individual performance results and abilities influence at what level in the wage and grade structure the employee is initially placed, how many steps he/she climbs up in one year, and also how fast he/she moves to the higher grade. This difference in acceleration between individuals explains the difference in wages for employees of a similar age and educational background.

Performance-Based Pay

Whenever the economic environment becomes tighter, the emphasis on individual performance and pay differentials based on this performance increases. The following results:

- 1) The pay-for-person proportion of the basic wage is decreased, and the proportion of performance-based pay is increased.
- 2) The assessment of individual achievement and the results are emphasized to differentiate the wage for the same rank.
- 3) Differences in promotion acceleration appear among employees in lower ranks.

Some enterprises are starting to introduce an “annual wage system,” mainly for senior management levels. Generally, it is where the basic wage is calculated annually reflecting the previous year’s performance of the enterprise or the employee. Since this new form of wage system is intended to strongly reflect personal and corporate business results, it theoretically includes wage reductions (seldom implemented for senior management). According to a 1994 government survey, only 4.3% of enterprises had introduced an annual wage system, but in large enterprises, quite a large number of employees, concentrated mainly at management levels, are covered by this system. According to a 1996 questionnaire survey conducted by the Japan Productivity Center for Socio-Economic Development, around 10% had introduced the annual wage system (Japan Productivity Center for Socio-Economic Development, 1996).

Variations in Pay

Differences Between Industries and Differences Between the Sizes of Enterprises

The industries with relatively high wages are: energy related industries such as gas and electricity; banking and insurance; construction; and mining. The industries with relatively low wages are: the services industry; wholesale, small shops, restaurants; and manufacturing. Differences between the sizes of enterprises are shown in Table 16 below. Large enterprises with more than 5,000 employees have relatively high wages and high welfare allowances; the converse tends to apply in smaller enterprises.

Firm Size (number of employees)	5000 over	1000-4999	300-999	100-299	30-99
Salary & Bonus	100.0	87.6	77.6	70.0	64.4
Statutory Welfare Expense	100.0	86.5	81.0	74.7	72.4
Non-statutory Welfare Expense	100.0	73.9	48.0	34.2	29.3
Expense for Allowance in Kind	100.0	60.9	65.7	36.9	25.4
Reserve for Retirement Allowance	100.0	70.0	52.1	42.2	31.4
Expense for Training & Development	100.0	93.0	67.2	48.9	36.5
Others	100.0	132.8	112.1	70.1	57.8

Source: Ministry of Labor, Minister’s Secretariat(1997d)

Table 16 Difference in Labor Cost by Firm Size (Indices)

Differences by Individual Attributes

Despite the above mentioned efforts to differentiate wages by personal ability and results, educational background, gender, length of service, and age still strongly influence the determination of wages. For example, in the case of production workers employed in a manufacturing enterprise with more than 1,000 employees in 1995 if the 20-24 years old wage was 100, the wage for 30-34 years old was 140, 177 for 40-44, 193 for 50-54, and 124 for 60-64. In the case of male managers, technicians, and administration workers, the wage of those who graduated from high school compared to those who graduated from college was 0.91 times for the 30-34 age group, 0.79 times for the 40-44 age group, and 0.78 times for the 50-54 age group.

Furthermore, the above mentioned wage difference between industries is largely influenced by the size of the enterprise, and by the employee’s individual attributes. For example, in a industry where large enterprises are common and many aged workers are employed, the average wage tends to be higher compared to other industries. Using 1988 data, Tachibanaki and Ohta (1992) estimated that if firm size and the employee’s individual attributes were controlled, more than half of the wage difference between industries would disappear. They

also indicated that individual attributes such as working hours, education standard, length of service, and gender are especially important factors in moderating wage differences.

Methods of Payment

As shown in Table 17 below, the Labor Standard Law and a ministerial ordinance regulate the methods of paying wages.

Payment in Cash	Except when recognized in labor agreements, checks and postal money orders are not accepted (art 24). With the consent of the employee, retirement allowance can be paid by checks or postal money orders (LSW Ordinance art 7).
Payment to a Bank Deposit	With the employee's consent, payment can be made to that employee's bank account, which s/he designated (LSW Ordinance art 7).
Direct payment	Besides the case of dispatched workers, the payment is made directly to the employee (LSW art 24).
Payment-in-Full	Except for the case of deductions determined by law, or documented union agreements, deductions from wages are not recognized (LSW art 24).
Payment More than Once a Month	Payment must be made more than once a month on a specified date (LSW art 24)
Emergency Wage Payment	Urgent payment recognized by law in such cases as disease, accident, and childbirth, when a wage payment is requested, even if it is before the determined pay-day, it has to be paid (LSW art 25).

Source : Sugeno (1992)

Table 17 LSL Regulations about Methods of Payment

Minimum Wages

The Minimum Wage Law prescribes that the chief of the Prefectures Labor Standard Office, after considering local minimum wage council advice, determines the minimum wage for that prefecture. In 1997, the country's average minimum wage per day determined by the labor standard offices of every prefecture was ¥5,778, and was increased by 2.28% over the previous year (Ministry of Labor, Labor Standards Bureau Wages and Working Hours Department 1998).

Overtime

Working Hours and Overtime

Standard hours of work cannot exceed 40 hours per week, and one holiday per week has to be provided (legal holiday). As summarized in Table 18, an extra rate ranging between 25 and 50% of the hourly wage has to be paid for overtime work (Labor Standard Law Art. 37).

More than 40 hours per week	25 to 50% extra
Late night (10pm to 5am, or with approval, 11pm to 6am)	25 to 50% extra
Holidays approved by the Labor Standard Law	35 to 50% extra

Source: Sugeno (1992, 1994)

Table 18 LSL Regulation for Overtime Extra Rates

The hourly wage used for calculation of overtime does not include factors such as family allowance, children's education allowance, commuting allowance, etc. Within the range of extra pay determined by law, an extra pay rate for individual firms is determined by labor agreements. Based on a 1996 survey conducted by the Central Labor Commission, the distribution of the real extra pay rates for large enterprises (more than 1,000 employees) is presented in Table 19 below.

Increase rate	Overtime Not Extending to Night Work (% of firms)	Overtime Extending to Night Work (% of firms)	Rest-day work (% of firms)
25%	33.1		
25.1-29.9%	10.5		
30%	50.6		
30.1-34.9%	1.9		
35%	3.0		65.3
35.1-49.9%	0.6		28.5
50%	0.3	21.5	5.1
50.1-59.9%		15.5	1.1
60%		25.9	
60.1-69.9%		20.4	
70% over		16.6	
Averaged Increase Rate	28.4	60.7	37.9

Source: Central Labor Commission

Table 19 The Distribution of Actual Overtime Increase Rate in 1996

Equal Pay

The Labor Standard Law prohibits pay discrimination based on gender (Art. 4). A differential in wage between men and women holding similar status, qualifications, length of service, and age, is regarded as discrimination.

Workers' Compensation

Workers' Accident Compensation Insurance Law

All employers, except those of extremely small establishments in the primary industries, have to take out Workers' Accident Compensation Insurance to care for employment and injuries during commuting time to the workplace. Even in the case when an employer has not paid the insurance premium, work-related accidents can be covered. However, the employer needs to pay the additional premium or part of compensation cost. Local Labor Standard Offices collect premiums exclusively from employers. The premium is calculated on the basis of wage rates, and then multiplied by the premium rate, which is decided by Minister of Labor based on the accident frequency rate of each industry. The current premium rate is fixed at the range from 1.44% to 0.60%. For diseases and injuries incurred on duty and/or in commuting time, the following benefits are given to the employees according to the nature of their injury or disease:

- Medical compensation benefit
- Temporary disability compensation benefit
- Disability compensation
- Survivors compensation pension
- Funeral expense
- Injury and disease compensation pension
- Nursing care compensation.

The benefits listed above are sometimes not enough to cover all the damages. When compensation is not sufficient, an employee can claim supplementary compensation, if it is provided for in a labor agreement. If such a provision is not in place or insufficient, the employee or his/her survivors can make a damage claim against the employer (company) or its parent company under the civil code (Sugeno 1994:318-342). In the past, it had been frequently argued whether death, which seemed to have been caused by overwork (death from overwork), could be attributed to work related duties or not; in other words, whether the case should be covered

by workers' accident compensation insurance or not. The Ministry of Labor recently established criteria to acknowledge compensation for death from overwork, and an increasing number of cases are acknowledged today (Matsuoka 1997: 462). The number of people covered by occupational accident compensation insurance, as well as other terms of health insurance and pensions, is given at Table 20.

Social Security Provisions

Social security laws in Japan require that all people should join some kind of health insurance program as well as pension program. There are various kinds of insurance systems and laws for each type of worker as listed in Table 20. For example, this system differs according to whether the workers are employed by private enterprises or government organization, or they are running their own business. However, the social security provisions for employees in private firms are mainly described below (since space is limited).

Health Insurance

The Health Insurance Act prescribes the insurance applicable to each establishment as a basic unit. When a person is employed by an establishment, he/she is automatically insured. At the same time, his/her dependents (his/her spouse, children; parents, brothers and sisters living together) are also covered by the insurance. The insurance is managed by either the government or a health insurance association established by the enterprise with the approval of the government. The employee has only to pay 20% of the actual health costs, and his/her dependents have to pay 30%. Insurance covers the remainder. Health insurance also provides some financial support such as compensation for time off work longer than 4 days (60% of the wages are compensated) and a lump-sum payment for a childbirth. The insurance premium is paid by both labor and management. The premium ratio borne by the two parties differs by the size of the enterprise and other conditions. In the case of large companies' health insurance associations, the average expenses in March 1995 were borne by the employers at the rate of 4.709% of monthly salary, and by the employees at 3.628% (Nishihara 1998: 164).

Pensions and Superannuation Schemes

Law and General Provisions

In Japan, it is provided by law that any persons aged 20 and over but less than 65 should participate in some pension scheme. There are two different laws on the pensions applicable to employees. One is the National Pension Law and the other is the Welfare Pension Law. The former regulates the operation of basic pensions applicable to all the people. The latter regulates the government-managed pension system for private organizations, which supplies an additional pension to the national pension. Workers employed by private establishments are provided with pension by welfare annuity insurance. The premium is the amount equivalent to 17.35% of monthly salary and 1% of bonus, which are split between labor and management. In practice, the premium is automatically collected from the salary and bonus. The collected premium is managed by the government. The premium paid by the employee covers not only the national pension and welfare pension of the employee, but also national pension of his/her spouse. However, thirty percent of the national pension provision is paid by of the National Treasury; thus, Japanese pension schemes are funded by premium payments and tax payments.

Pension provisions consist of the old-age pension, the handicapped pension, survivors' pension and lump-sum payment for temporary disability. The payment of the old-age pension, accompanied by the payment of national pension, starts at the age of 60.

Item	Membership	Persons Insured	Dependents
Persons Covered by Medical Care Insurance			
Total	125,060		
National Health Insurance	42,811	42,811	-
Sub Total for Employee's Insurance	82,249	40,210	42,038
(Names of Employee's Insurance)			
Health Insurance Managed by Government	37,704	19,561	18,143
Health Insurance Managed by Association	32,475	15,463	17,012
Seamen's Insurance	326	115	211
Mutual Aid Association of National Government Employees, etc. (association of each ministry and agency).	2,714	1,152	1,562
Mutual Aid Association of National Government Employees, etc. (association of juridical persons covered).	1,376	487	889
Mutual Aid Associations of Local Government Employees	6,838	2,998	3,840
Mutual Aid Associations of Private School Personnel	816	434	382
Persons Covered by Public Pensions			
Total	69,548		
National Pension	30,956		
Welfare Annuity Insurance	32,740		
#Welfare Annuity Fund	12,051		
Mutual Aid Association of National Government Employees, etc. (association of each ministry and agency).	1,128		
Mutual Aid Association of National Government Employees, etc. (association of juridical persons covered).	471		
Mutual Aid Associations of Local Government Employees.	3,344		
Mutual Aid Associations of Private School Personnel.	398		
Agriculture, Forestry & Fisheries Organization Employees Mutual Aid Association.	511		
#Farmer pension fund	406		
Persons Covered by Occupational Accident Compensation Insurance			
Total	51,569		
Workmen's Accident Compensation Insurance	47,017		
Seamen's Insurance	105		
National Government Employees' Accident Compensation Insurance (as of July 1).	1,103		
Local Government Employees' Accident Compensation Insurance (as of April 1).	3,344		

Source: Executive Office of the Advisory Council on Social Security, Prime Minister's Office.

**Table 20 Persons Covered by Social Insurance
(End of F.Y 1994, thousands)**

In 1994, the average total payment for one retired employee consisted of 600 thousand yen of national pension and 2,106 thousand yen of welfare pension. See Table 20 for membership and details of pension schemes.

Company Pension: Welfare Annuity Fund System and Retirement Pension

Company pension schemes are roughly categorized into the following: the welfare annuity fund system and the tax-exemption retirement pension system. The welfare annuity fund system is managed by a pension union organized by an enterprise or group companies under the government's approval, with an aim to provide its employees with supplementary pension. The pension contribution, which is equally borne by labor and management, (sometimes the latter pays the larger amount) is entrusted to trust banking or insurance companies to manage. The average annual pension paid in 1994 totaled 321 thousand yen, which was received by employees in addition to their national pension and welfare pension described in the above. Under the tax-exemption retirement pension system, the retirement allowance is managed as a pension. The premium, which is mainly paid by the enterprise, is allowed as a tax deduction. Both labor and management can enjoy tax exemption for the reserve. In Japan, the mandatory retirement system is generally accepted; as at 1996, 90.7% of companies with 30 or more employees complied with the mandatory retirement system of retirement at 60 years (Ministry of Labor, Minister's Secretariat 1997).

It is common for an employee to receive the retirement allowance at the mandatory retirement age. The allowance can be provided as either a lump-sum payment or pension. A survey of enterprises with 30 or more employees conducted in 1993 showed that 92.0% of the companies had some kind of retirement allowance system, of which 47.0% employed a lump-sum payment system only, 18.6% employed the retirement pension system only, and 34.5% employed both systems.

Income Taxation

The wage-related taxes are a national income tax and a local residential tax. In 1997, income tax accounted for 33% (19.53 trillion yen) of the total tax income budget of the nation (the largest component). Local tax is collected by local public entities (both a prefecture and a municipality) where the employee lives. Residential tax, which was 13.77 trillion yen in 1998, accounted for 37% of the entire local tax income (National Tax Administration Agency 1998). Both income tax and residential tax are paid either by means of individual declaration or automatic deduction from salary. Most employees pay tax by the latter method. Therefore, a company's personnel or human resource management department usually collects information on the tax deduction of each employee, and calculates the amount of tax to pay.

Issues Concerning Spouses Working Part-Time

One of the current issues concerning taxation are tax deductions for dependent spouses. Since the Japanese taxation system imposes tax on each household, when a wife has a small income or does not have any income at all, her husband can enjoy a tax deduction for his dependent spouse. In 1997, her annual income must not exceed 1,410 thousand yen for a tax deduction to be made from her husband's income (National Tax Administration Agency 1998). This practice for a dependent family is also applicable to both pension and health insurance systems. If the wife has income exceeding the limit for a dependent spouse, she must pay her tax and premiums for pension and health insurance by herself. Some say that this arrangement discourages women to work and ruins their potential as a human resource. Others say that the current system brings unfairness between full-time female workers and part-time female workers. Most part-time female workers are considered to control their work hours so that their annual incomes do not exceed the maximum limit, and then are treated as dependent spouses. Since it is anticipated that the size of Japan's workforce will decrease, the active use of female workers is currently a big concern. At the same time it has become evident that the aging society makes it increasingly difficult to secure financial sources for insurance and pensions. Therefore, there is active debate in Japan that the existing tax and social security system based on the household as a unit should be reformed.

Leave (Holidays)

National Holidays

In Japan, Sunday is a holiday. In addition to Sundays, there are fifteen national holidays. When a national holiday comes on Sunday, the following Monday becomes a holiday. Some companies do not fix Sundays or national holidays as their holidays due to business necessity

Annual Leave

The Labor Standard Law (Art. 39) requires employers to give employees annual paid leave according to their seniority and attendance, in addition to one legal holiday per a week. For a worker employed continuously over six months and who reported for work on at least 80% of

the total working days, ten days of paid leave should be given for the first year. From the second year, a day of paid leave is given for each additional year of service up to the maximum of 20 days in total.

Other Leave

Besides holidays and leave decided by law, a company can fix its holidays in its work rules and labor agreement. Company holidays include year-end and New Year's holidays, summer holidays and the company foundation day. In addition, employees can take leave for marriage, funeral and sickness according to company regulations.

Actual Leave Taken

Japanese companies had an average of 101 holidays in 1995, or an increase of 0.4 day from the previous year. The holidays other than regular (week end) holidays were 18.9 days in the average, or a decrease of 0.4 day. Annual paid leave per employee was 17.2 days on average, but the actual average number of annual leave taken by a worker was 9.5 days, only 55.2% of the total claimable (Ministry of Labor, Minister's Secretariat 1996). Workers are guaranteed to be supplied with paid leave, but it is up to the individual workers whether they use the holidays or not. Although the consumption rate has been increasing year by year, it still seems difficult for an employee to take leave in Japanese workplace, unless it is a holiday for all the employees of the company.

Maternity/Parental Leave

Maternity Leave, Rest Days before and after Childbirth

Up to eight weeks after a female worker gives birth, her employer is prohibited to make her work under the Labor Standard Law. When a female worker is scheduled to give birth, upon her request, the employer must give her paid leave of 6 weeks prior to her childbirth (10 weeks for multiple child pregnancy).

Child Care Leave

The law for child care leave was established in 1992 and revised in 1995. Under the present law, when either of the parents, who are regular employees and raising a child under 1 year old, requests child care leave for less than one year, the employer can not reject the request. In addition, the law provides that the employer should make special arrangements based on the request of the employees who do not require child care leave or who are raising a child over one year old and under the school age, with regard to the arrangement and length of their work hours. The law has no regulation concerning the payment of wages during child care leave. However, where an employee on such leave is not paid at all, or paid less than 60% of normal wages, that employee is eligible for 20% of that wage from the employment insurance fund.

Family Care Leave

The law for family care leave was established in 1995 and is scheduled to be enacted in April 1999. When a worker claims care leave in order to take care of his/her family (his/her spouse, children, parents, spouse's parents and, also grand parents, brothers, sisters and grandchildren, if they are living together and dependent), the employer can not reject the claim. The leave is allowed only once for one patient and for a maximum three months. There is no legal requirement concerning the payment of wages during family care leave. However, the law

provides the employer with the duty to make preferable arrangements for work time of the employees caring their family and institute an allowance system which (partially) covers employees' expenses of utilizing family care services.

Employee Relations

Employer Representative Associations

Employer representative associations vary according to industry, company size and region. These associations comprise four major federations: the Federation of Economic Organization (*Keidanren*), the Japan Association of Corporate Executives, the Japan Chamber of Commerce and Industry and the Japan Federations of Employer Associations (JFEA: *Nikkeiren*). Each federation has a particular focus: *Keidanren* represents business in dealing with government and the political world; the Japan Association of Corporate Executives advocates appropriate business ethics; the Japan Chamber of Commerce and Industry represents middle-small sized corporations in their relations with big firms; the JFEA (*Nikkeiren*) represents employers in negotiating with the representatives of labor. JFEA performs a particular important role on behalf of its members in their industrial relations. In 1948 the JFEA was organized for the purpose of reinforcing management prerogatives when severe and frequent labor disputes challenged them. The present JFEA provides member associations and firms with various assistance for HRM problems, ranging from advising on the index of wage rises from the Spring Labor Offensive to seminar programs for in-house off-the-job training for management and executive development. JFEA consists of 47 regional employer representative associations and 58 industry representative associations. It covers 113,000 firms with 20 million employees (*Nikkeiren* 1998).

Employee Representative Associations and Structural Features

Forms of Employee Representative Associations

The most common form of employee representative association is the in-house/corporate union formed by each enterprise or workplace. In 1995, unions numbered 70,839 (Ministry of Labor, Minister's Secretariat 1996). Among them, the proportion unions other than corporate unions (such as craft or industry unions) is very low. The proportion of unions which have a union closed shop agreement, (explained in the previous section), is 72.9% (Ministry of Labor, Minister's Secretariat 1996b). Sato (1996) summarized the following features of the corporate union. The enterprise/corporate union (1) enables both blue-collar and white-collar workers to belong to the same union; (2) has many full-time officers who hold the employee status of the corporation; (3) maintains independence from the upper level establishments in terms of budget and negotiation with the corporation; (4) is keenly interested in corporate success from the viewpoint of securing members' employment and therefore tends to be cooperative with management. Generally, corporate union membership is held by regular full-time employees who are not representing management or the owner's interests; the range of such employees is defined by collective agreement. However, it is usual that employees in the position of section chief and above are not qualified to be union members. It is also frequent that so called non-regular employees such as part-timers and temporary workers are excluded from membership.

Levels of Union Movement

Most enterprise/corporate unions belong to industrial federations. There are 170 industrial federations, a relatively large number. This is partly because several industrial federations with different political opinions exist in the same industrial field, for example, in the automobile, textile, metal, private railway and electronic industries. Besides these industrial federations of company unions, the All Japan Seamen's Union is the only single industrial union which is organized by individual workers in the industry. Such industrial unions and federations then organize national centers depending on their political opinion. The largest national center is the Japan Trade Union Confederation, which is the most active of all in its participation in the tripartite structure in the political process, together with the government and employer federations. In addition, national centers have also played an important part in Spring Labor Offensive as explained below. Table 21 lists the major national union centers and their membership.

Organization	Membership
Total	12,451
Japanese Trade Union Confederation	7,658
National Confederation of Trade Unions	859
National Trade Union Council	281
Others	3,880

Source: Ministry of Labor

Table 21 Major National Centres and Their Size in June 1996 (thousands of members)

Declining Membership

The union membership ratio is declining; density dropped to an estimated 23.8% in 1995. The number of unions is also falling. The larger the enterprise size, the higher the union membership and the adoption of union closed shop. In 1995, the membership ratios were respectively 58.9%, 21.2%, 1.6%, for the enterprises with 1000 employees and over, 100-999 employees, 99 and below employees (Ministry of Labor, Minister's Secretariat 1996). With regards to the declining membership, Sato (1996) pointed to the following reasons: 1) industries which are less unionized such as services, increased their employment, 2) large highly unionized corporations decreased their employment, 3) non-regular employees who ordinarily do not hold corporate union membership are increasing 4) employees in managerial positions are increasing, and lastly 5) unions have failed to organize new workplaces.

Reconsideration of the Role of the Union Movement and its Activities

With stronger competition and the continued economic downturn, the working conditions of employees are seen to be more influenced by the business results of individual corporations and the performance of each employee. The attributes of employees and individual conceptions of working life have changed. Given this situation, employee representative associations face several challenges.

First, the meaning and relevance of collective action have come to be reconsidered. A good example of this issue is found in the fact that the standard set by the Spring Labor Offensive is becoming less relevant for both managers and employees. The SLO has established the wage increase standard for regular employees in each industrial field. However, in recent times, the differences in the available wage increase for each corporation in the same industry are widening. In some industries, it is becoming more difficult for company unions in the same

industrial union to set a common target and fight in unity against management. Also, as performance based principles start to permeate wage determination, the salary differential for employees of a similar age in the same company is also widening. With this trend, unions and managers are starting to reexamine the content and methods for collective bargaining in each industry. The traditional bargaining pattern, described in the subsection below, is becoming hard for some industries to follow.

Secondly, the value of the union to its members is becoming unclear and causing members to become less interested in union activities. Inagami (1995) called this tendency as lost union-identity and gave the following reasons: (1) union members have become individualistic, (2) it is getting hard for unions to adopt a single target of activity, because the generation gap among members places different demands on the union, and (3) the actual negotiation process between labor and management is difficult for ordinary union members to understand. Since most working conditions are negotiated in labor-management joint consultations, collective bargaining tends to ratify the results of joint consultations. Therefore, ordinary members who do not engage in consultations, often do not understand how the union works, and do not consider the union to be indispensable to their working life. This negotiation mechanism is thought to be the source of the unions' present difficulty as well as the source of stability of Japanese labor-management relations.

The third issue concerns the qualification for in-house union membership. As described above, one of the reasons for membership decline is the decreasing proportion of regular employees who are qualified for in-house union membership. On the other hand, middle managers and non-regular employees are increasing in number. This produces an increasing number of employees who are left outside of union protection. Even though some unions have started to organize part-timers, their membership level still remains low. According to a 1995 survey, the number of the part-time employees with union membership was 184,240, which amounts to only 1.5% of the number of regular employee members.

Key Processes

Levels of Bargaining

Unions and their federations engage in negotiations with employers at their respective organization levels. Industrial unions and national centers take their actions in order to set a standard condition in each industrial field. The best example is the result of Spring Labor Offensive (SLO) which sets the guidelines for annual wage increases and other working conditions such as reductions in working hours. Hanami (1989: 205) summarizes traditional union action processes in SLO as follows: 1) the leaders of the national centers and industrial federations under the initiative of the centers reach general agreement about the targets, strategies, schedules for negotiations and strike actions, and so on; 2) they usually choose one or two industries as trend setters, taking into account not only their business conditions but also the unions' organizational situation in each of them; 3) after wage increases have been decided by groups of major enterprises in the various industries, the unions in smaller enterprises follow the pattern established by the larger ones with some modifications. Corporate unions consult or negotiate with each individual employer regarding the terms of employment in each firm or workplace, with reference to the outcome of the SLO.

National centers, especially the Japan Trade Union Confederation, are involved in round table discussions in various governmental committees together with other stakeholders of governmental policies: employers and specialists or consumers. Through the discussion and negotiations at the committees, they participate in and influence government policy determination on issues such as the revision of labor related laws.

Bargaining and Participation at Enterprise Level

Negotiations concerning workplace conditions are conducted in the form of joint labor-management consultations as well as collective bargaining. According to a 1994 Ministry of Labor survey, joint labor-management consultations are adopted by 80.7% of enterprises which have a union or unions (Ministry of Labor, Minister's Secretariat 1995). At present, the issues dealt with in consultations and bargaining are very similar. The difference between the two systems is explained in terms of their schedule and results. Collective bargaining is conducted on a request from either management or union and it can lead to disputes if the participants fail to reach an agreement. Joint consultations are regularly conducted according to the schedule defined in the collective agreement. Joint management-labor consultations are utilized to prepare for collective bargaining, or to enable more frequent and timely negotiations between management and labor (Sato 1996).

The key processes in labor disputes are regulated by law discussed in the section on Employment Law. The contents and the level of negotiation required in joint consultations are normally regulated by collective agreement, and the actual practice is shown in Table 22. The present style of joint labor-management consultations emerged in the 1950's. It became more widespread when The Japan Productivity Center, which is also a tripartite organization, advocated a "productivity movement" and recommended joint consultations as a tool for increasing productivity. The productivity movement considered management and labor as equal partners, and aimed at corporate growth and then benefits for all (Ueda 1994).

Items	Ratio of Joint Consultations Dealing with Items of the Left Column	Procedures Adopted				
			Explanation from Management to Union	Hearing the Opinion of Unions	Discussion	Agreement
Fundamental Strategy for Management	53.7	(100.0)	(71.8)	(11.1)	(13.1)	(4.2)
Overall Plan for Sales & Production	55.4	(100.0)	(65.8)	(10.0)	(19.9)	(4.3)
Change in Company Organization	59.0	(100.0)	(65.5)	(9.6)	(18.2)	(6.7)
Rationalization by Introduction of Machinery into Factories & Offices	55.9	(100.0)	(45.8)	(18.8)	(28.1)	(7.3)
Recruitment & Placement	51.9	(100.0)	(58.3)	(14.7)	(21.3)	(5.6)
Promotion Standard	47.6	(100.0)	(56.6)	(11.3)	(23.8)	(8.3)
Job-Rotation & Shukko	62.9	(100.0)	(41.2)	(12.3)	(33.4)	(13.1)
Layoff, Manpower Adjustment, Dismissal	68.1	(100.0)	(17.5)	(6.7)	(46.8)	(29.0)
Change in Work Shift	81.6	(100.0)	(13.5)	(12.5)	(50.6)	(23.3)
Working Hours, Holiday, Leave	86.8	(100.0)	(13.0)	(8.4)	(52.7)	(25.9)
Work Place Safety	83.4	(100.0)	(12.2)	(19.4)	(59.1)	(9.3)
Mandatory Retirement System	71.5	(100.0)	(15.0)	(6.9)	(47.1)	(31.0)
Salary & Bonus	75.3	(100.0)	(17.9)	(4.6)	(45.2)	(32.3)
Overtime Extra Rate	71.8	(100.0)	(20.1)	(6.5)	(41.8)	(31.7)
Retirement Allowance & Pension Plan	69.2	(100.0)	(18.6)	(4.9)	(44.8)	(31.7)
Training & Development Plan	61.8	(100.0)	(44.7)	(18.9)	(30.6)	(5.8)
Company Welfare	80.4	(100.0)	(18.2)	(22.3)	(50.7)	(8.9)
Culture & Sports Activities	67.2	(100.0)	(20.5)	(22.3)	(48.5)	(8.7)
Child Care Leave & Family Care Leave	53.7	(100.0)	(71.6)	(11.1)	(13.1)	(4.2)

Source: Ministry of Labor, Minister's Secretariat(1995)

Table 22 Contents and Manners of Joint Consultations in 1994 (%)

Employee Relations Performance Indicators

Increase in Wage and Household Income

The graph at Figure 7 shows the following increase ratios over the previous year: wage increase requested and agreed by SLO, and income increase for the head of the household and his wife. After the oil crisis in the early 1970s, marked inflation attacked the economy. Unions fought for high wage increases in order to sustain living standards of members. However, as the economic downturn proceeded, they lowered the requested ratio, and turned their target into securing employment. This strategy has continued to the present day. The income increase of the head of the household moves similarly to the SLO rates. This is because the head of the household is often employed on a regular full-time basis, and is in the wage structure affected by SLO results. On the other hand, spouses tend to be part-timers who are not unionized and utilized for the labor adjustment; their income increases tend to move up and down more steeply.

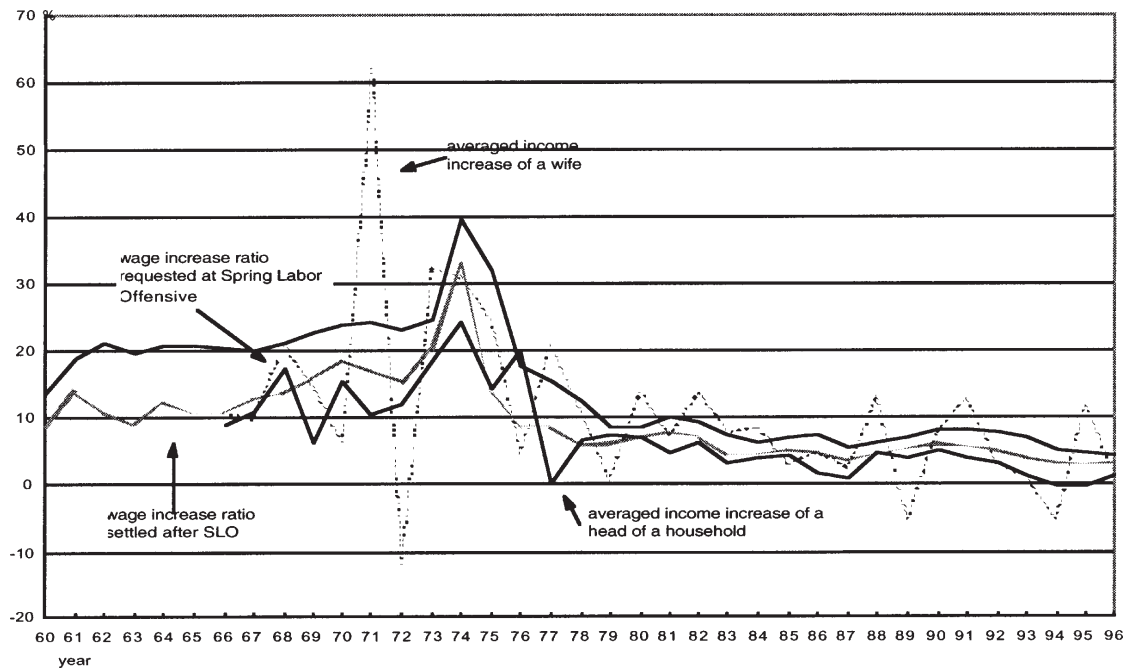


Figure 7 Change in Wage & Income Increase Ratio

Dispute Statistics

Since 1974, the number of labor disputes has been decreasing as shown in Figure 8. An exception was the first part of the 1980s when the yen appreciated so much that many Japanese manufacturers started to move their factories overseas. However, the number of disputes that developed into strikes or lockouts and the number of days lost have been decreasing since 1974. This also indicates that the present labor-management relation is based on joint consultation rather than collective bargaining.

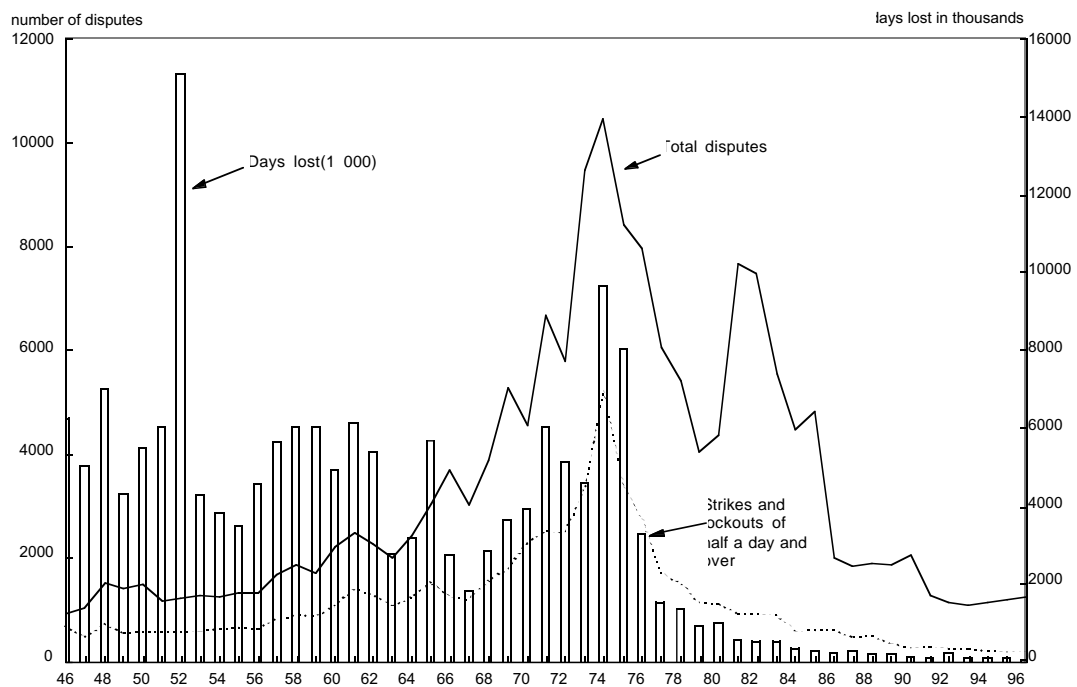


Figure 8 Number of Disputes & Days Lost

Current HRM Issues and Trends

Overview

Current Japanese HRM issues have arisen from accelerating global competition and drastic changes in the labor market. At the corporate level, HRM professionals are now increasingly requested to make their employees more productive and innovative with limited resources. At the national level, the government is faced with issues arising from a changing workforce. Based on these trends, a number of specific issues can be examined at both corporate and national levels.

Personal Responsibility for Career Development

In the face of global competition, Japanese companies are demanding that each employee be more productive and innovative while, at the same time, companies are increasingly required to offer their employees more effective skill development programs.

The traditional method of personnel development focused almost uniquely on job-rotation initiated not by employees themselves but by the company. Since this was a compulsory program, companies were responsible to provide employees with skill training necessary for a change in position. Under this company driven system, each employee did not have a clear view of their own career, and often showed a passive attitude toward their own skill development. Recently Japanese companies have begun to understand that this kind of passive attitude reduces the effectiveness of training as well as preventing employees from becoming more innovative. As the downside of this form of compulsory transfer has been realized, more enterprises are introducing job posting systems based on the applications by employees themselves. In addition, management is encouraging employees to be more conscious of, and therefore, to be more responsible for building their own career.

It seems that employees are ready to accept this new concept of career building presented by management. In the current recession, employment even in large companies has turned out to be more insecure and unreliable. Furthermore, companies' inclinations to reduce the number of senior white-collar staff has made a number of employees distrustful of the traditional skill formation style used for many years. Company specific skills and knowledge obtainable only through a long engagement in the traditional development program were once considered as a source for senior employee's managerial competence. However, employees are now coming to seriously question how valuable the skills and knowledge they obtained are in the external labor market as well as in the internal one. Most of them still only have a vague idea of the relationship between developing competence on their own and a career formation through job-hopping. Thus, more and more people are becoming concerned about their own career and are considering what kind of skills and knowledge they want as a source of their own competence.

In order to stimulate employees to be aware of their own responsibility for career building and to enable them to have more career choice, some large companies have introduced what is called a Career Development Plan (CDP) which covers a wider range of methods for career formation than the traditional one. CDP is a tool to guide an individual employee into a properly-fitting path of career building, by reconciling the objective evaluation of his/her achievements with his/her career planning in the company. The actual process of CDP involves

discussions between employee, supervisors and HRM professionals. Through frank and open discussions, they aim to set up a shared objective, examine its attainment, find what is desirable and what is a possible career path for each employee, and adjust patterns of job-rotation to realize the best career plan for employees. CDP is intended not to select top elites but to enhance the performance of all employees.

Selection Guided by the Strategy and Role of HRM Professionals

The next issue for HRM is how to train selected employees to be more innovative while considering the implications for all other regular employees. Japanese companies do not like to preselect elite managers for development. As seen in the CDP programs, firms tend to put the right person in the right post and have all employees satisfied, taking their aptitudes and personal circumstances into consideration. After satisfying almost all employees concerning their career, companies would then begin to select candidates for executive development programs. This method of selection is still a shared understanding among Japanese HRM professionals: the competitiveness of a corporation, they would argue, is not derived from performance of top star managers, but is achieved by developing every employee's competence. In Japan, it is very difficult to dismiss an employee for reasons of low performance; rather the firm has the responsibility to redevelop that employee's ability. Under such conditions, to select a smaller number of "elite" in the early stage of their long company career actually leads to a large number of non-elite employees with their morale seriously damaged. However, a recent scholar insists that this selection method is the largest obstacle to realizing more innovative organizations (Chae 1998).

Though the above shared understanding is still predominant, some companies have started to tighten the selection of candidates for special development programs, in order to achieve better cost performance in human resource development. These candidates most frequently become the target of special management development programs (Fuji Xerox Learning Institute Inc. and JMA Management Center 1997). The issue of more targeted selection for skill and knowledge training is to be a key subject for future research. If the selection for opportunity of skill or career development is to be tightened in some manner, HRM professionals will be required to show clear principles which serve as the source of criteria for selection, evaluation and career decision of employees at every level of the organization. As a basis for these criteria, more and more companies are paying attention to business strategy. In other words, the vital issue for HRM professionals at present is how to reconcile HRM strategy with the business strategy of a corporation and how to present their strategy without damaging the position of individual employees. To achieve this, comprehensive plans will inevitably impose more burdens on HRM divisions and increase the cost for the company. HRM divisions now have to deal with many activities such as recruitment for a whole company, management of welfare and social security plans, arranging development plans and so on. Therefore HRM itself appears to need to restructure of its own operations, including outsourcing some routine activities to professional organizations. As strategic HRM is sometimes opposed to traditional customs in Japanese corporations, it may require some time to accomplish its objectives. However some forward-looking corporations have already started to adopt this approach while others are becoming more positively interested.

Necessary Policy Options for Changing Labor Market

As mentioned in the earlier part of this report, the participation rate of aged and female workers in the total labor force has increased and will continue to increase. However, as they are regarded

as a flexible labor force, they have not been sufficiently protected in terms of working conditions and social security provisions. Under Japan's peculiar structure represented by the government, management and unions, these non-regular employees have not received enough policy attention from corporations. More and more companies, however, are now increasing employment of non-regular employees. As a next step, it is necessary to tackle the issue of human resource development and social security provision for such a flexible labor force. Discussions on these issues have just started. In Japan, corporations collect social security funds and manage these on behalf of the government. Therefore, if workers change companies, it may decrease the benefit of their social security. The government's assistance for skill development, being mainly provided through corporations, has hardly been utilized for individual workers on the purpose of changing their occupations and building their own careers. Even unions are not yet eager to organize these workers. Some scholars have claimed that social security and HRD assistance should be focused not on enterprises but on individuals.

However, in order to solve these problems, it is seen as necessary to re-examine the principles which regulate the present Japanese HRD and social security system: long-term and stable employment at one company, corporate responsibility for training and employees' welfare, the role of a housewife and the preferential tax system as it affects her. For many individuals who benefit by the present system, this change will mean a lower level of welfare. Therefore, for successful change the responsibility to discuss the problem is not solely one for organizations, but is also to be taken by the Japanese individuals.

Attracting Opportunities in the SMEs

The most serious problem for many SMEs is that they fail to acquire competent human resources because of their inferior working conditions in comparison with those of larger corporations. It is hard for small-sized enterprises to attract workers with high educational backgrounds. Therefore, it is often emphasized that they should develop their own attractive features to match those of larger companies in order to appeal to talented workers. Some of the examples may be a company's achievement in a specific field of high technologies, the possibility of leadership of a unique and innovative management team, a company's contribution to the development of the community, a high possibility of promotion, and so on.

Key Organization Addresses

Statistics Bureau & Statistics Center,
Management and Coordination Agency of Japan
19-1 Wakamatsu-cho, shinjuku-ku
Tokyo 162-8668 Japan
Tel: 81-3-3202-1111
<http://www.stat.go.jp/1.htm>

The Japan Institute of Labour (Shinjuku Office)
25,26F, Shinjuku Monolith, 3-1,
Nishishinjuku2-chome, Shinjuku-ku,
Tokyo 163-09 Japan
Tel: 81-3-5321-3000
Fax: 81-3-5321-3015
<http://www.jil.go.jp/index-e.htm>

The Japanese Trade Union Confederation
3-2-11, Kanda Surugadai, Chiyoda
Tokyo 101-0062 Japan
<http://www.jtuc-rengo.or.jp/english/index.html>

National Confederation of Trade Unions (Zenroren)
6-19-23, Shinbashi, Minato-ku
Tokyo 105 Japan
Tel: 81-3-5472-5841
Fax: 81-3-5472-5845
http://www.ijnet.or.jp/c-pro/union/aa_e/index_e.html

Japan Federation of Employer Association
1-4-6, Marunouchi, Chiyoda,
Tokyo, 100-0005, Japan
Fax: 03-3213-4451
<http://www.nikkeiren.or.jp/>

Keidanren (Japan Federation of Economic Organizations)
Keidanren Kaikan, 1-9-4, Otemachi, Chiyoda-ku,
Tokyo 100 Japan
Tel: 81-3-3279-1411
Fax: 81-3-5255-6255
<http://www.keidanren.or.jp/index.html>

Japan Productivity Center for Socio-Economic Development (JPC-SED)
3-1-1, Shibuya, Shibuya-ku
Tokyo Japan
Tel: 81-3-3409-1135
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Asian Productivity Organization (APO)
4-14, Akasaka 8-chome, Minato-ku
Tokyo 107-0052, Japan
<http://www.apo-tokyo.com/>

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Republic of Korea

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Economy Context

Geography

Physical Dimension

The Korean Peninsular extends southward from the north eastern section of the Asian Continent, spanning 1,000 kilometers north to south. It shares most of its northern border with China and touches Russia. Since 1948, the peninsula has been divided into two parts, the Republic of Korea in the south and the Democratic People's Republic of Korea in the north (KOIS, 1997). The area of the Republic of Korea is 99,313 square kilometers as of 1996 (NOS, 1997).

Climate

Korea enjoys four distinctive seasons. The peninsular has hot, humid summers and long, dry cold winters. Spring and autumn are rather short, but very pleasant with crisp weather and many days of sunshine. Temperatures range from -15°C in the winter to 34.7°C in the summer. Average relative humidity ranges from 65% to 75% (KOIS, 1997). Rainfall and snowfall were as high as 130cm and 18.5cm respectively in 1996, depending on geographical location (NSO, 1997).

Population Statistics

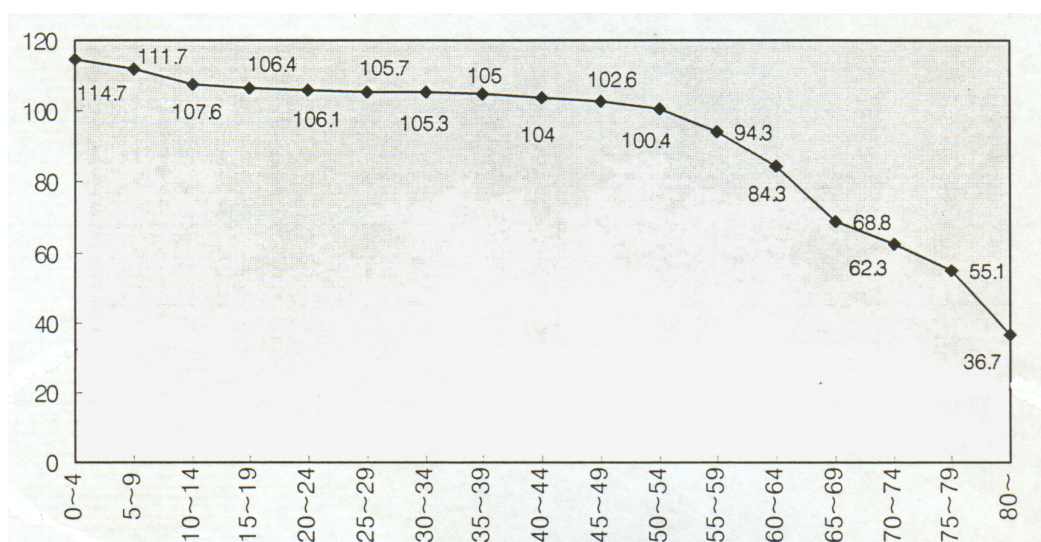
Korea's population was 45.5million people in 1996 with a density of 458.6 persons per square kilometer. The annual growth rate of the population was one percent in 1996 (NSO, 1997).

Language

Koreans are one ethnic family and all speak the same language, which has been a crucial factor in their strong national identity. The modern Korean language has several different dialects but they are similar enough that speakers do not have trouble understanding each other. The Korean alphabet, called "*Han-Gul*", was invented in the 15th century. Before the invention of these simple phonetic characters, Korean was written by means of Chinese Characters. "*Han-Gul*" is easy to learn and print, which has contributed to Korea's high literacy rate. As of 1995, 98 per cent of people fifteen years of age and over are able to read and write their native language (CIA, 1998).

Demographics

The sex ratio of the population, which is defined as the number of males divided by the number of females, is 101.5 as of 1996. The sex ratio of population is far over 100% among lower age cohorts and declines with age, which implies that the birth rate of girls falls short of that of boys and females outlive males (see Figure 1). During the last ten years, the population has aged noticeably due to a drop in both the birth rate and death rate. Table 1 shows the population trend. As can be calculated from Table 1, the dependency ratio, which is defined as sum of the size of population over age 65 and under age 15 divided by the size of population between age 15 and age 65, decreased from 50.5% in 1986 to 40.7% in 1996. The index of aging, which is defined as the size of population over age 65 divided by the size of population under age 15, increased from 14.9% in 1986 to 26.7% in 1996.



Source: National Statistical Office, Korea Statistical Yearbook, 1996

Figure 1 Sex Ratio (Male/Female) of Population in 1996

(Unit: in thousand persons)

	1986	1991	1992	1993	1994	1995	1996
0~14	12,029 (29.2)	10,859 (25.1)	10,791 (24.7)	10,734 (24.3)	10,653 (23.9)	10,537 (23.4)	10,411 (22.9)
15~64	27,383 (66.4)	30,171 (69.7)	30,612 (69.9)	31,024 (70.2)	31,446 (70.4)	31,900 (70.7)	32,359 (71.0)
65~	1,800 (4.4)	2,266 (5.2)	2,345 (5.4)	2,437 (5.5)	2,543 (5.7)	2,656 (5.9)	2,775 (6.1)

Source: National Statistical Office, Korea Statistical Yearbook, 1997

Table 1 Population Trend by Age Group

The population is heavily concentrated in city areas due to continuing rural to urban migration. In 1995, 85.7% of the whole population, or 38.2 million people out of 44.6 million, lived in cities, and 10.2 million among them lived in Seoul, the capital.

Political Context

Structure

The government consists of the executive branch, the legislative branch and the judicial branch. The President stands at the apex of the executive branch, has functions as the head of state and represents the state in matters concerning foreign states. The President performs his executive functions through the State Council. The council is made up of fifteen to thirty members and is presided over by the President, who is solely responsible for deciding all important governmental policies (KOIS, 1998). The present State Council is composed of the President (chairman), the prime minister (vice chairman), and seventeen heads of executive ministries.

The unicameral National Assembly is composed of 299 Members who are elected for a term of four years. Every qualified voter who has reached the age of 25 or older may be a candidate for the National Assembly, while all citizens of at least 20 years of age are entitled to vote in the elections. As representatives of the people, the Members carry out their duties of making and revising the law, deliberating and adopting the budget, conducting inspections and investigations of state affairs and more (KOIS, 1998).

Judicial power in Korea is vested in the courts, constitutionally an independent branch of the government. The court system functions on three levels: the Supreme Court, appellate courts, and district courts (including branch courts). The courts judge civil, criminal, administrative, election and other judicial matters, and manage and supervise affairs concerning the registration of real estate, census registers, deposits and judicial scriveners. The Family Court hears matrimonial problems and cases involving juveniles. Its sessions are closed to the public in order to protect the privacy of individuals (KOIS, 1998).

Although the Constitution prescribes local autonomy, traditionally the country has been ruled by a strong central government with no local autonomy in the true sense of the term. Currently, seven metropolitan cities and nine provinces (*do*) are established as higher local governments. As lower local governments, large city-wards (*gu*) are established in the metropolitan cities. Cities (*shi*), counties (*gun*), and towns (*eup*) are established in the provinces (KOIS, 1998).

The local executive functions include those delegated by the central government, management of public properties and facilities, assessment and collection of local taxes, various fees, services, and goods, and other administrative affairs of the local community (KOIS, 1998).

Constitutional Arrangements

The Constitution of the Republic of Korea was first promulgated on July 17, 1948 and has been amended 7 times since. The Constitution declares in Article 1 that the character of the Republic of Korea is defined as democratic, and sovereignty is vested in the people. It respects international obligations, ratifies treaties and the rules of international law (KOIS, 1998).

The Constitution consists of a preamble, 130 articles, and six supplementary rules. It is divided into ten chapters: General Provisions, Rights and Duties of Citizens, the National Assembly, the Executive, the Courts, the Constitution Court, Election Management, Local Autonomy, the Economy, and Amendments (KOIS, 1998).

The Constitution guarantees the basic rights and freedom of the Korean people, setting limits in the exercise of governmental powers, while making provisions whereby civil rights may be restricted by law only when necessary for the maintenance of national security, public order or general welfare (KOIS, 1998).

Political Process

Korea has adopted a multi-party system. Of 299 National Assembly Members, 237 were elected from single-member constituencies by universal, equal, direct and secret ballots. The remaining "national constituency" seats are set aside for a proportional representation system where the seats are distributed among the political parties on condition that these have gained at least five seats in the district elections (KOIS, 1998).

Under the regimes of Presidents "Park, Chung Hee" and "Chun Doo Hwan", from 1961 to 1987, the political activities of opposition parties had been oppressed (Both Presidents acquired power with the success of a military coup). The democratic rally of June 1987 led to political liberation and the Constitution was revised to allow a more liberal, democratic, direct election of the President. In December 1987, "Roh Tae Woo", a former general who had participated in a military coup by "Chun Doo Hwan", was elected as President and in the following February, President Chun became the first Korean president to turn over the reins of government under normal, constitutional procedure. "Kim Young Sam", a leader of one of the opposition parties, was elected President through a coalition with the ruling party in December 1992. His inauguration on February 25, 1993, reopened civilian rule after a thirty-two year hiatus (KOIS, 1998).

Kim Dae-jung, the candidate of the National Congress for New Politics was elected in the direct presidential election held in December 1997. The coalition between two major opposition parties, the National Congress for New Politics (NCNP) and United Liberal Democrats (ULD), and the split of the former ruling party, New Korea Party (NKP), into the Grand National Party (GNP) and New People's Party (NPP) had enabled a candidate from an opposition party to be elected President for the first time in Korean history.

Even though Kim Dae-jung won the presidential election through the NCNP-ULD alliance, he lacks parliamentary force to back up his legislative programs. Currently, the main opposition party (GNP) has a majority of the 299 Assembly seats. The last election for National Assembly members was held in April 1996, and the next will be held in 2000. Kim Dae-jung and his party (NCNP) are considered to be the first liberals in power, and the Assembly majority GNP is considered as the most conservative party.

Korea's first local-council elections in thirty years took place on March 26, 1991, for small council administration (small cities, counties, and large-city wards) and on June 20, 1991, for large council administration (metropolitan cities and provinces). The revised law empowered these local councils to inspect and audit local governments, giving the new bodies enhanced power. On June 27, 1995, the era of full-fledged local autonomy began with the first election of heads of local governments in thirty-four years. A second election of heads of local councils was held on the same day (KOIS, 1998).

Economic Context

Economic Size/Growth

In 1996, the Korean economy rose to 11th place in the world in terms of size with a real GDP of US\$484.6 billion. After rapid growth in the 1970's and 1980's, the Korean economy entered a period of stable growth in the 1990's. During the 1990 to 1996 period, Korea's real GDP grew 7.4 percent annually, compared to an annual rate of 9.1 per cent increase in the 1980s. Per capita GNP recorded US\$10,537 in 1995, and US\$10,548 in 1996. These figures were praised as the advent of the five-digit per capita income era.

However, the Korean economy ran into trouble in mid-1997, due to an enormous short-term foreign debt by businesses and financial institutions that far exceeded Korea's foreign exchange reserve. Creditors started to lose confidence in Korea's ability to pay off debts. This lowered the value of Korea's currency, the *won*, caused foreign creditors not to roll over short-term debts; and consequently, resulted in the stand-by loan agreement with the International Monetary Fund (IMF). A target growth rate of the Korean economy will be determined in consultation with the IMF in the coming years. The IMF recommended that Korea's economy grow by less than 1 percent for 1998. The Korea Development Institute, KDI, the public research institute in Korea, predicted a contraction of 0.9 percent in GDP for the year 1998 and some economists are predicting an economic contraction of up to 2.9 percent (Korea Herald, 1998).

Economic Structures

In 1996, 90.1 percent of GDP was the product of private industry, 5.7 percent by government service, 2.6 percent by producers of private non-profit services to households, and the rest from import duties and imputed bank service charges.

The expansion of the service sector, and the rise in the share of heavy and chemical industry in the manufacturing sector have been a main characteristic of the industrial restructuring of the 1990s. As of 1996, the proportion of the service industry to GDP was 67.6 percent and that of

the manufacturing industry was 25.8 percent. The proportion of the heavy and chemical industry in the total manufacturing industry stood at 76.2 percent for the same year. The expansion of the heavy and chemical industry was led by the sharp increase in the production of automobiles and semi-conductors. The decline of the light industry, including textile, clothing and footwear, was mainly caused by the weakening of price competitiveness with the rapid rise in real wages. The rise of the heavy and chemical industry and the decline of the light industry can be confirmed through export statistics. From 1992 through 1996, exports of light industry increased at the annual rate of 2.3 percent, far behind the annual rate of 17.9 percent increase for the exports of heavy and chemical industry in the same period (KDB, 1997).

Economic activities have been heavily concentrated in the Seoul Metropolitan area and surrounding Kyonggi Province. According to the GRDP (Gross Regional Domestic Product) statistics of 1995, GRDP of the Seoul Metropolitan City accounted for 24.2 percent of the GDP and that of Kyonggi Province accounted for 16.8 percent.

Table 2 shows various manufacturing sector statistics concerning SMEs (small and medium sized enterprises), which are defined as businesses hiring less than 300 full time employees. As shown, SMEs accounted for 99 percent of establishments, 68.9 percent of employment, and 46.3 percent of the value added in manufacturing sector for the year of 1995. It can be inferred from these figures that SMEs are concentrated in the low value added generating sector. As shown in the table, employment has risen at a much faster rate than value added in SMEs during the 1990s. This suggests that industrial restructuring has proceeded in a way that unproductive low wage sectors are transferred from large firms to SMEs in the manufacturing sector.

	91	92	93	94	95
The number of SMEs	71,105 (98.5)	73,657 (98.6)	87,913 (98.9)	90,447 (99.0)	95,285 (99.0)
The number of employees in SMEs (in thousand persons)	1,853 (63.5)	1,845 (65.8)	1,987 (68.9)	2,026 (69.1)	2,034 (68.9)
Value added of SMEs (in billion won)	39,563 (45.8)	45,662 (47.6)	54,549 (50.3)	63,768 (49.2)	73,808 (46.3)

Source: National Statistical Office, Report on Mining and Manufacturing Survey, Relevant Issues

Table 2 SMEs in the Manufacturing Sector

Chaebols, or the huge conglomerates, dominate the Korean Economy. The *chaebols* are owned by powerful families and have expanded rapidly over last 30 years. The government helped the capital formation as well as subsequent diversification of the *chaebols* (L. Kim, 1997). Credit control and allocation were the key instruments of the government's industrial policy. The major beneficiaries of these instruments were the *chaebols*. The *chaebols* have founded firms in one industry after another - often using funds borrowed from banks. The resulting massive economic concentration led to the belief among government and business circles that allowing the *chaebol* to collapse would pose a systemic threat to economy. They were too big to be allowed to fail. The rationale was that if they were to collapse, the whole economy might go down with them. In consequence, banks were directed by the government more and more toward questionable *chaebol* investments (D. Nanto and V. Johns, 1997).

Chaebols have played, of course, a positive role in the economic development of Korea. They have intensified their R&D efforts to tap state-of-art technology. Korea's current status as a world-market contender in such capital industries as shipbuilding, semi-conductors, automobiles, steel, petrochemicals is attributable to the *chaebols'* capability of acquiring technical

and financial resources (L. Kim, 1997). The problem is that *chaebols* has been obsessed with expansion and market share and not with improving productivity. Most *chaebols* have expanded into businesses outside of their core competencies. The restructuring of *chaebols* seems inevitable in the current economic crisis. Currently, the top 30 *chaebols* account for about 45% of country's total sales.

Economic Policy

Korea sustained a high growth rate through outward-oriented, industry-oriented, and growth oriented government- guided economic policy (Song, 1993). Export promotion, industrial targeting, and close coordination between government and businesses have been the main ingredients of economic policy and success.

Korea's strong economic performance is attributed mainly to the effective combination of the abundant, high-quality labor supply with cheap foreign capital and technology under government-guided systems. After undergoing democratization at a breathtaking pace since the middle of 1987, the government-led economic management of the past no longer guides the economy (KOIS, 1997). International pressures for the deregulation and opening of domestic markets have accelerated the movement toward a market economy.

Target oriented economic planning, and associated economic policy are in the process of being discarded (Cho, 1994). Price stabilization policy, job creation policy, and other policies to strengthen the bases for sustained growth are gaining importance in the realm of economic policy.

Economic Performance

(In million dollars, %)						
	1992	1993	1994	1995	1996	Annual Growth Rate (1992~1996)
Export (A)	76,631	82,237	96,013	125,058	129,715	14.1
Import (B)	81,775	83,799	102,349	135,119	150,340	15.4
Trade Balance (A-B)	▼ 5,144	▼ 1,562	▼ 6,336	▼ 10,061	▼ 20,625	-
Gross Foreign Liabilities	42,819	43,870	56,850	78,439	104,695	25.5
Net Foreign Liabilities	11,096	7,893	10,308	17,062	34,721	33.0

Source: National Statistical Office, Korea Statistical Yearbook, 1997

Table 3 The Trade Balance and Foreign Liabilities of Korea

The Korean economy had been performing well before mid-1997: real GDP grew at annual rate of more than 7 percent in the 1990s, as it had in the 1980s, inflation was below 5 per cent, and the unemployment rate was less than 3 percent (M. Feldstein, 1998). The sustained trade deficit in recent years, however, has posed a serious problem to the Korean economy. As shown in Table 3, the trade deficit has widened since 1993. Without the export boom in semi-conductors during 1994 and 1995, Korea would have recorded much larger trade deficits for those years. Exports of DRAMs (Dynamic Random Access Memory Chips), taking the lion's share of semi-conductor exports, accounted for 10 percent of total exports in 1995. The price plunge of DRAMs in 1996 was the main factor for the worsened trade balance for that year (KDB, 1997). The sustained trade deficit combined with continuing borrowing of businesses and financial institutions from foreign banks resulted in an increase in net foreign liabilities. As shown in Table 3, the gross foreign liabilities had more than doubled and the net foreign liabilities had more than tripled from 1992 to 1996.

Infrastructure

As at 1995, Korea has 3,101 kilometers of railways, 61,296 kilometers of highways of which 1,550 kilometers are expressways, and 1,609 kilometers of waterways which are restricted to use by small native craft as of 1995 (CIA, 1998). There are 105 airports, including three international airports. The cities of Seoul, Pusan and Daegu have subways and Seoul's subway system is the eighth largest in the World (KOIS, 1997). There are estimated an 24.887 million telephones with 19.711 million subscribers, 6.805 million cellular telephones with 3.130 million subscribers, and 21.1 million radio pagers with 12.693 million subscribers as of 1996 (MIC, 1997). There are forty-nine FM stations, fifty-four AM radio stations, and forty-six television stations. Full-fledged cable TV was introduced in 1991 and twenty-nine cable channels were in operation as of 1996 (KOIS, 1997).

Socio-Cultural Context

National Values and Traditions

Confucian thought occupies the center of Korea's national values; it embraces the virtues of benevolence, righteousness, decorum and wisdom. Perhaps one of the most outstanding characteristics of the Korean people that has come down over time is their ability to respect authority while maintaining the value of individual dignity and rights (KOIS, 1998). Several studies (e.g. G. Hofstede and M. Bond, 1988; Song, 1990; Sakong, 1993) emphasize this Confucian cultural heritage in explaining Korea's economic success. However, in some sense, the Confucian cultural heritage has hindered economic development. The old Confucian view places scholars and government officials at the top of the social hierarchy, followed by farmers, artisans and merchants at the bottom. Many Koreans still belittle entrepreneurs under the influence of this cultural heritage.

The Confucian ethic places great emphasis on education and the family. The Confucian ethic stresses personal cultivation, self-improvement, and spiritual and psychological discipline of the self (Song, 1990). The explosion in demand for education and existence of many conglomerates owned by families are closely related with this Confucian value system. One study (L. Kim, 1997) emphasizes the socio-cultural aspects of Korea, determined by situational factors rather than by religious and moral teachings, in explaining Korea's rapid growth since 1960s. Those aspects are 1) individual commitment and entrepreneurship, 2) discipline at the organizational level, 3) effective mobility and networking at the societal level, and 4) nationalism at the national level. The situational factors, given as the Korean War, compulsory military service, rapid urbanization, frequent foreign invasions and Japanese occupation for thirty-six years helped to form the abovementioned socio-cultural aspects.

Religious Movements/ Philosophical Ideologies

Over the centuries, Korea has been subject to a number of diverse religious and philosophical influences. Shamanism, the indigenous religion, first appeared in the peninsula in Neolithic times. Buddhism and Confucianism were introduced from foreign sources in the fourth century AD (as was Taoism, a minor influence). In the eighteenth century, Catholicism came from the West via China, to be followed by Protestantism in the late nineteenth century (KOIS, 1998). Freedom of religion is guaranteed by the Constitution, and according to a 1995 social survey, 51.1 percent of Koreans follow a specific religious faith. Buddhists accounted for 45.6 percent, followed by Protestants at 38.7 percent, Catholics at 13.1 percent, and Confucianists at 0.8 percent. (KOIS, 1997).

Ethnic Grouping

Koreans are one ethnic family, speaking the same language. Minority groups are nearly non-existent, apart from 30,000 long-time Chinese residents, living mostly in Seoul.

Recent History

Korea is an independent country with a history going back thousands of years. Because of the country's strategic location on the Asian continent, it has been invaded over and over again by powerful neighboring countries. Nevertheless, Koreans have somehow always managed to maintain or regain their independence. Korea was under Japanese rule for 36 years (1910-1945) and then was divided shortly after being liberated at the end of World War II. The Korean War (1950-1953) left Korea devastated. Reunification remains the long-cherished but elusive goals of Koreans on both sides of the guarded Military Demarcation Line. During the 1960's and 70's, Korea succeeded in developing its economy. During the 80's, the people's wish for democracy was achieved. (KOIS, 1998).

Korea hosted the 1988 summer Olympics and joined the Organization for Economic Cooperation and Development (OECD) in October of 1996. A financial crisis started in the middle of 1997 and lead to a standby loan agreement with the International Monetary Fund (IMF), in December 1997. The opposition party won the presidential election for the first time in history, which was held two week after the signing of the IMF bailout package.

Labor Market

Workforce Characteristics

Working Population

The economically active population, which includes people fifteen years of age and over who are willing to work, amounted to 20.797 million persons in 1995; this represented a registered labor force participation rate of 62%. Of the economically active population, 12.433 million were male, and the remaining 8.363 million were female. The trends in the labor force participation rate, male labor force participation rate, and female labor force participation rate are shown in Table 4. The recent increase in the female labor force participation rate is related to the decrease in the opportunity cost of working due to families with fewer children, and the increase in that of not working due to the higher education level of females.

	(Unit: %)						
	'85	'90	'91	'92	'93	'94	'95
Labor Force Participation rate	56.6	60.0	60.6	60.9	61.1	61.7	62
Male Labor Force Participation rate	72.3	74.0	74.9	75.5	76.0	76.4	76.5
Female Labor Force Participation rate	41.9	47.0	47.3	47.3	47.2	47.9	48.3

Source: National Statistical Office, Annual Report On The Economically Active Population Survey, 1996

Table 4 Trend in Labor Force Participation Rate

Employed/Unemployed

The trend in unemployment statistics is shown by the statistics in Table 5. The unemployment rate recorded in 1995 was 2 percent, the lowest level since measuring the unemployment rate began. The distinctive characteristic of unemployment statistics is the fact that the unemployment rate of the highly educated has been greater than the total unemployment rate. The proportion of highly educated workers among the unemployed increased from 8% in 1980 to 25.8% in 1995.

(Unit: Thousand, %)

	Unemployed (Highly Educated): A	Unemployed (Total) : B	A/B(%)	Unemployment Rate(Highly Educated): C	Unemployment Rate(Total): D	C/D
1980	60	749	8.0	6.6	5.5	1.2
1981	63	661	9.5	6.6	4.7	1.4
1982	71	656	10.8	6.4	4.5	1.4
1983	77	613	12.6	6.5	4.2	1.5
1984	82	567	14.5	6.1	3.9	1.6
1985	109	619	17.6	7.1	4.1	1.7
1986	124	611	20.3	7.5	3.9	1.9
1987	111	519	21.4	6.1	3.2	1.9
1988	101	435	23.2	4.9	2.6	1.6
1989	116	460	25.2	5.1	2.6	2.0
1990	114	451	25.3	4.6	2.5	1.8
1991	101	436	23.2	3.8	2.3	1.7
1992	109	463	23.5	3.6	2.4	1.5
1993	141	551	25.6	4.2	2.8	1.4
1994	130	489	26.5	3.6	2.4	1.5
1995	108	419	25.8	2.7	2.0	1.4

*Highly educated is defined as the junior college graduate or beyond

Source: National Statistical Office, Economically Active Population Survey, various years

The unemployment rate, however, is expected to rise rapidly in coming years due to the current economic crisis and Korea's agreement with the IMF to curtail economic growth rate in 1998. In fact, the unemployment rate surged to 4.5 percent in January 1998; nearly the highest rate since February 1987, when the rate was 5 percent. The number of jobless in January reached 934,000, with 276,000 persons losing their jobs in January alone. The unemployment rates for December 1997 and January 1997 stood at 3.1 percent and 2.6 percent, respectively.

Table 5 Unemployment Statistics

Composition of employed workers

Of 20.377 million employed workers, 40.4% were female in 1995. Employment in the service sector increased from 54.5% of total employment in 1990 to 64% in 1995, while employment in the agricultural sector and the manufacturing sector decreased from 17.9% to 12.5% and from 27.6% to 23.6%, respectively. Table 6 shows the occupational distribution of workers for 1994 and 1995. These figures are not comparable with previous years due to changes in occupational classifications.

(Unit: thousand persons)

	Total	Legislators , Senior Officials & Manager	Profes sionals	Technicians & Associate Professional	Clerks	Service Worker, Shop & Sales Worker	Skilled Agricultural & Fishery Workers	Craft & Related Trade Workers	Plant & Machine Operators & Assemblers	Elementry Occupation
94	19,837	532	825	1,717	2,433	4,288	2,547	2,721	2,549	2,224
95	20,377	525	971	1,840	2,510	4,464	2,389	3,219	2,175	2,284

Source: National Statistical Office, Economically Active Population Survey, 1996

Table 6 Occupational Distribution of Employment

The number of non-wage family workers was 7.642 million in 1995, and this figure was equivalent to 9.6% of the total employment. Table 7 shows the status of workers in respective industries. In the mining and manufacturing sector, only 3.5% of the employed are family workers, whereas in service sector, 7.0% of the employed are family workers.

(Unit: thousand persons, %)

	Agriculture	Mining & Manufacturing	Service	Total
Self Employed	1,489 (58.6)	569 (11.9)	3,634 (27.9)	5,692 (27.9)
Family Workers	872 (34.3)	170 (3.5)	908 (7.0)	1,950 (9.6)
Employees	180 (7.1)	4,060 (84.6)	8,495 (65.2)	12,735 (62.5)
Total	2,541 (100)	4,799 (100)	13,037 (100)	20,377 (100)

Source: National Statistical Office, The Economically Active Population Survey, 1996

Table 7 Labor Market Status of Workers by Industry**Government Policies**

The labor market policy of Korea has been subordinated to overall development strategy. For maximizing growth of income and exports, government priorities had been given to secure the supply of labor for the manufacturing industries with the strong intervention of government in the labor market before 1987. Under the banner of 'growth first, distribute later', a relatively low level of wages were maintained and labor movements were repressed (S. Kim and J Lee, 1997; S. Cho, 1993). To maximize both growth of income and employment, labor-intensive light industries were intentionally fostered during the 1960s. The rapid mobilization of human resources from agricultural sectors and urban traditional sectors to manufacturing sectors took place during this period. In the 1970s, as the focus of industrial policy shifted from light industry to heavy and chemical industries, the government expanded the volume of technical high schools very rapidly, established public vocational training centers, and introduced a training-levy system for in-plant vocational training.

There was a limit in maintaining the low level of wages. As the abundant pool of the unemployed and the under-employed in the agricultural and the urban traditional sectors became exhausted, the government had to acquiesce to a big wage increase to placate the workers in the latter half of 1970s. The low wage policy by government, however, had been generally maintained until the "June 29th Declaration" of 1987. With the June 29th Declaration of 1987, the declaration of political liberalization, the government changed its position in the labor market from strong intervention to more laissez-faire. This led to substantial increases in wages, and in turn labor shortage, especially of SMEs that were unable to pay the raised market wages. With the rising shortage of workers, the government adopted policies to expand the economic participation of the elderly, female, and foreign workers. The Equal Employment Act was enacted in 1988, the Employment Promotion Act for the Elderly was enacted in 1992, and the Foreign Industrial Skills Trainee System was introduced in 1991. Employment insurance was introduced in 1995. It is a combination of the traditional unemployment benefits and active labor market policies such as employment promotion activities and vocational ability development activities.

The labor market policy of the government is currently in transition. With the demise of government-led industrial policy, the development of institutions to perform new functions such as supplying manpower to meet the demands of advanced industries, enhancing job matches on the labor market, expanding the employment insurance system and protecting employment of the disadvantaged are now being emphasized.

Employment Law

Overview

Employment law consists of individual labor law and collective labor law. Individual labor law is mainly concerned with rights and duties of employers and employees in the course of the employment relationship. Collective labor law governs the employee's right to organize, and the collective relationship between employers and workers' organizations. Both individual labor law and collective labor law have been criticized for their rigid restrictions on employment, wages and unions. The rigid restrictions on employment and wages have been regarded as a major hindrance to achieving labor market flexibility. The legal framework for union was too restrictive to be actually enforced on unions. This led to selective interventions by government in union activities, which hindered proper development of autonomous industrial relations (J.Lee, and D.Kim, 1997).

To achieve labor market flexibility and appropriately develop autonomous industrial relations, restrictive clauses on employment, wages, and unions were deregulated through labor law reform in 1997. The financial crisis in the Korean economy at the end of 1997 and a subsequent standby loan agreement with the IMF accelerated the reform toward labor market flexibility. The guarantee of a flexible labor market was one of the key conditions attached to IMF bailout program. In this section, key legislation and broad content of individual labor law and collective labor law are reviewed. In the course of the review, the content of labor law reform in 1997 and amendment initiated by the IMF bailout program are presented.

Sources of Employment Law

Individual Labor Law	
Labor Standard	Labor Standards Act(1963) Minimum Wage Act(1986) Equal Employment Act(1987) Employment Welfare Fund Act(1991)
Industrial Safety and Health	Industrial Safety and Health Act(1995) Act relating to Prevention of Pneumoconiosis and Protection of Pneumoconiosis Workers(1984)
Employment Security	Basic Employment Policy Act(1993) Employment Security Act(1994) Employment Insurance Act (1993) The Aged Employment Promotion Act(1991) Act Relating to Employment Promotion, etc. of the Handicapped(1990) Pay Guarantee Fund Act (1998)
Vocational Training	Basic Vocational Training Act(1981) Vocational Education and Training Promotion Act(1997) Basic Certification Act(1997) Occupational Competency Development Institute Act (1997)
Labor Insurance	Industrial Accident Compensation Insurance Act(1994)
Collective Labor Law	
	Trade Union and the Labor Relations Adjustment Act(1997) Promotion of Workers' Participation and Cooperation Act(1997) Labor Relations Commission Act(1997)

Table 8 Major Employment Laws & Year of Enactment

Major employment laws are summarized in Table 8. In addition to laws described in Table 8, the President or Minister of Labor issues both regulations and orders to interpret or implement each statute. Other sources of employment law are autonomous regulations; these include collective agreements and rules of employment prepared by the employer. The Labor Standards Act stipulates that an employer employing ten or more workers prepare rules of employment and submit them to the Minister of Labor. Those autonomous regulations that conflict with laws, regulations or orders will become null and void.

Individual Labor Laws

Many individual labor laws have been enacted to protect employees and enhance their working conditions. The Labor Standards Act is the primary law. The purpose of this act is to set standards for the conditions of employment to secure and improve workers' standards of living. This Act currently applies to all business or workplaces in which five or more workers are employed at all times. The scope of application is to extend to a business or workplace that employs at all times four or less workers in 1999. The main features of the labor standards law and major contents of other individual labor laws are presented below.

Main Features of Labor Standards Act

Layoff Restrictions

According to the old labor standards law prior to 1997, an employer was not allowed to layoff or dismiss workers without justifiable reason. The court decided whether the employer had a justifiable reason based on previous cases. In case of dismissal, an employer would have to pay a worker the usual wage for not less than thirty days unless he had given at least thirty-days' advance notice of dismissal. In the 1997 labor law reform, more explicit and flexible rules of layoff are introduced. According to new clauses on lay off (which have a two year moratorium), an employer could lay off workers pending imperative needs of management, on condition that efforts are made to avoid layoff, and there are consultations with unions or representatives of workers (J. Lee and D. Kim, 1997). Layoff restrictions were further eased in February 1998, in efforts to abide by the conditions for the IMF bailout program. Easing the dismissal restrictions under mergers and acquisitions and corporate restructuring were key conditions of the IMF bailout program. Under the new amendment, an employer can layoff workers if there is an urgent need to do so or mergers and acquisition of businesses are involved, on condition that efforts are made to avoid layoffs, that the selection of those to be dismissed is made on fair grounds and not by sexual discrimination, and that employees are notified of these grounds with via 'the representative of employee' at least sixty days in advance of the dismissal. In addition, the employer has to make efforts to preferentially hire laid-off workers, when recruiting new employees within two years after the day of layoff.

Severance Pay

Workers with no less than a year of service are entitled to severance pay, which is no smaller than one twelfth of the worker's service time average wages during the three months preceding displacement. As wages rise with length of service, severance payment also increases. In the 1997 labor law reform, a flexible management of the severance pay system was introduced. The severance pay system can be converted into a firm-based pension system, with which a firm can spread the payment over several periods rather than a one- time payment. It also allows workers to request the payment while being employed. However, an employer is not obliged to meet workers' request for interim payment. When the severance pay is made to a worker during his employment, the severance pay for the rest of the worker's service is to be recalculated based on tenure starting from that point (D. Kim and J. Lee, 1997b).

Working Hours

The amended labor standards law of 1997 allows for flexible working hours. Before the amendment, working hours should not exceed eight hours a day and forty four hours a week. A worker was allowed to work a maximum of an additional 12 hours a week by mutual agreement between a worker and an employer. Under these restrictive working hour clauses, if a worker were to work forty hours in one week and forty-eight hours the next week, the employer has to compensate for an overtime payment of four hours. Under the flexible working

hours clauses, the maximum working hours allowed are forty eight hours per week on a two-week cycle under the condition that the two-week average does not exceed forty four hours a week and eight hours a day. By mutual agreement between a worker and an employer, a worker may work a maximum of fifty six hours per week and twelve hours a day on a monthly cycle on condition that the monthly average does not exceed forty four hours a week and eight hours a day (J. Lee and D. Kim, 1997a).

Overtime Work

By mutual agreement between a worker and an employer, a maximum of twelve hours of overtime work is allowed in any week. An employer is to pay the employee a 50% premium of the usual wage for overtime work, night-time work (work between 22:00 hours to 6:00 hours) and holiday work. Neither females nor minor under age of eighteen are authorized to do either night-time work or holiday work unless otherwise approved by the Minister of Labor. Overtime work for a female worker is limited to two hours a day, six hours a week, and 150 hours a year.

Maternity

A pregnant female worker is entitled to a total of sixty days' maternity leave with pay before and after childbirth, provided that maternity leave with pay is used not less than thirty days after childbirth. A working woman or her spouse is entitled to childcare leave not exceeding one year and not extending beyond the first birthday of the infant upon request.

Shutdown Allowance

If employees have been temporarily suspended for causes attributable to the employer, the employer is to pay the workers concerned at least 70 percent of their average wages for the period of suspension.

Emergency Payment

An employer is to advance partial payment of wages in proportion to labor services rendered even prior to payday, when a worker requests it in order to meet the expenses of childbirth, illness, disaster or any other emergency provided for by the Presidential Decree.

Accident Compensation

Five types of accident compensation for a worker are prescribed under the Labor Standards Act. These are medical care compensation, compensation for suspension of work, physical handicap compensation, survivor's compensation, and funeral expenses. The employer is to provide necessary medical care at his own expense or bear corresponding expenses for a worker who suffers from an occupational injury or disease. During the period of medical care from occupational injury or disease, the employer is to provide compensation for suspension of work equivalent to sixty per cent of the average wage. If a worker suffers from a physical handicap arising out of an occupational injury or disease, an employer is to provide compensation for the handicap. If a worker dies during or as a result of the performance of his duty, the employer is to provide survivor's compensation equivalent to 1,000 days' average wages to the surviving family and funeral expenses equivalent to ninety days' average wages.

Rules of Employment

An employer ordinarily employing ten or more workers is required to prepare rules of employment and submit them to the Minister of Labor. The rules of employment include matters pertaining to hours of work, determination, calculation and means of payment of wages, calculation and means of payment of family allowances, retirement allowance, bonus and minimum wages, worker's food expenses and charges for operational necessities and other expenses, safety and health, and other matters applicable to all workers of each business

concerned. The rules of employment are not to conflict with laws, regulations or the collective agreement applicable to the workplace concerned. For preparation and amendment of the rules of employment, an employer is required to seek the opinion of the trade union representing the majority of workers, or the majority of workers if there is no trade union representing the majority of workers.

Labor Inspector

The Ministry of Labor and its subordinate offices designate a labor inspector to assure the maintenance working condition standards. The labor inspector may inspect the workplace; require presentation of documents; and question both employer and employee. With regard to violation of the Labor Standards Act and other labor laws, the labor inspectors perform the duties of judiciary police.

Main Contents of Individual Labor Laws other than Labor Standards Act

Minimum Wage Act

This Act was enacted in 1986 and applies to the business or the workplace to which the Labor Standards Act applies. According to this law, the Minimum Wage Council, the tripartite body of workers, employers, and public interest, was established to deliberate the minimum wage and related matters. A worker with a mental or physical handicap, a worker on probation, and a worker who receives basic in-plant vocational training prescribed by the Basic Vocational Training Act are not covered by the Minimum Wage Act. Any employer who fails to pay the minimum wage may be punished by imprisonment of not more than three years, or fined not more than 10 million *won*.

Employment Equality Act

This law was enacted in 1987 and applies to the business or the workplace to which the Labor Standards Act applies. The purpose of this Act is to ensure equal opportunity and equal treatment of men and women in employment, to contribute to improving the status of working women, and to promote their welfare by protecting their maternity and developing their vocational ability. This Act prohibits discrimination of women in the areas of recruitment, employment, wage, non-wage payment, training, assignment, promotion, and vocational training. According to this law, protecting the maternity of women is not considered reverse-discrimination.

Employee Welfare Fund Act

This law was enacted in 1991 to contribute to the promotion of workers' welfare by requiring the employer to establish, manage and operate an Employee Welfare Fund that is financed with a portion of the profits yielded from the business operation of the employer. According to this law, the council set up for this fund discusses and decides the amount of employer's contribution to the fund based on a 5 per cent guideline of before tax net profits. The fund is to be used as financial aid for workers' property purchase, a financial loan to low-income workers, and as financial help to protect workers living. The fund is administered by Employee Welfare Fund Council established in the business, which is composed of an equal number of members representing employer and workers.

Industrial Safety and Health Act

The Industrial Safety and Health Act, enacted in 1981 and wholly amended in 1995 applies to all businesses or workplaces. This law stipulates the duties of government, employers, and workers in preventing industrial accidents by setting standards for the industrial safety and health, and practical measures for the prevention of industrial accidents. The establishment of

“an Industrial Safety and Health Committee” by each employer and “the Industrial Accident Prevention Fund” by the government is prescribed in the law.

Basic Employment Policy Act

This law was enacted in 1993 with a view to comprehensively formulating and implementing the employment policy by the State. Collection and provision of employment information, development of vocational abilities, support of employment promotion for workers, support for the employer in securing a workforce, and measures for supporting coordination and security of employment are prescribed as major employment policy priorities of the State in this Act. According to this law, the Minister of Labor shall formulate and implement mid-term and long-term basic programs for employment policy. For deliberation and coordination of essential matters concerning employment, an Employment Policy Council has been assigned to the Ministry of Labor and the Local Employment Policy Council in local government. The State has established and operates an employment security agency by each region to promote employment of workers and to secure a workforce for employers.

Employment Security Act

This law was enacted in 1994 to attain employment security for workers. This act stipulates rules on job placement and vocational guidance for the employment security agency, placement service, employment information service, and labor supply business by persons other than the head of the employment security agency. This act requires that Ministry of Labor licenses labor supply businesses. There had been reform talk on allowing a temporary work agency to give more flexibility to firms’ human resource management. Confronted by strong opposition from the union that a hastily designed bill would reduce regular jobs and demote worker welfare, the legitimization of a temporary work agency has been delayed. The temporary help service, or the use of alternative manpower, is currently confined to highly specialized professions.

Employment Insurance Act

This law was enacted in 1993 and became effective as of July 1, 1995. The employment insurance system is a combination of traditional unemployment benefits and active labor market measures such as employment security activities and vocational ability development activities. The insured can get the benefits for employment security activities or vocational ability development activities, as well as for unemployment. This law is applicable to all businesses and workplaces employing five or more workers. The Act does not apply to those who are newly employed after the age of sixty, part-time workers, daily workers, workers employed for seasonal or temporary projects, civil servants, or private school teachers.

The Aged Employment Promotion Act

This law was enacted in 1991 and became effective on July 1, 1992. The aged is defined as being a person fifty-five years of age and older. According to this law, the Minister of Labor recommends an employer to meet ‘standard employment rate’ for aged workers, which is the rate of aged workers in proportion to regular workers. For example, employers hiring over 300 workers are recommended to have a minimum 3 per cent of its workers in the aged category.

Employment Promotion Act for the Handicapped

This law was enacted and became effective in 1990. Employers, again as in the case of aged workers, should meet the ‘standard employment rate’ of handicapped workers. Employers hiring more than 300 workers should employ at least 2 per cent in the category of handicapped workers. Employers hiring fewer handicapped workers than the standard employment rate are required to pay a levy.

Pay Guarantee Fund Act

The Labor Standards Act guarantees a preferential payment of claims for wages, severance pay, accident compensation and other claims arising from employment relationships ahead of taxes, public charges and other claims except for claims secured by pledges or mortgages. A preferential payment of claims, however, is not enough to secure wages and other claims of employees with increasing bankruptcies of marginal firms under the current economic crisis. A payment of the last 3 months' wages and the last three years' severance pay is to be secured through the establishment of "Pay Guarantee Fund", which is administered by Minister of Labor. The enactment of this law was one of the compensatory measures for concession by labor unions to accept layoff clauses in February 1998. Employers are to contribute to this fund at the rate of 0.2 per cent of their overall payroll. This Act is to be implemented beginning in July, 1998.

Acts on Vocational Training

Currently, there are four main laws related to vocational training. They are the Basic Vocational Training Act, Vocational Education and Training Promotion Act, Basic Certification Act, and Occupational Competency Development Institute Act. Except for the Basic Vocational Training Act, which was wholly amended in 1981, the remaining three laws were enacted in 1997. In order to meet the rapidly changing needs for the vocational training, three new acts make up the framework for a decentralized, diversified, demand-oriented vocational training system.

Industrial Accident Compensation Insurance Act

This act was wholly amended in 1994 and covers workers at workplaces with five or more employees. An employer bears the cost of insurance, which ranges from 0.5% to 32% of the payroll according to risks of accidents in industry. Medical benefits, disability benefits, survivor's benefits, and funeral expenses are provided by this plan (see table 32 for details of the benefits).

Collective Employment Law

Collective employment law was wholly reenacted by labor law reform in 1997 with an intention of appropriately developing autonomous industrial relationships. The Trade Union and the Labor Relations Adjustment Act was enacted by wholly amending and combining the former Trade Union Act and Labor Dispute Adjustment Act. The Promotion of Workers' Participation and Cooperation Act replaced the former Labor-Management Council Act. The Labor Relations Commissions Act was also wholly amended. The essential contents of the aforementioned collective employment laws are reviewed as follows.

Trade Union and the Labor Relations Adjustment Act

This law upholds three fundamental workers' rights to enjoy freedom of association, collective bargaining, and collective action prescribed by the Constitution, and provides the governing rules for adjusting labor relations in a fair manner, and preventing and resolving labor disputes. This Act prescribes: 1) the legal requirement for establishment, management, and dissolution of a trade union, 2) parties to, effective term of, binding force of collective agreement, 3) adjustment of labor disputes, and 4) cases of unfair labor practices and relief procedure by the Labor Relations Commission.

Trade Unions

Teachers and civil servants are not allowed to organize trade unions under the current law. In return for concession on the part of unions to accept layoffs in the 1998 labor law amendment, teachers are allowed to form unions beginning in July, 1999, and civil servants ranked below

the sixth grade in the hierarchy, except for policemen and firefighters, are eligible to form labor management consultative bodies beginning in January, 1999.

Three restrictive clauses in the former Trade Union Act had been widely criticized and consequently amended in the Trade Union and the Labor Relations Adjustment Act. Those three clauses are: 1) prohibition of multiple labor unions at all levels; 2) political activities of labor union; and 3) third party intervention in the establishment or dissolution of a trade union, joining and leaving a trade union, and collective bargaining with employers. The amended law allows multiple unions at the confederation level immediately and then at the enterprise level starting in the year 2002. The political activities of labor unions are also allowed within the legal framework that applies to other interest groups with the provision that the union can not exclusively engage in political activities. Third party intervention is allowed for: 1) a federation by industry or confederation to which a concerned trade union belongs; 2) an employer's association to which a concerned employer belongs; and 3) a person who has been reported to the Ministry of Labor by a union or an employer in question. The unions are, however, banned from collecting political funds or donating to parties under Political Funds Act and from fielding candidates under the Election for Public Office and Election Malpractice Prevention Act. These restrictions are to be eased within the first half of 1998, in return for the labor union concession to accept layoffs.

The monthly membership dues of a trade union had a ceiling of 2 per cent of the monthly wages of the membership. This restriction caused most unions to suffer from financial difficulties. It has been customary for an employer to pay full-time union officials. The amended labor law of 1997 stipulates that the elected full-time union officials should not be paid by the employer during their service to the union. The membership dues ceiling is also abolished. Considering the financial difficulties of unions, however, this clause will become effective starting in the year 2001 for firms and businesses where employers have been paying union officials. The deviation from the "No work, No pay" principle for full-time union officials was raised once again by unions, however, as a compensatory measure for accepting layoffs in the labor law amendment of February, 1998. Labor and management agreed to discuss this matter further.

Collective Agreements

The effective term of collective agreements had been restricted to not exceed one year for wages and two years for matters other than wages, but it was extended to not exceed two years for wages in the 1997 labor law reform to reduce unnecessary conflicts between labor and management caused by annual wage bargaining. When a new collective agreement is not concluded after the expiration of the effective term of a prior agreement, the former agreement remains valid if "automatic extension of effective term" is specified in the collective agreement. If not, the previous agreement will remain valid only for three months after its expiration date. However, each party can terminate the "automatic extension of effective term" clause by notifying the other party six months in advance (formerly three months in advance under the 1997 version).

Labor Disputes and Adjustments

Figure 2 shows the procedure of adjustments of labor disputes. The 1997 amended law only allows for an interest dispute and does not allow for a right dispute; a dispute over reaching a collective agreement is legal, while a dispute over the interpretation and application of the collective agreement is illegal. An act of dispute should be decided by a concurrent vote of a majority of the union members by a direct, secret and unsigned ballot. Persons engaged in the

production of electricity, water and mainly military goods are not allowed to conduct an act of dispute. Acts of violence, destructive acts, or occupation of facilities related to production and other major businesses are prohibited. An employer cannot hire or substitute any person to carry out work interrupted due to dispute and has no obligation to pay wages equivalent to the period of dispute to those who fail to provide labor by participating in the dispute.

Any dispute is prohibited without going through the procedures of conciliation. Conciliation is commenced by a labor relations commission upon the request of either party in dispute. The period of conciliation is not longer than ten days for general businesses extensible up to a limit of ten additional days, and not longer than fifteen days for a public utilities business extensible up to a limit of fifteen additional days. A conciliation committee, composed of three conciliators representing the employer, the employees, and the public interest, respectively, is established in the Labor Relations Commission.

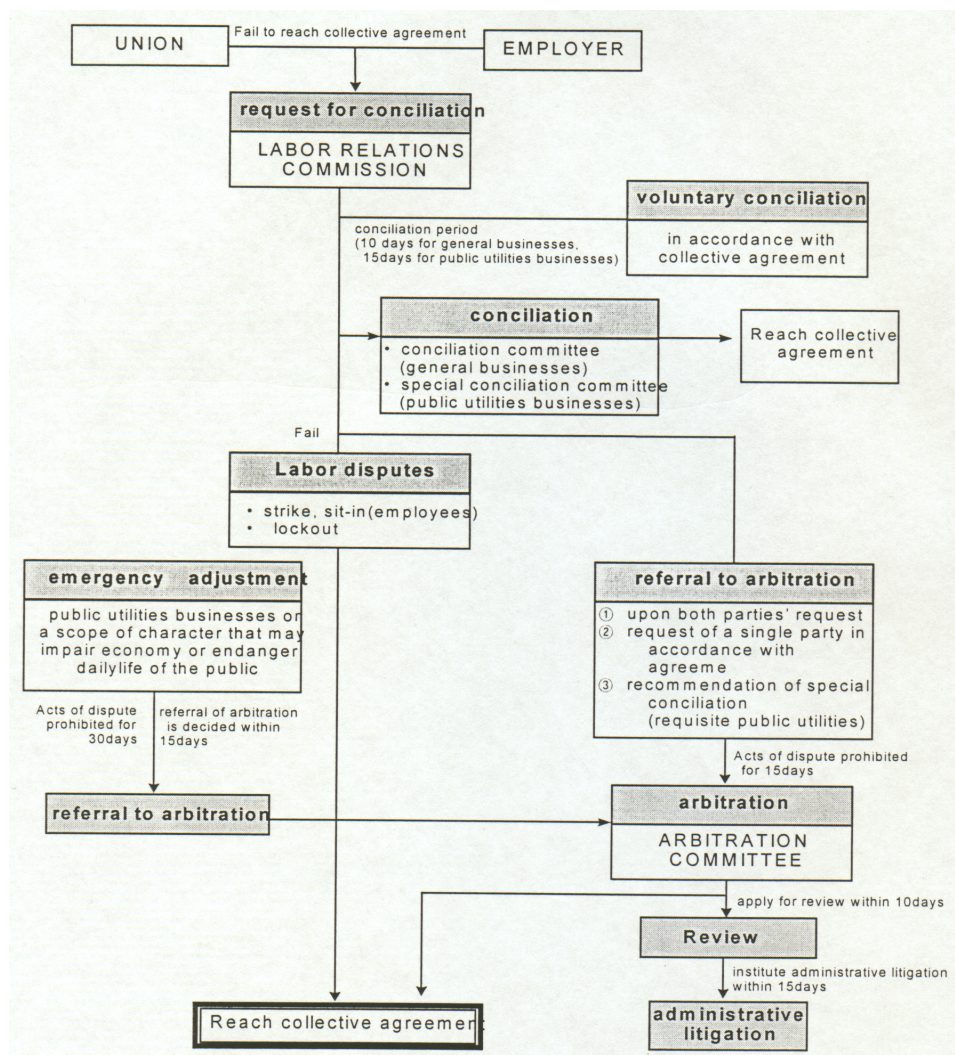


Figure 2 Adjustments of Labor Disputes

The conciliator representing the employer is appointed from among the Commission members recommended by the labor union, and the conciliator representing the employees is appointed from among Commission members recommended by the employer. The conciliator representing the public is to be the chairperson of the committee. With the consensus of both

parties of a labor dispute, a single conciliator may conduct the conciliation on behalf of the conciliation committee. The conciliation committee or a single conciliator hears the claims of both parties of a labor dispute, prepares a conciliation draft, presents it and urges the parties to accept it. When the parties concerned refuse to accept the conciliation draft and it deems that there is no room for conciliation, the conciliation committee or a single conciliator should decide to terminate a conciliation procedure and notify the parties of a labor dispute. When the parties concerned accept the conciliation draft, the contents of the decision on the conciliation shall have the same effect as that of a collective bargaining agreement. When there is any disagreement between parties in a labor dispute in interpreting or acting upon the conciliation draft, the parties concerned request the conciliation committee to give clarification and the conciliation committee is required to provide a clear-cut opinion within seven days of a request.

Arbitration is undertaken by the Labor Relations Commission where: 1) both parties concerned have requested arbitration; and 2) either party concerned has requested arbitration in accordance with the provisions in the collective bargaining agreement. Any act of dispute should not be engaged in for fifteen days from the date of referral to arbitration. An arbitration committee, composed of three arbitrators representing the public interests, is to be established in the Labor Relations Commission to arbitrate or review labor disputes. The arbitrators are nominated from among those selected by consensus between the parties concerned. However, when the parties concerned fail to reach consensus, the chairperson of the Labor Relations Commission nominates the arbitrators. The arbitration committee should confirm the claims of the parties concerned and draw up an arbitration award in written form with the effective date of award. Where parties concerned deem that an arbitration award rendered is against the laws applicable or *ultra vires*, they may apply for a review of the said arbitration award to the Central Labor Relations Commission within ten days of the date of receipt of award. The parties concerned may institute administrative litigation against the Central Labor Relations Commission within fifteen days of the date of receipt of the arbitration award or decision after review. The arbitration award, or a decision after review, is finalized, where the parties concerned fail to file a request for review, or to institute administrative litigation within a specified period of days.

The Minister of Labor may render a decision for an emergency adjustment, if disputes are related to public utilities businesses, or if the dispute is of such scope of character that there exists a danger which might substantially impair the nation's economy or endanger the daily life of the general public. For settlement of all public utilities businesses, a special arbitration committee shall be established in the Labor Relations Commission. Where deemed that arbitration is unlikely to be obtained in requisite public utilities businesses, a special arbitration committee may recommend that the labor relations commission refer the case in question to arbitration prior to the expiration of a period of conciliation. Upon the recommendation of a special arbitration committee, the chairperson of a labor relations commission determines whether to refer the case to arbitration in consultation with members representing the public interests. The scope of public utilities businesses and requisite public utilities businesses are presented in Table 9.

Public Utilities Businesses	Requisite Public Utilities Businesses
<ul style="list-style-type: none"> ■ businesses of passenger transportation operated on a regular run ■ water, electricity, gas supply, oil refining and oil supply businesses ■ public hygiene and medical care businesses ■ banking and mint businesses ■ broadcasting and communications businesses 	<ul style="list-style-type: none"> ■ railway (including urban railways), intra-city transit businesses (only for metropolitan cities) ■ water, electricity, gas supply, and oil refining and oil supply businesses ■ hospital businesses ■ banking businesses ■ telecommunications businesses

Table 9 The Scope of Public Utilities Businesses

Unfair Labor Practices

An employer cannot dismiss an employee or act against an employee's interest on the grounds that they have joined a union, impose the condition of employment that a worker will not join or withdraw from a union, reject or neglect the execution of a collective agreement, control or interfere with workers in the formation or operation of a trade union, nor penalize or dismiss a worker on the grounds that the worker joined a justifiable collective action or reported unfair labor practices of an employer to the Labor Relations Commission.

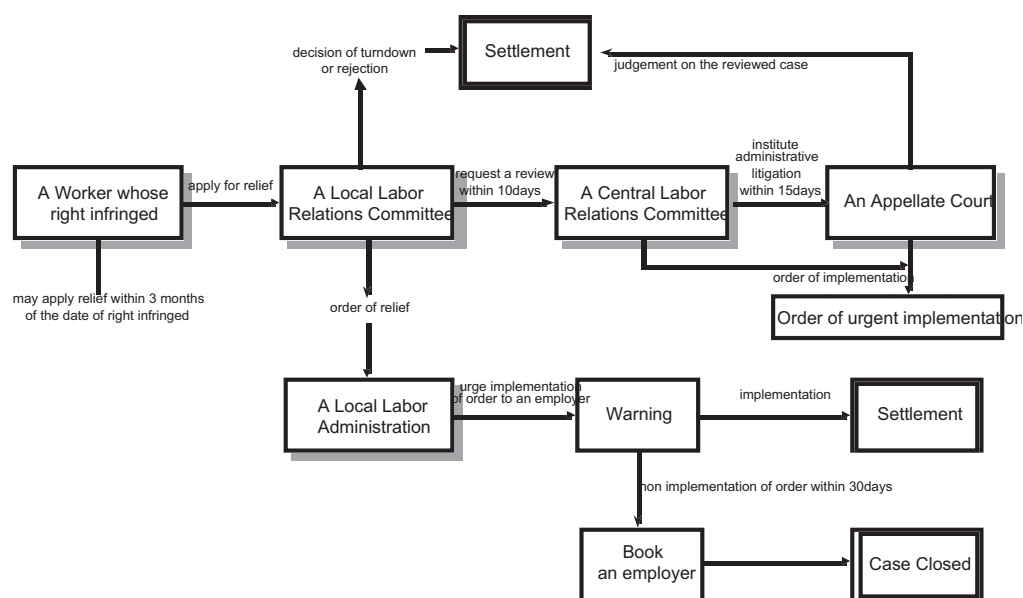


Figure 3 Settlement of Unfair Labor Practices

An employee or a trade union who has had his or her rights infringed upon due to unfair labor practices may apply for relief thereof to the Labor Relations Commission within three months of the date of an unfair labor practice (see Figure 3). The Labor Relations Commission is required to investigate the case without delay upon the application for relief, and to issue either a decision of turn-down or order of relief to the pertinent party. When a person concerned objects to the decision of turn-down or the order of relief by a Local Labor Relations Commission, he or she may request a review by the Central Labor Relations Commission within ten days of the date of receiving the letter of order, decision or judgment after review. After the Central Labor Relations decision, the party concerned may bring an administrative suit in accordance with the Administrative Litigation Act within fifteen days of receiving the letter of order, decision or judgment after review. The effectiveness of the order of relief, the decision of turn-down, or the judgment after review by the Labor Relations Commission is not to be suspended by aforementioned two procedures. Table 10 and Table 11 show the trend of applications for relief and settlements of unfair labor practices since 1986.

	Total	Unfair Measures	A Yellow-Dog Contract	Refusal or Neglecting to Bargain	Domination & Interference	Retaliating Measures
'86	323	277	1	19	22	4
'87	657	543	9	45	45	15
'88	1,439	935	6	380	98	20
'89	1,721	1,233	8	315	142	23
'90	1,160	832	5	185	79	59
'91	784	636	14	68	34	32
'92	689	585	13	63	19	9
'93	619	502	12	63	34	8
'94	548	470	1	43	27	7
'95	566	487	7	47	21	4
'96	539	419	7	77	32	4

Source: Ministry of Labor, White Paper on Labor, 1997

**Table 10 Application for Relief of Unfair Labor Practices
by Type to a Labor Relations Commission (A Local First Hearing)**

Year	Total	Settlement					Carrying Forward
		Subtotal	Order of Relief	The Decision Of Turndown*	Rejection**	Withdrawal	
'86	322	292	47	70	19	161	20
'87	522	441	79	110	21	231	81
'88	1,439	1,297	169	264	190	674	142
'89	1,721	1,546	194	352	94	906	175
'90	1,160	1,088	149	341	89	509	72
'91	784	746	75	311	43	317	38
'92	689	643	85	232	53	273	46
'93	619	589	87	189	24	289	30
'94	548	504	62	189	17	236	44
'95	566	534	61	196	40	237	32
'96	539	493	55	129	36	273	46

* decision of turndown: render a decision that there has been no unfair labor practices

** rejection: reject to examine the case

Source: Ministry of Labor, White Paper on Labor, 1997

**Table 11 Settlement of Application for Relief of Unfair Labor Practices to
a Labor Relations Commission (A Local First Hearing)**

Promotion of Workers' Participation and Cooperation Act

This Act mainly governs rules on organization, operation, and duties of a Labor-Management Consultative Council. Rules on grievance settlement, and establishment of the Central Labor-Management-Government Council are also prescribed in this Act. A Labor-Management Consultative Council (hereafter Council) is to be established in all businesses or workplaces employing not less than thirty full-time employees. A Council is composed of equal members representing the employees and employers respectively, which is not less than three and not more than ten in number. A Council is to hold meetings once every three months to discuss matters concerning 1) the improvement of productivity and the distribution of results; 2) the recruitment, placement, and education/training of employees; 3) the prevention of labor disputes; and 4) the settlement of employee grievances and so forth. The employer reports and explains matters at the regular Council meetings concerning the general management, production, manpower plan and economic and financial conditions of the enterprise.

A grievance committee is to be established for all businesses or workplaces employing not less than thirty full-time employees. A committee is composed of not more than three representatives of labor and management. The members of the committee are elected from Council members in a business where the Council is in place, and commissioned by the employer in a business where the Council is not. A grievance committee notifies the employee concerned of an action and other settlement results within ten days from the date of hearing of a grievance. Matters too difficult for the grievance committee to settle are presented to the Council and settled by it.

The Central Labor-Management-Government Council comprises ten representatives from labor, ten from management, ten from public interests, and four from government. The chairperson of the tripartite council is the Minister of Labor, but if necessary, the Minister may co-chair the Council with one representative from employees, employers, and the public interest respectively. The three members from government, other than the chairperson, are the Vice Minister of Finance and Economy, Vice Minister of Trade and Industry, and Vice Minister of Labor. For the efficient operation of the Council, subcommittees have been established. The Council discusses matters such as labor-management relations, employment, and employees' welfare, all of which are related to industrial, economic, and social policies of the nation.

Labor Relations Commission Act

This Act prescribes the organization, operation, and authority of the Labor Relations Commission. The Labor Relations Commission is classified into the central, local and special Labor Relations Commissions. The central and local Labor Relations Commissions are under the jurisdiction of the Ministry of Labor, and the special Labor Relations Commissions are under the jurisdiction of the heads of the central administrative agencies that take charge of concerned special matters. All of the Labor Relations Commissions, however, operate independently from central administrative authority. The Labor Relations Commission is composed of persons representing employees, employers, and the public interest. The number of persons representing each party can not be less than seven but not more than twenty. The number of persons representing employees and the employers should be same. The Labor Relations Commission settles labor disputes by conciliation and arbitration, and gives relief to unfair labor practices.

Recruitment and Selection

Overview

The rapid expansion of college graduates entering the labor force and the decline in the economic growth rate, and hence the decline in firm recruitment have made the labor market very tight for new college degrees entrants. "School-to-Work Transition" has been rough for college graduates. Table 12 demonstrates the magnitude of college graduate recruitment for fifty large conglomerates. Table 13 shows the college graduate employment rate. As shown in Table 13, around 30% or more of labor market entrants with college degrees cannot find jobs each year.

(Unit: person)							
Year	'90	'91	'92	'93	'94	'95	'96
Size of Recruitment	24,737	25,575	20,777	26,095	31,821	38,372	32,888

Source: Ministry of Labor, White Paper on Labor, 1997

Table 12 Annual Recruitment Size of Fifty Large Conglomerates

	(Unit: person, %)					
	'91	'92	'93	'94	'95	'96
The Number of Graduates (A)	175,586	178,631	184,848	179,519	180,664	184,212
The number of enlisted, advanced to graduate school: (B)	35,273	34,427	37,837	37,181	41,120	41,519
Employed:(C)	90,780	91,438	88,429	90,110	97,290	101,911
Employment rate C/(A-B)	64.7	63.4	60.2	63.3	69.7	71.4

Source: Ministry of Education, Statistical Yearbook of Education, Various Years

Table 13 Annual Employment Rate of College Graduates

On the other hand, employers have experienced difficulty finding production laborers since the 1980's due to 1) absolute reduction of the labor force and 2) the decline of labor force participation rate caused by increasing enrollment in higher education. The situation has been worsening for SMEs, since increasing shortage combined with active union movement started in 1987 resulted in a sharp wage increase for production laborers. Various efforts have been made by employers and government to correct this situation.

Recruitment and selection procedures have been changing in accordance with the demand and supply conditions of the labor market. Since the labor market has been segregated by the firm size, so have been the recruitment and selection procedures.

Methods of Recruitment

Large conglomerates usually make public recruitment notices for college graduates using TV, radio, newspapers, magazines, and computer network communication. Small firms, on the other hand, usually recruit workers through word of mouth or limited local advertisement.

Recruitment Law

Article 5 of the Labor Standard Act stipulates that employers may not discriminate against workers by gender, nationality, religion, or social status. Although the Labor Standard Act implicitly requires equal opportunity for females during recruitment, it has not been enforced. The Equal Employment Act was enacted in 1987 to guarantee equal opportunity and treatment of men and women from recruitment to retirement. The law specifies that employers provide equal opportunity for women during recruitment. According to article 6 of the law amended in 1995, employers should not demand certain physical conditions, such as appearance, height, weight, among others. Particular conditions such as single marital status, or any other conditions specified in the Ordinance of Labor Ministry cannot be required.

The minimum employment age has been raised from 13 to 15 years by amendment to Article 50 of the Labor Standard Act in 1997; those who obtain employment permits for designated occupations from the Minister of Labor, however, may be employed as long as compulsory education is not impeded. The purpose of raising the minimum wage of employment was to help human capital accumulation of teenagers whose compulsory education normally ends at the age of 15.

Shortage and Surpluses

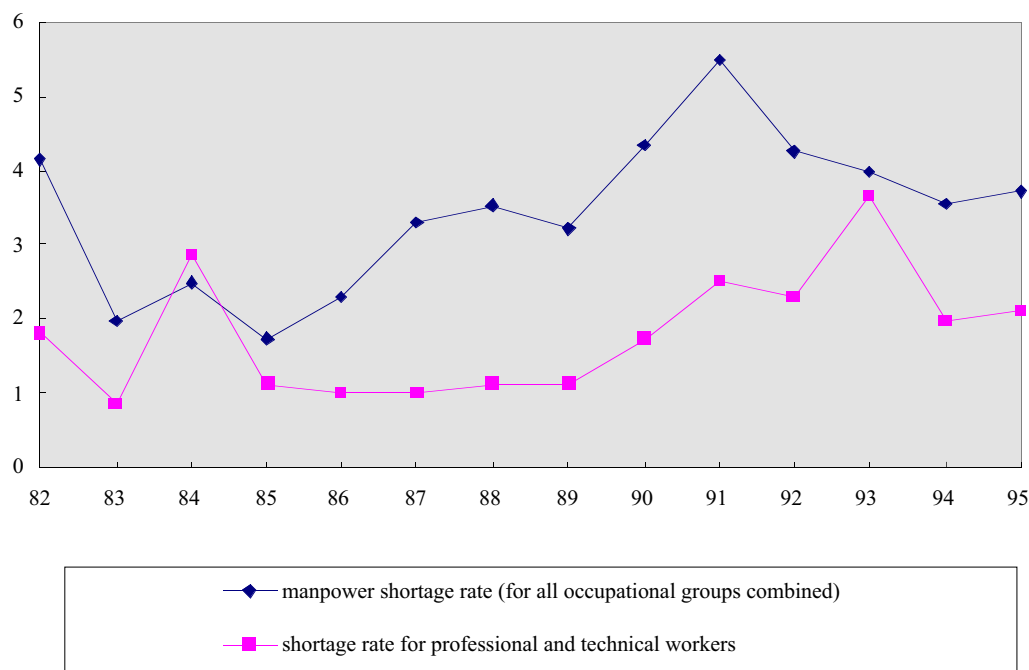
In 1997, establishments with ten or more employees showed a 2.44% shortage rate, or a shortage of 129,000 persons out of 5,294,000 full-time employees. This is the lowest level recorded since 1987. The shortage rate was highest in transportation, storage, and communication industry (4.02%), manufacturing industry (3.12%), construction industry (2.57%), mining industry (2.35%). By occupation, the shortage rate for production workers recorded 3.88% and less than 2% for other occupations.

					(Unit: %)
	10~29 employees	30~99 employees	100~299 employees	300~499 employees	500 or more employees
The shortage rate	3.67	2.91	2.66	1.41	0.83

Source: Ministry of Labor, reports on employment forecast, 1997

Table 14 Shortage Rate by Firm Size in 1997

Shortage rate is inversely correlated with firm size. As presented in Table 14, shortage rate of firms with 10 to 29 employees is more than four times higher than that of firms with 500 or more employees. This is mainly because SMEs offer lower wages.



Source: Ministry of Labor, reports on employment forecast, various years

Figure 4 Trends in Labor Shortage

Figure 4 shows trends in labor shortage for all occupational groups and for professional and technical workers. As shown, the shortage rate had been on the rise during the late 1980s when unemployment decreased. The unemployment rate for the highly educated reached its peak in 1993. Strangely, shortage of professional and technical workers reached its peak in the same year. If there is no severe discrepancy in the demand and supply of labor quality, the unemployment rate of the highly educated and the shortage rate for professional and technical workers should move in opposite directions. This concurrent rise in the unemployment rate of the educated and the shortage rate for professional and technical workers shows that the quality of higher education had not met industrial standards (Ko, 1996).

To reduce the shortage of production laborers, women, the elderly, and foreign workers were induced into the labor force. Some foreign workers came as trainees, while others came with a short-term tourist visa and stayed as illegal workers. With government incentives, many employers adopted labor-saving automated technology. In the case of investment in productivity improvement facilities, 5% of investment is given as a tax credit. Career counseling services were introduced for general high school graduates, and job information services were

introduced for the unemployed (PECC, 1994). Tax incentives were also offered to reduce the shortage. Income tax for foreign technicians is exempted for the first five years. For SMEs, 15% of expenses disbursed for technology and manpower development is given as a tax credit, while for large firms the rate is 5%.

Recruitment of Foreign National/Immigrant Workers

The legal basis for foreign worker employment is very restrictive. Legal employment is offered to foreigners involved only in journalism, technology transfer, business, capital investment, education and research, and entertainment. Employment may also be recommended by government ministers (Y. Park, 1996). Table 15 shows the composition of legal foreign workers. Interestingly, foreign language instructors occupied more than half of the legal foreign work force in 1996.

(Unit: persons)

Total	Professor	Foreign Language Instructor	Research	Technology Transfer	Professional	Entertainment	Specified Activities
13,420	793	7,473	539	918	254	1,017	2,426

Source: Ministry of Labor, White Paper on Labor, 1997

Table 15 Composition of Legal Foreign Workers by Occupation as of December 1996

Current immigration law does not allow entry of unskilled laborers except as trainees. The trainee system was originally designed to upgrade skills of foreign workers employed overseas by Korean firms, but it has evolved be used as a means of easing labor shortage in small manufacturing firms (Y. Park, 1996). Table 16 shows the composition of foreign workers as of 1996. Trainees are protected under major articles of the Labor Standards Act, Minimum Wage Act, Industrial Safety and Health Act, Industrial Accident compensation Insurance Act, and Medical Insurance Act. Illegal workers are not protected under these laws. A large portion of foreign workers are illegal workers. This produces some negative side effects. Illegal workers experience inferior working conditions and are paid much less than legal workers. They are exploited and their worker rights are not protected. Some non-governmental organizations have tried in vain to establish equal treatment for illegal foreign workers.

(Unit: persons, %)

Total	Legal Workers And Trainees			Illegal Workers*
	Subtotal	Legal Workers	Trainees	
210,494 (100)	81,440 (38.7)	13,420 (6.4)	68,020 (32.3)	129,054 (61.3)

*The number of short-term tourist visa holders staying without authorization is used as proxy of the number of illegal workers

Source: Ministry of Labor, White Paper on Labor, 1997

Table 16 The Composition of Foreign Workers as of December 1996

Legalizing the import of unskilled foreign workers is a very sensitive issue. Business communities claim that the current labor shortage of unskilled workers makes legalization of importing unskilled foreign workers inevitable. Trade unions claim that legalization of importing unskilled foreign workers would first delay diffusion of technologies using

intensively skilled labor in the manufacturing sector, and second, undermine the working conditions of domestic workers. Currently, the parties have settled to allowing foreign worker trainees to enter. The trend tips towards partial legalization.

Selection

The selection process varies by firm size, occupation, and post. Appointment of managerial workers and professionals in large conglomerates is very competitive and rigorous. Applicants to these positions usually go through reference checks, job interviews, and physical examinations in addition to written examinations. Inbreeding of graduates from selective and prestigious universities exists for most important positions in government, business, and even academics. The graduates of higher-ranking universities are preferentially recruited in most of the well-paid jobs. This practice has been widely criticized. One study (Kim, S., J. Kim, and C. Ihm, 1990) argues that graduates of prestigious universities are preferentially hired not because of the quality of education they have experienced, but because they are judged to be inherently smart for passing competitive qualification exams. They are expected to use their network of informal connections with alumni in important positions.

The selection procedure for production workers is usually loose, and the severe shortage of production workers since the late 1980's has made it looser. However, in most cases, applicants for specific positions are defined implicitly in term of gender, age, and education. Production jobs in light industries are mostly filled by young women with high school education or less. Production jobs in heavy and chemical industries are populated with young men with high school education or less (Rodgers, 1993).

Training and Development

Overview

It is frequently pointed out that the Korean economy, with scarce natural resources, would never have been able to achieve current levels of economic development without the massive provision of well-educated, hardworking human resources. The education and training system in Korea has evolved in unison with changes in industrial policy. In the 1960s, when development of light industries had been the main focus of government policy, priorities had been set to expand and qualitatively improve vocational high schools as a whole. In the 1970s, as government focus shifted from light industry to heavy and chemical industries, the volume of technical high schools expanded very rapidly. In the 1980s, restructuring towards skill intensive industries gave emphasis to producing highly educated workers and technicians by expanding universities and vocational junior colleges. In the 1990s, emphasis shifted from quantitative expansion to qualitative improvement of training and education. This section reviews Korean education and training structures in detail.

The Education System

Schools

The Korean education elevation ladder follows a 6-3-3-4 structure. Six years of compulsory, free primary education are followed by three years of compulsory, partly free (free only in rural areas) middle school education, and three years of optional high school education. High schools are divided into general academic high schools and vocational high schools. After graduating high school, students may choose to apply to four year universities or two year junior colleges (see Figure 5). Korea's education system has expanded very rapidly during the last three decades (see Table 17). The enrollment rate, defined as the percentage of enrolled

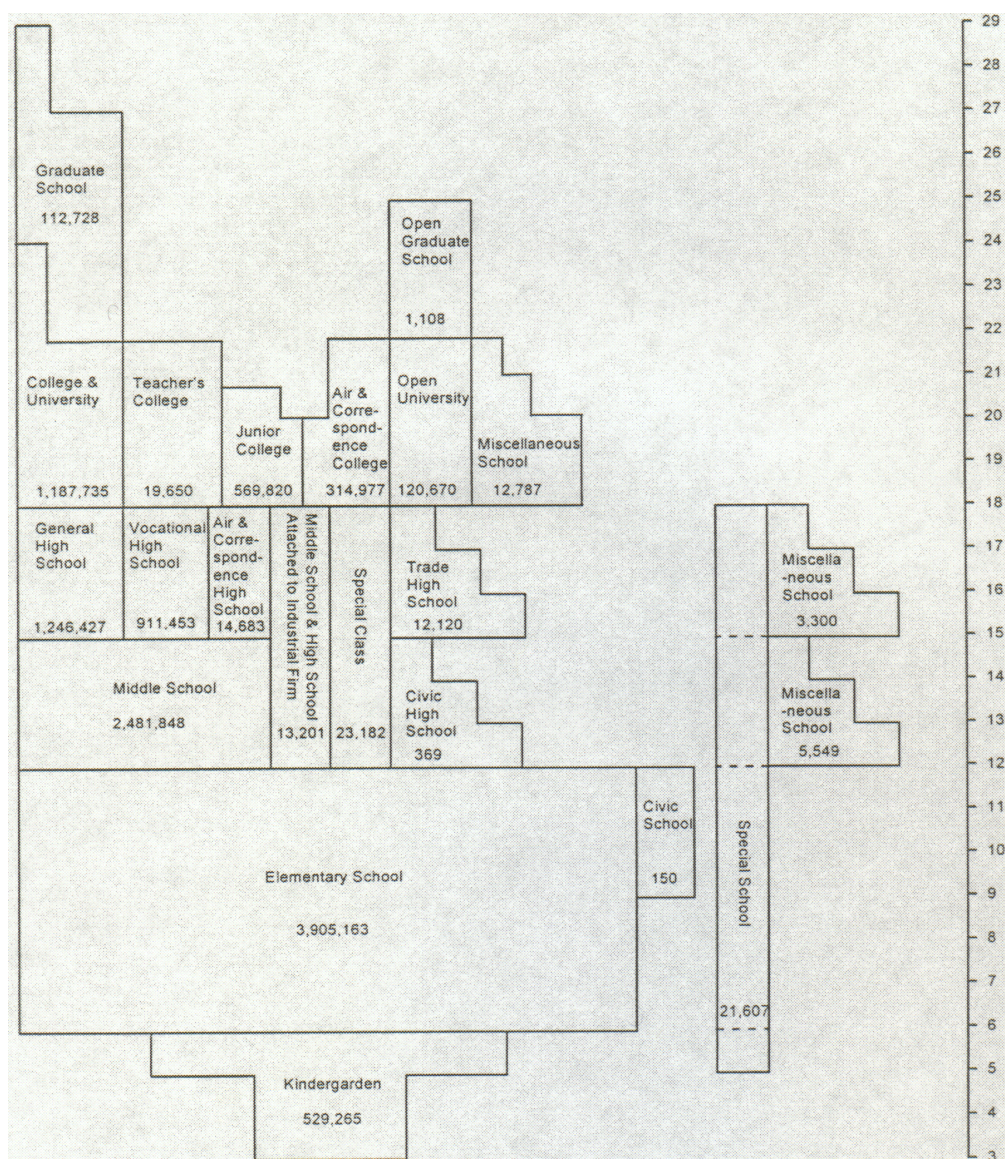
students classified for different age cohorts, has been increasing dramatically. The enrollment rate for elementary education has been over 100% since 1970 while the rate for middle school education has increased from 50.9% in 1970 to 100.6% in 1995. The enrollment rate for higher education shows a dramatic increase from 8.8% in 1970 to 54.6% in 1995.

(Unit: %)

	1970	1975	1980	1985	1990	1995
Kindergarten	1.3	1.7	4.2	18.9	31.5	42.0
Elementary School	100.7*	105.0*	102.9*	100.4*	101.4*	98.7
Middle School	50.9	71.6	95.0	100.0	97.8	100.6*
High School	27.9	40.8	63.3	79.5	87.6	89.9
Higher Education	8.8	9.5	16.0	35.6	38.1	54.6

Source: Korea Educational Development Institute, Educational Indicators of Korea, 1995

Table 17 Education Enrollment Ratio for Various Levels of Schooling



Note: the numbers denote the enrollments

Source: Ministry of Education, Statistical Yearbook of Education, 1996

Figure 5 Korean Education System

Higher Education

Six types of higher education institutions exist in Korea: 1) colleges and universities, 2) vocational junior colleges, 3) teachers' colleges, 4) open industrial universities, 5) air & correspondence universities, and 6) miscellaneous schools. Colleges and universities offer four year programs that yield bachelor's degrees, except for schools of medicine, oriental medicine, or dentistry which offer six year programs. Masters and Doctoral degree programs are also offered. Vocational junior colleges offer two year programs. The most popular field of vocational junior college is in the field of engineering. Teachers' colleges train elementary school teachers. Popular programs offer teaching certificates and four years of free education in exchange for four years of obligatory teaching. The Open Industrial University targets working youths and adults who had missed opportunities for higher education. In the Air & Correspondence University, various instruction methods such as broadcasted lectures, class attendance, homework, and correspondence are used. Its curriculum is fairly rigorous and only about 30% of enrolled students are able to graduate. Miscellaneous schools offer learning opportunities in specialized fields such as theology or arts. In 1995, 18 undergraduate courses and four junior college courses had been offered.

Higher education in Korea has displayed phenomenal expansion due to persistent demand. In turn, high demand for higher education has instituted high qualification standards. High school graduates must take highly competitive national exams to qualify for colleges and universities. Table 18 shows the number of degrees awarded in Korea per year per capita in comparison to other countries. The number of degrees awarded in Korea per year per capita exceeds that of Japan, and is not far behind that of the United States.

	Number of Degree Awarded per 100,000 Persons		
	Bachelor's	Master's	Doctoral
Korea			
1970	72.9(18.5)	6.1(0.7)	0.5(0.04)
1980	130.5(42.1)	13.2(2.9)	1.4(0.3)
1990	387 (101.7)	46.2(12.5)	5.8(1.6)
1995	402.8(140.2)	61.1(20.2)	9.2(2.8)
Japan			
1982	322.1(71.9)	13.4(7.6)	3.3(1.0)
1991	345.1(80.9)	21.6(12.9)	5.0(1.4)
United States			
1970	409.5(65.5)	112.4(17.2)	15.7(6.4)
1991	433.2(69.0)	113.4(19.0)	15.6(6.1)

Note: Numbers in brackets denote number of degrees awarded in the field of natural science and engineering
Source: Jinhwa Jung, Educational Expansion and Human Resource Development Policy Directions, KIET, 1996

Table 18 International Comparison of the Size of Degrees Awarded

The number of degrees awarded annually more than tripled during the 1980s. There has been public concern over producing too few highly educated workers in the field of science and engineering relative to other fields of study. 'The graduation quota system' for college and universities entrance exam, which replaced 'the admission quota system' from 1981 to 1987, enabled increased numbers of high school graduates to enter universities. This system not only encouraged high school graduates to continue studies instead of joining the workforce, but also encouraged middle school graduates to choose academic high schools over vocational high schools. Also, because it is easier to increase quotas in the fields of humanities and social sciences without significantly sacrificing education quality, the system initiated an unbalanced growth of students in these fields. In a relative sense, education in science and engineering was hampered by this system. However, Korea awards more bachelor's degrees in science and engineering than the United States per capita. As is shown in Table 19, Korea produces

enough highly educated workers in science and engineering fields in terms of absolute quantity. Nowadays, educational policy priorities are given to improving the quality of education.

The number of international students attending higher educational institutes of Korea has increased steadily in recent years. As of June 30, 1996, the total stood at 2,143 and about 10% of these international students attend undergraduate courses at universities. The remaining students attend graduate schools (MOE, 1998).

Vocational Education

Vocational education and training systems can be categorized into in-school education and out-of-school training. This section reviews only in-school vocational education. Out-of-school training will be dealt in the next section, industry training systems. There are three main vocational education schools: 3-year vocational high schools, 2-year vocational junior colleges, and 4-year open industrial universities. Lack of vertical linkage among these institutions has been pointed out as a major problem. The curriculums of lower-level institutes are not systematically linked with those of higher-level institutes. They tend to overlap (MOE and KEDI, 1996). As indicated earlier, the application of the graduation quota system from 1981 to 1987 caused a substantial reduction of vocational education in the 1980s. Furthermore, an obsolete curriculum failed to meet rapidly changing industrial needs. Vocational education institutions had been degraded into second rate schools chosen only by students who had failed to qualify for universities. Quantitative and qualitative degradation of vocational education resulted in shortage of skilled technical manpower, a rise in unemployment for high school graduates who had failed to advance into universities, and a rise in unemployment and underemployment of university graduates.

(Unit: persons, %)

	Total	Humanities	Social Science	Natural Science	Engineering	Medical Science/ Nursing	Education	Etc
1981	172,136 (100)	1,185 (0.7)	28,004 (16.3)	-	94,411 (54.8)	19,080 (11.1)	5,713 (3.3)	23,743 (13.8)
1985	242,114 (100)	4,799 (2.0)	44,164 (18.2)	-	97,799 (40.4)	31,974 (13.2)	14,438 (6.0)	48,940 (20.2)
1990	323,825 (100)	10,419 (3.2)	58,441 (18.0)	-	134,195 (41.4)	37,532 (11.6)	13,859 (4.3)	69,379 (21.4)
1995	569,820 (100)	25,114 (4.4)	118,505 (20.8)	1,366 (0.2)	254,015 (44.6)	56,142 (9.9)	16,941 (3.0)	97,737 (17.2)

Source: Ministry of Education, Statistical Yearbook of Education, Relevant Years
Quoted from J. Jung(1996)

Table 19 Trend in Enrollment of Vocational Junior College by Fields

Confronted by these problems, the government focused more attention on vocational education in the 1990s. The proportion of vocational high school enrollment to total high school enrollment returned in 1995 to 42% from 45% in 1980 and 35% in 1990.

The proportion of technical high school enrollment also rose to 12.7 % in 1995 from 11.8% in 1980 and 8.4% in 1990. Between 1990 and 1995, 70 new technical high schools were established, while only 4 technical high schools had been established in the 1980s. Vocational junior colleges, established by unifying previously established short-term higher educational institutions, had expanded rapidly. Expansion in the 1980s was led by increased enrollment in social sciences, while expansion in the 1990s was led by increased enrollment in engineering (see Table 19). These expansions, unfortunately, have not been accompanied by improvement of education

quality. The student to faculty ratio of vocational junior college increased from 31.1 in 1980 to 54.9 persons in 1995 (see Table 20). To cope with the difference between vocational curriculum and industrial skill requirements, the “2+1 system for technical high schools” was adopted in 1994 to upgrade vocational training adaptability by packaging two years of academic study with one year of on-site training in industry.

(Unit: persons)

1970	1975	1980	1985	1990	1995
20.5	22.9	30.1	37.8	43.8	54.9

Source: Ministry of Education, Statistical Yearbook of Education, Relevant Years

Table 20 Trends Junior College Student to Faculty Ratio

Industry Training System and Job/Employment Training

Out-of-school training can be categorized into public vocational training, in-plant vocational training, and authorized vocational training. The current framework for out-of-school vocational training was established by enactment of the Basic Vocational Training Act in 1976, which was wholly amended in 1981.

Public vocational training is conducted by the State, local governments, or public organizations prescribed by presidential decree. The Korea Manpower Agency, the Korea Chamber of Commerce and Industry, and the Korea Employment Promotion Agency for the Disabled are public organizations designated to administer public vocational training. In 1996, there were 91 public vocational training institutions: 45 public organizations, 37 state government agencies, and 9 local administrations. Public vocational training has played an important role in providing sufficient craftspersons to manufacturing industries. In the 1960s and 1970s, emphasis had been given to training middle school graduates who had failed to advance to high schools. They became skilled craftspersons for the manufacturing sector. In the 1980s, public training targeted high school graduates because of increased high school enrollment.

Public vocational training has been widely criticized for its centralized, supplier-oriented management at the expense of industrial needs. Scope, budget, method, and other important characteristics of public vocational training had been determined centrally by either the Ministry of Labor or the Korea Manpower Agency. Most public training had been in the form of basic training, although industry required specialized training due to rapid technical and structural changes. Reduction of vocational training demand due to population aging, and increasing enrollment in higher education are two reasons for shifting vocational training emphasis from basic training to upgrade training. The Korea Manpower Agency has been the executive branch for both public vocational education and vocational training evaluation that certify vocational training.

In-plant vocational training is conducted by independent employers or jointly with other employers. In 1996, there were 219 in-plant vocational training institutions. Business firms employing more than 1,000 full-time employees are required to spend no less than 2% of the total annual wage bill for in-plant vocational education programs. If employers fail to meet this obligation, they are required to pay the shortfall as vocational training levies. The threshold size of firms required to spend predetermined portions of total wages on in-plant vocational education has changed several times since the enactment of the Basic Vocational Training Act in 1976. Initially it covered businesses employing not less than 200 full time workers. Coverage was then reset to businesses with not less than 300 workers in 1977, extended to businesses with not less than 200 workers in 1989 and not less than 150 workers in 1992. In practice, however, less than 20 percent of required employers had properly spent money on in-plant

vocational training. Most employers chose to pay the vocational training levy. Coverage was modified to include businesses with not less than 1,000 workers by the implementation of the Employment Insurance System in 1995. In 1995, 70% of required employers conducted in-plant vocational training.

The Employment Insurance System, a combination of unemployment benefits and active labor market policies, includes provisions for vocational development. These provisions finance in-plant vocational training, planning and execution of training and lecturing employees, and paid leave for vocational development. Businesses with not less than 70 full time employees had paid premiums for these activities until 1997, but the coverage was extended to businesses with not less than 50 full time employees starting in January 1998, and to businesses with not less than 5 full time employees in March 1998. Businesses with less than 1,000 full time employees that had been required to provide in-plant vocational training are exempted from paying premiums. The vocational training levy system is expected to be merged into the employment insurance system in 1999.

Some vocational training is conducted by non-profit organizations and individuals under the authorization of the Minister of Labor. Various tax benefits, preferred loans, and subsidies are granted to selected vocational training institutions. In principle, this training is supposed to cover trades difficult to address with public training and in-plant training. In 1996, there were 133 authorized vocational training institutions.

Vocational training courses are categorized into basic training, upgrade training, job conversion training, and re-training (see Table 21). Basic training develops basic competence and skills for certain trades. Basic training usually lasts for several months and some for three years. Upgrade training improves worker skills for career advancement. Upgrade training is usually short-term. Job conversion training and re-training are for workers who intend to change jobs or freshen up old skills. Job conversion training usually lasts from one month to more than six months. Re-training lasts from one week to six months.

	Total	Basic Training	Upgrade Training	Job Conversion Training & Re-Training
Total	219,472	81,638	120,301	17,533
Public Training	41,857	22,140	19,704	-
In-Plant Training	151,303	33,255	100,528	17,533
Authorized Training	26,312	26,243	69	-

Source: Ministry of Labor, White Paper on Labor, 1997

Table 21 Number of Craftsperson Trainees through Vocational Training Institutions & Courses in 1996

Table 21 shows the number of trainees enrolled for craftsperson development in vocational training institutions for the year 1996. As demonstrated in Table 21, 70% of craftsperson training was conducted by in-plant training, 19% by public training, and 11% by authorized training. In terms of courses, 55% of training for craftsperson was upgrade training, 37% basic training, and 8% job conversion training and re-training. The composition of offered courses varies for different vocational institutions. All job conversion training and re-training was implemented in the form of in-plant training. Most of the upgrade training was also implemented in the form of in-plant training. More than half of the basic training, however, was implemented in the form of either public training or authorized training.

Management Development

Managerial employees in large conglomerates are generally subject to several weeks of orientation, on-going training, job rotations and a systematic career development program (Rodgers, 1993). Furthermore, a wide range of programs for business management at the graduate level, including enrollment in foreign universities and courses by teleconference, are offered to these managers. For example, the Samsung Group has sent 100 senior managers, particularly those in production, to universities like the Korea Advanced Institute for Science and Technology (KAIST) for business training each year since 1996. Additionally, each year thirty Samsung managers are sent on techno-MBA programs at foreign universities on two-year programs. As for the LG Group, in addition to participating in MBA programs in cooperation with domestic and foreign universities, an accelerated one-year program has been established at its LG Economic Research Institute, recognizing those who complete the program as having earned an MBA. Meanwhile, the Daewoo Group's managers take courses through teleconferences and videos under an agreement with the University of Michigan called Global MBA (KOREA TIMES, April 27th, 1996).

For managers in SMEs, opportunities for management training are rare at the establishment level. The Small and Medium Size Industry Promotion Corporation, SMIPC, an affiliated agency of Small and Medium Size Business Administration, SMBA, has a short-term, normally two or three day, management training program for the CEOs of SMEs. In 1996, 5,637 CEOs of SMEs had benefited from this free program.

Pay and Benefits

Overview

Some (eg. Rodgers, 1993) argue Korea's high growth rate has been achieved through labor cost minimization. However, Korea's real wage has grown substantially. Between 1970 and 1995, the nominal wage increased at an annual rate of 18.5% and the consumer price index increased at an annual rate of 10.1%. This results in an 8.4% annual real wage increase, while real GDP grew at 8.2% per annum for the same period. Real wage increases were prominent in the late 1970s and the late 1980s (see Table 38). The first abrupt increase in the real wage in the late 1970s was caused by Korea's industrial restructuring towards high-wage heavy and chemical sectors. The second abrupt increase in the real wage in late 1980s was greatly influenced by explosive union activities initiated by political liberalization sparked off on June 29, 1987. Collective bargaining has become the major tool for wage determination since 1987. The following reviews the worker compensation including non-wage benefits.

Legal Framework

The Labor Standards Act prescribes that payment of wages be made in full to employees at least once per month on a regular basis. Compulsory saving and offsetting wages with advances are prohibited. Under the former Trade Union Act, the effective term for collective agreement had been restricted to not exceeding one year for wages and two years for other matters. The effective term for collective agreement for wages was lengthened to not exceed two years by the labor law reform of 1997.

Pay Determination

Collective bargaining is the most common method for determining pay in unionized sectors. Each year, national unions, employer associations and the government, represented by the Central Labor Relations Commission, present guidelines for annual wage increases. Although

most collective bargaining take places at the enterprise level, these guidelines greatly influence actual wage determination.

Unions have used a “living wage” as a criterion in forming guidelines for wage increases, while employer associations and the government have used “growth of labor productivity” as a criterion. At firm level wage bargaining, wage comparison among similar firms appears as one of the most influential criteria (S. Lee, 1993). Employer’s ability to pay has also been a very important criteria for wage determination process, especially for SMEs. Tables 22, 23 and 24 show trends in pay increase determination methods, the principle of wage increase for workers at different positions, and criteria for wage increase in the manufacturing sector compiled via annual surveys of 2,000 firms.

(Unit: number of firms, %)

	1993	1994	1995	1996
Internal Principle of Firm	663(39.7)	744(44.7)	850(50.8)	924(52.3)
Collective Bargaining with Union	511(30.6)	486(29.2)	439(26.3)	449(25.4)
Deliberation with Labor-Management				
Consultative Council	429(25.7)	388(23.3)	331(19.8)	341(19.3)
Other	68(4.1)	45(2.7)	52(3.1)	54(3.1)
Total	1,671(100)	1,633(100)	1,672(100)	1,768(100)

Source: Korea Seoul Chamber of Commerce, *PyoJunJa Model Im-Geum Jo-Sa Bo-go*, 1997

Table 22 Trends in Pay Increase Determination Method in the Manufacturing Sector

(Unit: number of firms, %)

	1993	1994	1995	1996
Equal Rate of Increase for All Positions	566(34.0)	616(37.3)	739(44.4)	769(43.7)
Higher Rates of Increase for Lower Positions	690(41.4)	588(35.6)	492(29.6)	465(26.5)
Higher Rates of Increase for Higher Positions	32(1.9)	50(3.0)	56(3.4)	48(2.7)
Different Rates of Increase for Different				
Individuals Regardless of Their Position	297(17.8)	336(20.3)	330(19.8)	419(23.8)
Other	82(4.9)	63(3.8)	47(2.8)	57(23.8)
Total	1,667(100)	1,653(100)	1,664(100)	1,758(100)

Source: Korea\Seoul Chamber of Commerce, *PyoJunJa Model ImGeum JoSa Bogo*, 1997

Table 23 Pay Increase Principles for Employees in Different Positions

(Unit: number of firms, %)

	1993	1994	1995	1996
Inflation Rate	213(12.8)	177(11.3)	227(13.6)	212(12.1)
Wage Comparison	261(15.7)	240(15.3)	260(15.6)	252(14.4)
Ability to Pay	732(44.0)	632(40.2)	666(39.9)	754(43.2)
Labor Productivity & Living Wage	368(22.1)	419(26.7)	438(26.3)	441(25.3)
Government’s Guideline	-	79(5.0)	48(2.9)	60(3.4)
Other	91(5.4)	24(1.5)	29(1.7)	26(1.5)
Total	1,665(100)	1,571(100)	1,668(100)	1,745(100)

Source: Korea\Seoul Chamber of Commerce, *PyoJunJa Model Im-Geum Jo-Sa Bo-go*, 1997

Table 24 Principal Criteria for Wage Increase

Method of Payment

Most workers are paid monthly. Some blue-collar workers are paid weekly or daily. Most payments are made through electronic transfers. Temporary workers in SMEs are usually paid in cash. Although opening checking accounts under the current banking system is fairly easy, they are hardly used in Korea. Hence, no payment of wage is made via check.

Minimum Wages

(Unit: Won, %)

	'88	'89	'90	'91	'92	'93	'94.1~ '94.8	'94.9~ '95.8	'95.9~ '96.8	'96.9~ '97.8
Hourly minimum wage(1)	462.5	600	690	820	925	1,005	1,085	1,170	1,275	1,400
Daily Minimum wage(2)	3,700	4,800	5,520	6,560	7,400	8,040	8,680	9,360	10,200	11,200
Monthly Minimum wage(3)	111,000	144,000	165,600	192,700	209,050	227,130	245,210	264,420	288,150	316,400
Monthly average wage(4)	316,047	374,969	443,829	521,992	596,586	670,093	746,800	787,700	876,466	-
(3)/(4) * 100	35.1	38.4	37.3	36.9	35.6	33.9	32.8	33.6	32.9	-

Source: Minimum Wage Council, Report on Minimum Wage Deliberation, 1996.12 Ministry of Labor, Report on Monthly Labor Survey, various years
Quoted from K. Yoo (1997)

Table 25 Level of Minimum Wage & Monthly Average Wage

A statutory minimum wage was introduced in 1986 by the enactment of the Minimum Wage Act. The minimum wage is determined by the Minister of Labor after deliberations of the Minimum Wage Council. The Minimum Wage Council is a tripartite body with each group composed of nine members respectively representing workers, employers and public interests. Currently, all workers employed in businesses composed of more than ten employees are covered by the Minimum Wage Act. However, only 2.4% of covered workers are affected, that is, otherwise paid less than minimum wage without the enforcement of the Minimum Wage Act. Table 25 compares minimum wage levels to monthly average wages. Table 26 shows the coverage and affect rates of the minimum wage.

	Scope of Coverage				Affected Workers (B)	(A)/(B) %
	Establishments Size	Industry	No. of Establishments	No. of Workers: (A)		
'88	Establishments whose employee is not less than ten workers	manufacturing	34,984	2,266,675	94,410	4.2
'89		Manufacturing, Mining & Construction	39,977	3,052,555	327,954	10.7
'90		All industries	78,016	4,386,041	187,405	4.3
'91		All industries	82,923	4,556,075	393,183	8.6
'92		All industries	88,771	4,620,164	391,502	8.5
'93		All industries	98,656	5,045,064	227,519	4.5
'94.1 - '94.8		All industries	103,774	4,916,332	102,312	2.1
'94.9 - '95.8		All industries	112,374	4,863,923	103,033	2.1
'95.9 - '96.8		All industries	117,658	5,380,697	103,191	1.9
'96.9 - '97.8		All industries	122,351	5,240,135	127,353	2.4

Source: Minimum Wage Council, Report on Minimum Wage Deliberation, various years quoted from Yoo (1997)

Table 26 The Coverage and Affect Rates of the Minimum Wage

Variations in Pay

The nominal average monthly wage of all non-agricultural establishments hiring not less than 10 workers reached 1,368,000 won in 1996. This is equivalent to 964,000 won in 1990 real value. In 1990, the average monthly wage had been 642,000 won. Wage increases were especially

significant in the manufacturing sector. Some suggest that the effect of unions on real wages has been a major cause for manufacturing real wage hikes after the June 29th Declaration in 1987 that allowed free organization of unions and collective bargaining. Others suggest that the rapid increase in the real wage in the manufacturing sector had been greatly influenced by slowdown in labor supply growth (Kim and Topel, 1995). Whatever the factors, the rise in the real wage in the manufacturing industry has been phenomenal. Nevertheless, the manufacturing sector's wage level is still at the bottom among all industries (see Table 27).

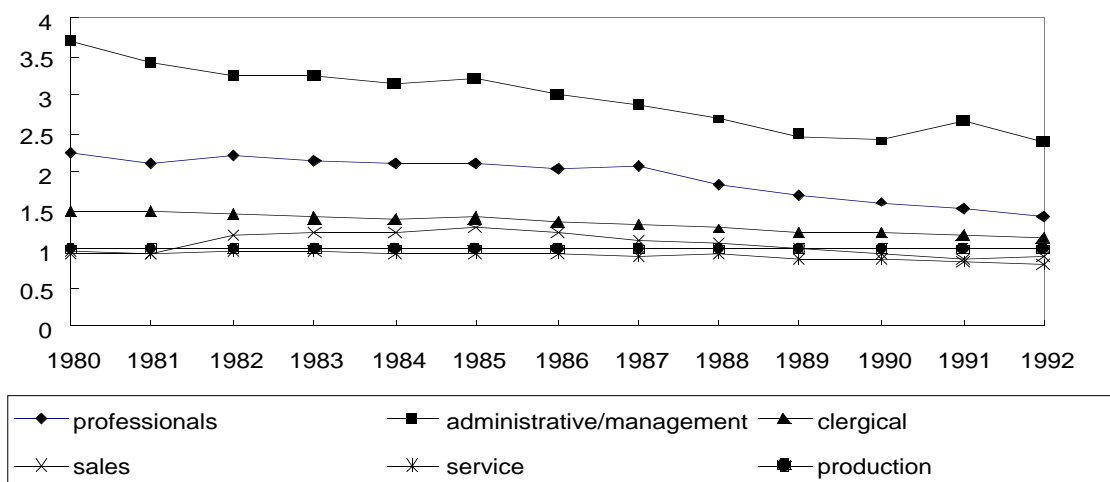
(Unit: won, %)

Industries	Years	1980	1987	1990	1995	1996
Mining		138.6	117.1	107.8	106.3	109.4
Electricity, Gas & Water		192.9	212.6	161.4	143.1	152
Construction		175.7	137.9	126.2	123.1	119
Wholesale/ Retail Trade, Hotels, Restaurants		143.9	136.0	110.9	101.8	101.8
Transport, Storage & Communication		138.7	124.9	106.2	95.2	99.9
Finance, Insurance & Real Estate		191.9	186.4	144.3	129.8	124.3
Community, Social & Personal Services		187.7	169.6	145.5	138.2	134.4
All Non-Agricultural Industries		120.0	110.0	108.7	108.7	108.5

Source: Ministry of Labor, Report on Monthly Labor Survey, various years

Table 27 Relative Wages by Industry (manufacturing wage=100)

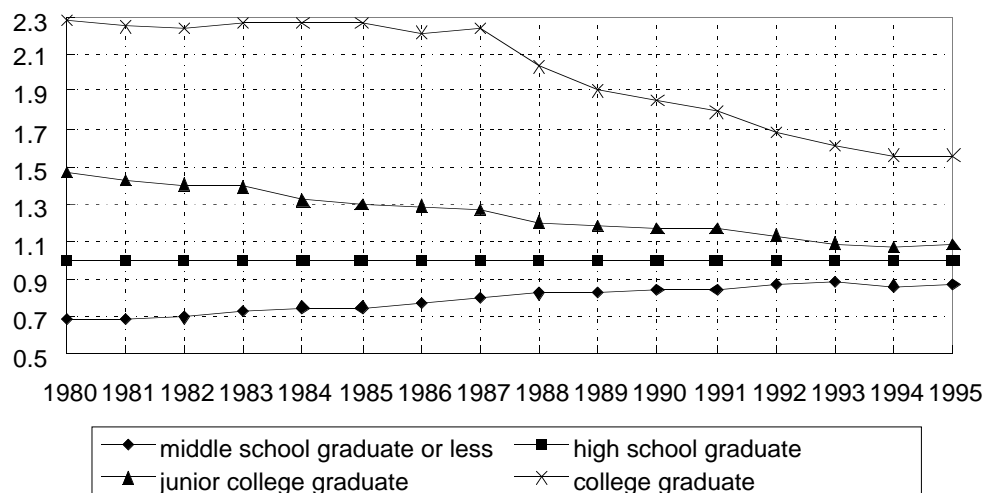
There has also been a change in the labor supply since 1980. Population growth slowed down as the baby-boomer generation reached their 30s in the 1980s. The rural-urban migration fell as the rural area ran out of young population. The young population (20~24 years of age) in the rural area fell from 23.6% in 1980 to 6.2% in 1995. Also, the rural areas' share of economically active population shrank from 27.1% in 1980 to 6.7% in 1995. Enrollment rate in higher education increased from 16% in 1980 to 54.6% in 1995. These changes in labor supply substantially narrowed both educational and occupational wage differentials as shown in Figure 6 and Figure 7.



Note: data from 1993 and onwards are not comparable because of ISOC (international standard of occupational classification) changes

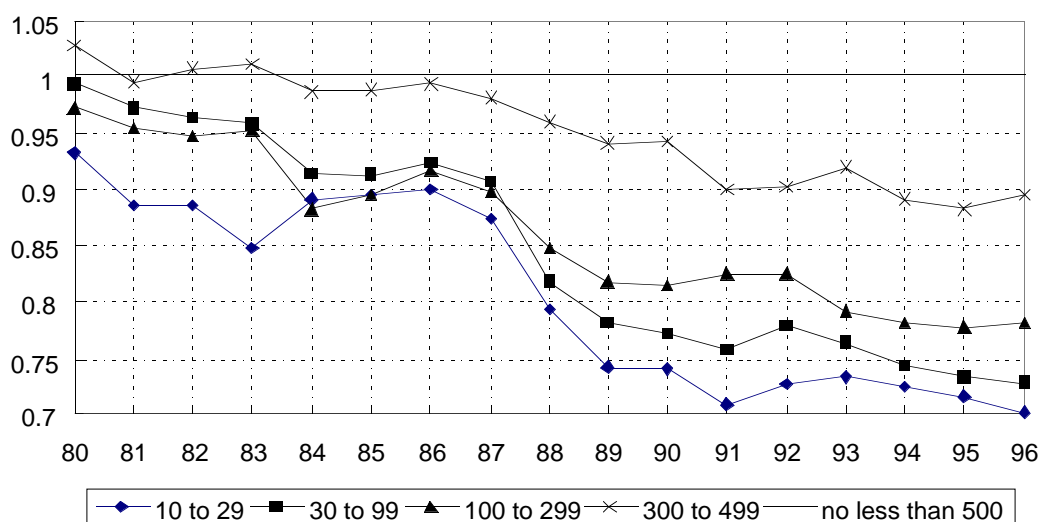
Source: Ministry of Labor, Survey Report on Wage Structure, Various Years

**Figure 6 Relative Average Wage by Occupation
(Wage of Production Worker=1)**



Source: Ministry of Labor, Survey Report on Wage Structure, Various Years

**Figure 7 Change in Relative Average Wage by Educational Qualifications
(Average Wage of High School Graduates = 1)**



Source: Ministry of Labor, Report on Monthly Labor Survey, Various Years

**Figure 8 Change in Relative Average Wage by Firm Size
(Average of Establishments Hiring More than 500 employees = 1)**

Wage differential between genders has also diminished. The average wage level of female workers relative to that of male workers had increased from 42.2% in 1975 to 60.9% in 1996. As discussed, wage differentials by industry, occupation, education, and gender have diminished. Wage differentials by firm size, however, have abruptly increased since the June 29th Declaration in 1987 (see Figure 8). Reasons include: 1) the effect of unions on wages is greater in firms with more employees, since the unionization rate is highly correlated with firm size and 2) industrial restructuring after the 1980s has proceeded in a such way that unproductive low wage sectors were transferred from large firms to SMEs.

Overtime

The legal maximum overtime allowed is 12 hours a week by the mutual agreement of concerned parties. Employers are required to pay ordinary wages plus 50% or more for overtime work. Table 28 shows average wage statistics of 1996. Overtime accounted for 8.7% of total wages. Overtime payment was 9% of total wages for men and 7.7% for women. Although not presented in the table, the proportion of overtime payment in total wages is much higher for blue-collar workers than for white-collar workers. Flexible work hours introduced by the 1997 Labor Reform is expected to decrease overtime payment substantially.

	Average Wage	Average Regular Payment	Average Overtime Payment	Average Bonus, Incentives
Total	1,354(100)	932(68.8)	118(8.7)	303(22.4)
Men	1,527(100)	1,040(68.1)	137(9.0)	349(22.9)
Women	910(100)	655(72.0)	70(7.7)	184(20.2)

Source: Ministry of Labor, Report on Wage Structure Survey Microdata File, 1996

Table 28 Wage Statistics, 1996

Equal Pay

The Employment Equality Act prohibits gender discrimination in recruitment, employment, wage payment, non-wage payment, training, assignment, promotion, and vocational training. The average wage for female workers as a proportion of that paid to male workers increased from 42.2% in 1975 to 60.9% in 1996. The average wage for female workers is much lower mainly because: 1) female workers densely populate low-paying jobs, 2) the average age and tenure of female workers are much lower and shorter than that of male workers, and 3) educational qualification of female workers are on the average lower than that of male workers. Several studies (eg. S. Uh, 1991, M. Bai and W. Cho, 1995) however, have presented evidence of discrimination even after the aforementioned factors were accounted for.

Performance Based Pay

Table 29 shows some pay systems Korean firms apply. The belief that performance based pay motivate workers to perform better is spreading through firms. As presented in Table 29, however, seniority based pay combined with long-term employment is still the most common practice in Korean firms.

	1994	1996
Seniority Based Pay: A	36.3	36.7
Performance Based Pay: B	4.6	5.9
Wages attached to the post: C	2.9	1.6
A+B	18.3	15.6
A+C	17.5	15.2
B+C	3.8	6.3
A+B+C	16.7	18.8

Source: Ministry of Finance and Economy, White Paper on Economy, 1997

Table 29 Pay System Alternatives for Korean Firms

Income Taxation

Progressive taxation is applied to annual income. Workers earning less than ten million *won* annually are taxed 10% as income tax. Workers earning ten million *won* to forty million *won* annually are taxed one million *won* plus 20% of income exceeding ten million *won*. Workers earning forty million *won* to eighty million *won* are taxed seven million *won* plus 30% of income exceeding forty million *won*. Workers earning more than eighty million *won* are taxed nineteen

million *won* plus 40% of income exceeding eighty million *won*. Workers are entitled to various tax deductions: earned income allowance of eight million *won*, basic dependent allowance of one million *won* per dependent, insurance cost deduction, medical cost deduction, educational cost deduction, housing cost deduction, charity deduction, among others.

Social Security Provisions and Benefits

Type	a industrial employees b civil servants and private school teachers c self-employed
Coverage	a employees in firms with 5 or more workers b civil servants, private school teachers, dependents of military personnel c employees in firms with less than 5 workers, self-employed and pensioners
Source of Funds	a the insured : 1.5% to 4% of earnings according to wage levels b the employer: 1.5% to 4% of payroll according to wage levels c self-employed: according to earnings, assets, etc.
Benefits	<ul style="list-style-type: none"> Medical benefits: services provided by doctors and hospitals under contract or by designated privately owned clinics include medical examinations, drugs, surgery, nursing and maternity care(first 2 children only), and ambulance services Patient pays 20% of hospital fees, 30% of outpatient fees(up to 55% at teaching hospital unless emergency or by referral) Patient pays a flat copayment if medical fees are less than 10,000 won per outpatient visit Duration: 6 months per year (extension possible in case of tuberculosis)
Policy Issues	<ul style="list-style-type: none"> Financial instability of the regional insurance scheme for the self-employed because of sharp increase in utilization Adjustment of medical fee schedule Review of medical expense claims Weak risk pooling Centralized administration

Source: S. Kwon (1993)

Table 30 Summary of the Health Insurance System

Health security consists mainly of health insurance and Medicaid. In addition, health care services are partly provided under the industrial accident insurance program and the veterans relief program. The health insurance program was initiated in 1977. However, universal coverage under the national health insurance system was achieved in 1989 (Kwon, 1993). Table 30 summarizes the type, coverage, source of funds, benefits, and current policy issues of the health insurance system.

Pensions and Superannuation Schemes

coverage	<ul style="list-style-type: none"> workers aged between 18 and 60 compulsory coverage for employees in firms with 5 or more workers, farmers, and fisherman voluntary coverage for the self employed civil servants, military personnel, and private school teachers are covered under their own schemes
source of funds	<ul style="list-style-type: none"> contributions from employees and employers, government subsidies for administrative costs contribution rate of 6% for the period of 1993 through 1997; employees and employers bear 2% respectively and remaining 2% is financed by the conversion from the severance pay reserve contribution rate is increased to 9% starting from 1998
benefits	<ul style="list-style-type: none"> old age pension old age pension per month = $0.2(\text{average wage of total contributors}) + .75 * (\text{individual contributor's average wage during contribution period}) * [1 + 0.05(\text{number of contribution years} - 20) + \text{family allowance}]$ invalidity pension benefits granted when the insured lose their earnings due to invalidity survivor pension benefits granted to survivor of the insured when the insured lose their earnings due to death lump-sum refund contributions already charged and legally fixed rate of interest

Source: S. Kwon (1993)

Table 31 Summary of the National Pension Scheme

Four different types of pension schemes exist: civil servants' pension, military personnel's pension, private school teachers' pension, and national pension.

The national pension law was enacted in 1986, and the national pension scheme was introduced in 1988. The national pension scheme has been operated by the national pension corporation under the Ministry of Health and Social Affairs. 7,257,000 persons have been covered by the national pension scheme since 1995. Coverage, source of funds, and benefits of the national pension scheme are summarized in Table 31.

Leave (Holidays)

Employers are legally obliged to provide monthly and annual leave with pay. Those not absent from work for a month are entitled to a one day paid leave for every month of continuous service. Female workers are entitled to an additional menstrual day leave per month. Employers are required to grant 10 days' leave with pay for those who have worked for a full year of service without absence and 8 days' paid leave for those who have worked not less than 90% during a year's service. Workers who have worked continuously for two years or more are granted additional days of leave with pay for each consecutive year of employment. If the total number of annual leave days exceeds 20 days, employers may choose to pay regular wage for the days exceeding 20 days rather than allowing paid leave. In all, legally allowed days of leave with pay rests between 20 days to 44 days annually (12 days of monthly leave plus 8 to 20 days of annual leave plus 12 days of menstrual leave for female workers).

Employees generally prefer getting paid rather than taking paid leave. Employees on the average use only three days of monthly and annual leave, and five days menstrual leave for women according to a survey of 360 establishments in 1989. Most businesses generally provide paid summer leave in addition to the legally required paid leaves. According to a 1989 survey, the average number of days taken as summer leave was four days (Choi, 1993).

There are 17 national holidays in Korea. Labor Day is the only legally required paid holiday. In reality, however, almost all firms recognize all national holidays as paid holidays.

Workers' Compensation For Injuries/Disease Arising From Work

The industrial accident compensation insurance law was enacted in 1963, and the industrial accident insurance program was first introduced in 1964 for workers at firms with 500 or more employees. Coverage was subsequently expanded to include workers at firms with 5 or more employees. In 1995, 7,893,727 workers in 186,021 establishments were covered. In 1995, 1,133,577,490 won was paid for 826,651 accidents (Ministry of Labor, 1996b).

coverage	• employees in firms with 5 or more workers
source of funds	the insured: none employer: in 1996 0.5% to 32% of payroll, according to risk in industry government: partial cost of administration
benefits	• temporary disability benefit: 70% of average earnings • permanent disability benefit: annual pension equal to 138~329 day's average earnings, if totally disabled, or lump-sum equal to 55~1,474 day's earnings, according to degree of disability • Medical benefits: free medical treatments, surgery, hospitalization, medicines, nursing, dental care, appliances, transportation and rehabilitation , after a 3 day waiting period • survivor benefit: lump sum equal to 1,300 day's average earnings payable to surviving family, or pension of 52% of annual earnings for 1 person, 57% for 2, 62% for 3, and 67% for 4 or more persons • Funeral grant: 120 day's average earning

Source: S. Kwon (1993)

Table 32 Summary of the Industrial Accident Compensation Insurance

Coverage, source of funds, and benefits of the industrial accident compensation insurance are summarized in Table 32.

Maternity/Parental Leave

According to the Employment Equality Act, protection of maternity is not considered reverse discrimination. 60 days of paid leave are offered to women for child delivery. Furthermore, employers are obliged to permit mothers or corresponding spouses child-care leave if requested. Child-care leave, which is unpaid, cannot exceed one year or extend beyond the infant's first birthday. In reality, however, child-care leave is seldom requested.

Other Benefits

With the introduction of the employment insurance program, it has become much less costly for employers to provide vocational training. Firms with 70 or more employees are required to pay 0.1% to 0.5% of employee payroll for vocational ability development. The benefits are: 1) 90 to 100% (70 to 80% for large firms) of employer expenses on in-plant vocational training is recompensed, 2) 70 to 90% of employer expenses for commissioned training is recompensed, and 3) 70 to 90% of employer's yearly expenses not exceeding six million *won* per worker (four million *won* per worker for large firms) spent on education or training paid leave is recompensed. However, the actual usage of the aforementioned three vocational training schemes was poor in 1996, especially in SMEs. Only 4.4% of 2,341,877 insured workers benefited from the aforementioned three schemes. In firms with less than 150 employees, only 0.9% of 825,341 insured workers benefited in 1996.

Fringe benefits vary substantially by firm size, occupation, and hierarchy. Management level employees and professionals in large conglomerates are often offered systematic on-the-job training, private health insurance, preferred rates for housing loans, privileges to buy products made by affiliated companies at highly discounted prices, usage of recreational facilities, and severance pay higher than legally required. Production laborers in SMEs receive little training or fringe benefits.

Employee Relations

Overview

Truly open and free industrial relations in Korea was initiated by the declaration of political liberalization on 29 June, 1987. Prior to that time, union organization, collective bargaining, and labor disputes were strictly controlled by the government. Industrial relations experienced chaotic periods of labor disputes just after liberalization through to 1989. In the 1990's industrial relations entered a new phase. The reform of strict labor law and its enforcement so as to increase the flexibility of the labor market was the first thing to be considered for proper development in labor-management relations. The legal framework for industrial relations was considered too strict to be enforced widely, and consequently selectively applied by the government. This selective intervention provided grounds for illegal activities of both unions and management. The labor law was amended in 1997 into what was considered enforceable by deleting unrealistic clauses. In doing so, it provided the basis for sound development of industrial relations. In this section, the development and the status of employee relations are reviewed. The parties involved in the collective bargaining, the structural features and the substantive focus of collective bargaining, key processes and the resolution of labor disputes, and employee relations performance indicators are presented.

Employer Representative Associations

The Council of Korea Employers' organization was established in 1990 to attend to various major categorical issues related to employer interests including industrial relations. It consists of the Korea Employer's Federation (KEF), the Korea Chamber of Commerce and Industry (KCCI), the Korea Federation of Small Business (KFSB), the Federation of Korean Industries (FKI), and the Korea International Trade Association (KITA).

Among these members, the KEF, which had branched off from the FKI in 1970, has played a key role in industrial relations. The KEF is comprised of general members, special members, and the regional employers associations. General members consist of big employer establishments in Seoul. Special members include various employer associations such as the FKI, the KFSB and other industrial employer associations. There are also 13 regional employer associations outside of Seoul. Although the KEF has played crucial roles in industrial relations, employer associations in reality lack true bargaining power because bargaining tends to take place at the enterprise level.

Employee Representative Associations

Trade unions are represented at three levels: 1) the enterprise, regional, or occupational level; 2) the industrial, occupational federation, or regional council level; and 3) the national center level. Most collective bargaining in Korea is done at the first level. Unions in the second level generally consult and discuss collective bargaining conditions with its members, not directly with employers.

(Unit: Persons, %)

Industrial / Occupational Federations	The Number of Unit Unions	The Number of Unionized Workers
Total	6,424	1,598,588
Federation of Korean Trade Unions	1	-
Korea Railway Workers' Union	1	27,682
Federation of Korean Textile Workers' Unions	322	70,097
Federation of Korean Mine Workers' Union	31	10,013
Korea National Electrical Workers' Union	1	26,464
Federation of Foreign Organization Employees Unions	60	23,971
Korean Federation of Information & Communication Trade Unions	23	9,087
Korean Federation of Port & Transport Workers' Unions	66	37,013
Korea Seafarer's Union	64	48,453
Korean Federation of Bank & Financial Workers' Union	184	148,959
Korea Tobacco & Ginseng Workers' Union	5	10,773
Federation of Korea Chemical Workers' Unions	879	151,678
Federation of Korean Metal Workers' Unions	1,056	199,611
Federation of Korean United Workers Union	922	128,065
Federation of Korean Printing Workers' Unions	109	7,263
Korean Automobile & Transport Workers' Federation	682	103,043
Korean Tourist Industry Workers' Federation	150	19,721
Korean Communications Workers' Union(Postal)	4	27,663
Federation of Korean Transport Workers' Unions	1,021	92,376
Federation of Korean Rubber Workers' Unions	30	12,742
Federation of Korean Metro Railway Workers' Unions	6	5,032
Korean Federation of Clerical and Financial Workers' Unions	188	64,872
Korean Federation of Press Unions	64	18,719
Korean Federation of Hospital Unions	135	33,829
Korean Federation of University Employees' Unions	80	10,908
Korean Federation of Construction Trade Unions	53	17,855
Korean Federation of Public & Social Service Workers' Unions	96	24,831
Other Unions	191	267,638

Source: Ministry of Labor, White Paper on Labor, 1997

Table 33 The Status of Industrial & Occupational Federations and Their Membership

The Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU) are national centers authorized by labor law amended in 1997. Before the 1997 reform, multiple unions had been prohibited, i.e., from the national center level to the enterprise level. The FKTU had been the only legal national center since its establishment in the 1950s. The KCTU, established in 1990, had been a tolerated illegal organization. Currently, multiple unions are allowed only at the confederation level but this limitation will be extended to the enterprise level starting in the year 2002. In 1996 there were 6,424 unions with 1,598,558 members, resulting in a union density of 13.3% with respect to all employees excluding civil servants and private school teachers. Table 33 shows the status of industrial and occupational federations and their members.

Structural Features

Current laws do not limit bargaining structures: a trade union can delegate its bargaining authority to other federations or select representatives during multi-employer bargaining. However, collective bargaining generally takes place at the enterprise level except in special cases. National level bargaining is practiced in textile and banking industries while regional bargaining is practiced in transportation (taxi and bus), mining, and shoe manufacturing industries. The predominance of enterprise level collective bargaining derives its source from the traditionally enterprise-based union organization structure (F. Park, 1993). Lee and Kim (1997) explain unionism as rent-seeking activities. The organization rate of unions is closely related to the size of firms and their relation to *chaebols*, large conglomerates in Korea. Enterprise unions in big businesses have shared economic rent with big businesses. Enterprise unions in

big business have been able to exercise greater leverage on bargaining tables not only because of their membership size but also because of rents accrued in their establishment through government backup for the big enterprises. It is also important to note that bench-marked bargaining results of neighboring firms in common industries are important points of reference on bargaining tables (F. Park, 1993).

As previously described, the Korean Confederation of Trade Unions (KCTU), often regarded radical and politically oriented, existed as an illegal organization before the labor reform in 1997. The *de facto* activity of union leaders in the KCTU was illegal, and selectively intervened by the government in the past. In turn, this made the KCTU more militant (Lee and Kim, 1997). In 1996, sixty out of eighty five, or 71% of labor disputes had been triggered by KCTU affiliated unions.

The government applied selective intervention and unrealistically restrictive employment regulations in its dominant role in industrial relations. As a result, the degree of interventions dictated industrial relations. S. Kim (1989) coined the term 'labor-government relations' rather than 'labor-management relations'. For collective agreement of all levels, the government established guidelines for wage increases. With the support of public interest representatives in the Central Labor Relations Commission, the government specified 5.1% and 8.1% as lower and upper limits for wage increases in 1996. Eventually, wage increases had been bargained to an average rate 7.8% in 1996. Actual overall wage increases in 1996, however, resulted in 11.9%.

Key Processes

As described in the employment law section, when labor and management fail to reach agreement through collective bargaining, conciliation procedures are initiated by default before triggering labor disputes. When strikes are expected in requisite public utilities businesses, cases may be referred for arbitration by the chairperson of the Central Labor Relations Commission. For other businesses, arbitration may be initiated upon request: 1) if all involved parties request for arbitration, or 2) if an involved party requests arbitration in accordance with the provisions specified in the collective bargaining agreement. However, including clauses that allow parties to activate dispute arbitration in collective bargaining cases is very rare. Rather long records of arbitration decisions unfavorable to employees makes this an unattractive option to labor representatives (Rodgers, 1993). Concerned parties are notified of arbitration awards in written form by the local Labor Relations Commission. Either party may appeal to the Central Labor Relations Commission for review or institute an administrative litigation if arbitration awards are judged to be improper when applied to law or *ultra vires*.

Labor management consultative councils are established for businesses employing not less than thirty full-time employees to promote employee and employer mutual interests and to encourage participation and cooperation. In the past, the actual contribution of these councils was widely criticized. Rodgers (1993) criticizes the council: "Where there is no union, labor activists complain that councils are used to pre-empt union organizing, that employers completely dominate sessions, or that the employers fail to meet in good faith. On the other hand, where strong independent unions are in place, managers complain that the council sessions are no more cooperative than collective bargaining sessions, and the atmosphere is invariably stressful and non-productive."

Substantive Focus

Current laws do not specify the scope of collective bargaining. In particular, the scope of collective bargaining was first limited to wages, then extended to non-wage working conditions,

and even to management policies. The scope of collective bargaining itself has often been cause for dispute. Trade union participation in personnel committees and disciplinary committees has been one of the most controversial issues in the past (F. Park, 1993). Trade unions in the media business (i.e.: newspaper and broadcasting companies) have challenged editorial rights and have demanded involvement in choosing editorial issues and appointing chief editors. In a number of instances, unions obtained significant concessions and precedence (Y. Park, 1993). Government has traditionally supported that management prerogatives should not be challenged during bargaining. These management conflicts should instead be reported to the labor-management consultative council in accordance with “the Promotion of Workers’ Participation and Cooperation Act”. If an employer neglects reporting and explanation duties, employee representatives may submit for inquiries.

Under the former Trade Union Act, the effective term of collective agreement had been restricted to not exceeding one year for wages and two years for matters excluding wages. This resulted in annual renewal of wage agreements and biennial renewal of non-wage agreement. Thus, labor disputes had decreased significantly in the years where non-wage agreements had been deferred. The discrepancies of effective term of collective agreement on wages and non-wage conditions resulted in separate bargaining of wage and non-wage issues. To reduce unnecessary conflict caused by annual wage bargaining and possibly to package together wage and non-wage issues, the effective term of collective agreement for wages was changed by the labor reform of 1997 to not exceed two years.

Employee Relations Performance Indicators

Unionization Rate Trends

As is shown in Table 34, the unionization rate jumped suddenly in 1987 after the June 29th declaration, reached its peak in 1989, and then gradually declined. The sudden expansion of unions during 1987 and 1989 is attributed to political liberalization. Government policy on union organization, negotiation, and strike changed from strong intervention to laissez-faire by the 29 June declaration. During this period, most large establishments had unionized. The decline of unionization after 1989 is attributable to following factors: 1) SME unions are more difficult to organize and have less incentive to be organized; 2) the labor-management consultative council, the organization empowered to organize labor union activities, has been spread out in SMEs (see Table 35).

Unionization rates are highly related to firm sizes or their relation to *Chaebols*. According to 1992 estimates, the unionization rate of firms employing 10-99 workers was below 10 per cent, while the rate was above 60 per cent for firms employing 1,000 or more workers. The sectoral unionization rate was estimated to increase 5 per cent as the employment share of *Chaebol* increases by 10 per cent in a particular industrial sector (Lee and Kim, 1997).

(Unit: %)

	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
(A)	15.7	15.5	17.3	22	23.3	21.5	19.7	18.4	17.2	16.3	15.3
(B)	12.4	12.3	13.8	17.8	18.6	17.2	15.9	15	14.2	13.5	12.7
(C)	16.9	16.8	18.5	19.5	19.8	18.4	17.2	16.4	15.6	14.5	13.8

Source: Ministry of Labor, Yearbook of Labor Statistics, Relevant Issues

Table 34 Trends in the Unionization Rate

	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Total	5,627	6,122	6,775	12,473	14,065	14,895	14,789	14,624	14,490	14,606	14,782
Firms with less than 100 employees	863	869	1,131	5,751	7,115	7,890	8,013	7,962	7,899	7,951	8,036
Firms with 100-199 employees	2,580	2,934	3,161	3,654	3,776	3,831	3,789	3,718	3,674	3,754	3,888
Firms with 200-499 employees	1,456	1,564	1,661	2,101	2,178	2,118	2,026	1,964	1,962	1,948	1,943
Firms with 500+ employees	728	728	822	967	996	1,056	961	980	955	953	915

Source: Ministry of Labor, Yearbook of Labor Statistics, 1996

Table 35 The Number of Firms with a Labor-Management Consultative Council

Employment Growth

Employment has grown at an average annual rate of 3% between 1970 and 1995. The growth rate of employment is highly correlated with the growth rate of real GDP. Real GDP has grown at an average annual rate of 8.2% for the same period (see Table 36). The output elasticity of employment, which is defined as the rate of change in employment divided by the rate of change in the value added of output, dropped between 1970 and 1985 because the government promoted heavy and chemical industries, and encouraged adoption of labor-saving technologies (see Table 37). This elasticity, however, rose rapidly during the 1985-1990 period. Expansion of the service sector and difficulty of reducing the employment under the influence of trade unions may have been causes for the rise in elasticity. Lee and Moh (1996) compared short-run (6 month) and long-run (one year) output elasticity of employment for four firm size groups in manufacturing industries for pre- and post-1987 periods. They found that both short and long run employment adjustments became more difficult for smaller firms in the post-1987 period while only the short-run adjustment became difficult among larger firms.

	1970	1975	1980	1985	1990	1995
Employment (in thousand persons)	9,745	11,830	13,683	14,970	17,961	20,377
Real GDP (in billion Won)	36,306.4	53,670.4	754,65.6	111,329.8	179,539	257,501.2

Source: National Statistical Office, Annual Report On The Economically Active Population Survey, 1996 Bank of Korea, National Accounts, Relevant Years

Table 36 Employment & GDP growth

	'70~'75	'75~'80	'80~'85	'85~'90	'90~'95
Output elasticity of employment	48.6%	41.9%	22.4%	37.0%	34.2%

Source: Calculated from Table 36

Table 37 Output Elasticity of Employment

Income Growth

Per capita GDP between 1970 and 1995 have grown at the annual average rate of 6.7%. In Table 38, employee compensation in comparison to GDP (real wage growth rate, real GDP growth rate, and employment growth rate) for the 1971-1995 period are presented. Employee compensation as a share of GDP increased from 33.8% in 1971 to 46.8% in 1995. The increase in the labor share of GDP is result of real wage growth and employment growth. Although some

research criticizes Korea's economic policy as a 'keeping real wage rate low' policy, the real wage rate has in fact increased substantially since 1970. As shown in Table 38, the increase in labor share of income led by real wage hikes was most prominent in the post-1987 period. In 1989, when labor movement was at its peak, the real wage rate increased by 14.5%.

However, Lee and Kim (1997) present mixed evidence on the effects of unions on real wages. They analyzed the ratio of manufacturing wages to non-manufacturing wages for four education groups classified by age. Theoretically, young uneducated workers are more likely to be organized than old educated workers. Real wage increases for the former should be greater if unions had been the main reason for the growth in real wages. Lee and Kim (1997) found that the relative increase of manufacturing wages moves quite similarly for these four groups, and concluded that the real wage growth in the post-1987 period might possibly be attributable to other factors: for example, the economic upswing which lasted from the latter half of 1986 to early 1989, and the construction drive which lasted from 1989 to 1992.

(Unit: %)

Year	Compensation of Employees as a Share of GDP	Real Wage Growth Rate	GDP Growth Rate	Employment Growth Rate
1971	33.8	1.9	8.5	3.3
1972	33.4	5.2	4.8	4.9
1973	33.8	7.9	12.8	5.5
1974	32.3	5.8	8.1	4.0
1975	32.5	3.7	6.6	2.1
1976	33.5	17.4	11.8	6.1
1977	35.1	19.8	10.3	3.0
1978	37.0	18.1	9.4	4.3
1979	38.4	8.6	7.1	1.3
1980	39.6	-4.2	-2.7	0.1
1981	38.9	-0.6	6.2	2.5
1982	39.2	8.1	7.6	4.3
1983	40.3	7.4	11.5	-0.9
1984	40.3	6.2	8.7	-0.5
1985	40.1	6.7	6.5	3.7
1986	39.4	5.3	11.6	3.6
1987	40.5	6.9	11.5	5.5
1988	41.8	7.8	11.3	3.2
1989	44.5	14.5	6.4	4.1
1990	45.5	9.4	9.5	2.3
1991	47.0	7.5	9.1	3.6
1992	47.4	8.4	5.1	1.9
1993	46.9	7.0	5.8	1.5
1994	46.3	6.1	8.4	3.0
1995	46.8	6.4	9.1	2.7

Source: Korea Labor Institute, KLIdb for Window, Electronic Version, 1997

Table 38 The Trend of Labor Income Share, Real Wage Growth Rate, GDP Growth Rate, & Employment Growth Rate

Whatever the real cause of real wage increases, the sustained increase in real wages has given Korea no option but to restructure its economy from a price competitive mass production system to a quality based flexible production system.

Industrial Dispute Statistics

	Number of Disputes	Number of Participants (Per Thousand)	Lost Working Days (In Thousands)	Average Duration of Dispute (In Days)	Propensity of Dispute (Days/Thousand Wage Workers)
1970	4	1	9	NA	2.4
1975	52	10	14	NA	2.9
1980	206	49	61	NA	9.5
1985	265	29	64	NA	7.9
1986	276	47	72	NA	8.5
1987	3,749	1,262	6,947	5.3	755.8
1988	1,873	293	5,401	10.0	562.0
1989	1,616	409	6,351	19.2	611.4
1990	322	134	4,487	19.1	409.8
1991	234	175	3,271	18.2	288.2
1992	235	105	1,528	20.2	132.1
1993	144	109	1,308	19.9	111.3
1994	121	104	1,484	21.6	120.7
1995	88	50	393	22.6	30.8

Source: Korea Labor Institute, KLI Labor DB, 1997

Table 39 Industrial Disputes

As presented in Table 39, the number of industrial disputes increased abruptly from 246 in 1986 to 3,729 in 1987, the year of the June 29th declaration. Labor unrest continued until 1989 when the number of disputes recorded 1,616 cases and rapidly abated to 322 cases in 1990. The number of labor disputes fell to 88 cases in 1995. From 1987 to 1989, although the number of disputes declined, working days lost due to disputes had not fallen proportionally due to the increase in the duration of strikes. The number of labor disputes, participants, and lost working days have declined steadily during the 1990s. The propensity of labor disputes has also declined substantially during this period. However, the average duration of labor disputes has increased. This implies that the severity of dispute confrontations between labor and management has become more intense.

Absence/Accident Statistics

Statistics for worker absence are not available. Workplace injuries in 1996 amounted to 71,548 cases resulting in 2,670 deaths. The number of injured persons declined by 8.3%, but the death rate increased by 0.3% compared to that of 1995. Accident statistics in Table 40 show steadily decreasing accident, severity, and frequency rate trends in the 1990s.

	'91	'92	'93	'94	'95	'96
Workers Covered	7,922,704	7,058,704	6,942,527	7,273,132	7,893,727	8,156,894
Injuries	128,169	107,435	90,288	85,948	78,034	71,548
Accidents	125,755	105,330	88,817	84,480	76,388	70,188
Frequency Rate ¹⁾	6.35	6.02	5.18	4.69	3.90	3.49
Severity Rate ²⁾	2.16	2.65	2.41	2.47	2.10	2.19
Accident Rate ³⁾	16.18	15.22	13.01	11.82	9.89	8.77

Source: Korea Labor Institute, KLIdb for Window, Electronic Version, 1997

Table 40 Trends of Industrial Accidents

Current HRM Issues and Trends

Overview

The Korean economy began to experience trouble in mid-1997, due to the enormous short-term foreign debt of businesses and financial institutions, which far exceeded the foreign exchange reserve. Creditors started to lose confidence in Korea's ability to pay off these debts. This lessened the value of the Korean currency, the *won*, and stopped foreign creditors from rolling over short-term debts. To settle the maturing debt, Korea had no choice but to agree on a \$57 billion IMF rescue package on December 3, 1997. The IMF program required 1) a tight monetary policy and a 10 percent cut in government spending to contain the inflation rate to 5 percent; 2) reconstruction of the financial industries through mergers and acquisitions by foreign banks; 3) elimination of trade-related subsidies, import licensing and the import diversification program; 4) reform of corporate governance and corporate structure; and 5) labor market reform.

The measures for labor market reform put forth by the IMF include 1) the relaxation of restrictive provisions on layoff and temporary help service to improve labor market flexibility and 2) strengthening of the employment insurance system (MOFE, 1996). With the expected high level of unemployment implicit in the IMF program, many doubted the possibility of labor unions' concession toward improving labor market flexibility (e.g. Levinson, 1997). However, the Tripartite (labor, business and government) Committee for "fair-burden-sharing", established to overcome the economic crisis, succeeded in reaching agreement on deregulating restrictions on layoffs and temporary help services. In return for the labor unions' concessions, comprehensive measures for promoting stability of employment and coping with unemployment were introduced. In the following sections, human resource management issues related to the future management of the economic crisis will be mainly reviewed. The expected change in labor supply and demand for the coming decade will be discussed. The potential implications of these changes for SMEs will also be highlighted.

Contents of Labor Market Reform Accelerated by the IMF Austerity Program

Labor market reform has been speeded up by the IMF austerity program. The policy recommendations of the IMF on the labor market, the promotion of labor market flexibility and strengthening of the government employment insurance system, were recognized as unavoidable and inevitable burdens to be shared by labor, management and government to overcome the current economic crisis. The Tripartite Committee for "fair-burden-sharing" was set up on January 15, 1998 to facilitate joint agreement by labor, management and government. Based on the Tripartite Committee's agreements, labor law was amended in February 1998, and the implementation of the IMF program on labor market reform is now underway. The major contents of the reforms follow.

Restrictions on layoffs and temporary help services were eased to promote labor market flexibility. Under the newly amended labor law, an employer can now lay off workers if there is an urgent need to do so, or if mergers and acquisition of businesses are involved. An employer should make efforts to avoid layoffs, and is obliged to notify the 'to be dismissed' via 'employee representatives' how efforts were made to avoid layoffs at least sixty days in advance of dismissal. The selection of those to be dismissed is to be made on fair grounds and not by sexual discrimination. These grounds have also to be notified at least sixty days in advance of dismissal. In addition, the employer has to make efforts to preferentially hire laid-off workers when recruiting new employees within two years after the day of layoff. Temporary help

services are allowed, starting from July 1 1998, for jobs requiring knowledge, skill, and experience by the positive list system. That is, temporary help services are allowed only for the jobs listed in the law; they are prohibited for 'simple' jobs such as production work in the manufacturing sector.

Comprehensive measures for promoting stability of employment and coping with unemployment were introduced. The government set aside 8 trillion won as part of the budget for the ex-ante and the ex-post-protective measures for the unemployed. The number of businesses covered by unemployment insurance will be extended from those with ten or more employees to five or more employees beginning in July 1998. The minimum unemployment insurance benefits period has been extended from thirty days to sixty days, and the minimum amount of unemployment insurance benefits has been increased from 50 percent of the country's minimum wage of 336,000 won per month to 70 percent. In addition, the "Pay Guarantee Fund Act" was enacted. It requires employers to contribute no more than 0.2 percent of the payroll to a fund that will pay workers the last three months' deferred wages and the last three years' severance pay on behalf of bankrupt businesses.

As another incentive for accepting layoffs, the basic labor rights of workers were strengthened. Teachers are allowed to form unions beginning in July 1999, and civil servants ranked below the sixth grade in the hierarchy, except for policemen and firefighters, are eligible to form labor management consultative bodies beginning in January 1999. The restrictions on unions' political activities will be eased within the first half of 1998. The unions will be no longer banned from collecting political funds or donating to parties and from fielding candidates. Unemployed workers can join industry or region based unions instead of enterprise-based unions. The minimum period of advance notice for unilateral termination of collective agreement is extended from three months to six months.

The Rise in Unemployment

Massive unemployment is unavoidable under the current economic crisis. Unemployment had risen to the level of 4.5 percent in January 1998, then to the level of 6.9 percent as of May 1998. This was a tremendous increase compared to 3.1 percent in January 1997.

The repercussion of rising unemployment will spread throughout the economy in various forms. First, wage levels will be substantially lowered. The wage level of government employees has already been cut 10 percent since the economic crisis began, as have the wages of the employees of large conglomerates. According to a survey conducted for employers by KCCI, 92.3 percent of the respondents agreed to the need for the workforce reduction, while 63.6 percent would opt for a smaller paycheck as part of downsizing (Korea Times, 1998). Second, the creation of jobs will be the first priority of government policy. Comprehensive policies that encourage enterprises, especially knowledge-intensive SMEs, will be sought after. Third, many highly qualified workers will accept lower-level jobs, if available. As was shown in the "Labor Market" section of this paper, the unemployment rate of the highly educated has been much greater than that of the less educated. As a result, the educated will take lower level jobs under the expected flexible labor market conditions. New college and university graduates will especially have difficulty in finding jobs. The amended labor law stipulates that the employer has to make efforts to preferentially hire its previously laid-off workers, when recruiting new employees within two years after the day of layoff. This clause will restrict a firm's new recruitment substantially, if enforced, and will be against the interests of new entrants to the labor market. Fourth, the use of foreign labor will be reduced. With the devaluation of the *won*, many foreign workers have voluntarily left the country already. The growing number of unemployed domestic workers will prompt the unions to pressure the

government to reduce the number of foreign workers. It is doubtful, however, that the reduction of foreign workers will alleviate the domestic worker unemployment situation. It is highly probable though that the labor shortage for low-wage menial jobs will accelerate by the rapid reduction of foreign workers. The consequent shortage rate is expected to be inversely correlated to the degree of downward wage flexibility of domestic workers. Fifth, the protection of the most vulnerable will be emphasized. Social welfare schemes, including unemployment benefits, will be strengthened. A balanced promotion of income support policies and active labor market policies, i.e., improvement of access to jobs, development of job-related skills, and the strengthening of linkages between demand and supply of qualified labor, will be sought.

Expected Changes in the Supply Side of Labor Market

Three major changes are expected in the supply side of the labor market during the next ten years. This includes a sudden decrease in the number of high school graduates between the years 2000 and 2003, an increasing labor force participation of women, and an increasing proportion of aged workers. Expected changes are elaborated below.

(Unit: in persons)

	1995	1997	2000	2003
Population of Aged 18	767,795	785,719	838,029	663,143
Expected Number of High School Graduates	651,000	660,000	742,000	564,000
Expected New Entrants to Labor Markets among High School Graduates	219,932	190,219	189,695	112,800

Source: Ju-ho Lee, Manpower Forecasts and Higher Education Reforms, The Korea Development Review, Vol.16, No.4, Winter 1994

**Table 41 Expected Decline in High School Graduates
Entering Labor Market**

Table 41 shows the expected number of high school graduates and their advancements to higher educational levels. Due to the decline in the absolute labor force size of age-cohorts corresponding to the high school age category in the future, and presuming that the application rate of high school graduates to higher education level remains high, there will be a major decline in the number of high school graduates who would enter the labor market. As the second baby-boom generation graduates from high school, the number of high school graduates is expected to increase from 650,000 in 1995 to 740,000 in 2000. The number of high school graduates will start to decrease in 2000 and will be down to 560,000 in three years. This cumulative decrease is equivalent to 24 per cent of the annual high school graduates. Starting from the year 2003, the number of high school graduates is expected to remain at the level of 560,000 until the year 2010. The expected change in the number of high school graduates in the next fifteen years requires the following policies. First, in order to encourage high school graduates to enter the labor market instead of advancing into higher educational institutions, more effective, industry-relevant vocational educational systems must be developed. Second, incentives are required for firms to introduce automated production processes and to change personnel management strategies toward attracting blue-collar workers and reducing their turnover rates. It is also predicted that the proportion of the female labor force will increase in the future as the participation rate of females increases (see Table 42).

	15-19	20-24	25-59	60 & Over	Total
1990	1.59	1.66	0.57	0.81	0.68
2010	1.38	2.19	0.67	0.65	0.72

Source: Park, Fun-koo and Chonghoon Rhee (1993)

**Table 42 Past and Predicted Ratio of Female to Male in
Labor Force by Age Group**

Creation of jobs for experienced elderly human resources is another concern. According to the forecast of labor force composition by age group, the proportion of the elderly (60 and older) displays an increasing trend (see Table 43). However, it is also predicted that the proportion of the prime-age group (25-59) will increase as well, making it difficult for the aged to find jobs. In that regard, creating jobs for the aged requires attention.

(Unit %)

	15-19	20-24	25-59	60 & Over	Total
1995	1.9	10.1	80.0	8.0	100
2000	1.6	8.4	80.8	9.3	100
2005	1.1	7.5	80.9	10.5	100
2010	1.0	6.0	81.2	11.8	100

Source: Park, Fun-koo & Chonghoon Rhee (1993)

Table 43 Composition of Labor Force Forecast by Age-Group

Expected Changes in the Demand Side of the Labor Market

Under the expected low economic growth rate, employment will grow at slower rate. Due to the decline of the growth of income, the expansion of service sectors of which income elasticity is relatively high will be mitigated. The restructuring of industries is expected to result in job losses in the low-technology, low-wage sectors and job gains in the high-technology, high-wage sectors. Flexible working time arrangements will be more prevalent and reduced hours of work to secure lower unemployment will be possibly adopted. With the successful inducement of foreign capital, many jobs will be created through foreign direct investments.

Potential Implications for SMEs

The Korean economy needs to be restructured from a price-competitive mass-production system to a diversified quality production system (Rodgers, 1993). For this transition, fostering the competitive capacity of SMEs is essential. As economic rents generated by an oligopoly in a particular product market diminishes with the entry of competitive SMEs into the market, the wage differential between large conglomerates and SMEs will be narrowed. The maximization of the job creating potential of SMEs is an urgent policy priority under the expected low-growth, high-unemployment conditions. The mobilization of the redundant workforce of large firms to the SMEs will be facilitated by the start-up of the technology intensive SMEs, mass layoffs in large conglomerates, and various government support programs. The segregation of the labor market by firm size will be diminished in every aspect. SMEs in the future will have higher wage levels, more skilled workers, and less turnover of workers. The degree of this transition largely depends on the proper development of the human resource management practices of the SMEs.

Human Resource Management Associations in Korea

There are no personnel management or human resource management associations for HR managers in Korea. Large conglomerates, or *Chaebols*, usually have centralized human resource development centers. Their main function is to provide training for newly recruited and existing white-collar workers, and to set up long-term strategic human resource management plans. They closely coordinate with HR managers in subsidiary firms on various HR issues.

The Korean Labor Economic Association and the Korean Academy of Management have dealt with important HRM issues academically. Their members are, however, mainly from academia and research institutes. HR managers seldom belong to these associations. The Korea Chamber of Commerce (KCCI) has been organizing seminars and meetings for HR managers. The Group on Labor Relations, which was established in 1990 by KCCI, has dealt with issues not only on

labor relations but also on human resource management in general. More than 80% of this group's current 300 members are HR managers. HR managers in different firms do not have much incentive to get together and share information due to low mobility of labor force and the prevalent enterprise-level collective bargaining. There have been a few cases of HR managers in different firms raising collective voices or coordinating with each other in various HR issues. The Korea Employer's Federation (KEF) has been organizing monthly regular meetings of HR executives in 30 largest conglomerates since 1987 to raise the collective voice of employers. Korea Personnel Improvement Association, a profit-making organization established in 1976, has been operating monthly meetings and seminars for HR directors since 1996. Currently, about 40 HR directors from large conglomerates and public enterprises participate in this program with an annual membership fee of 990,000 won.

Under rapidly changing labor market conditions, the HRM professional will face more difficult tasks. The proper development of human resource management practices will be essential to overcome the current economic crisis of Korea and the role of HRM professionals cannot be overemphasized.

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Malaysia

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Economy Context

Geography

Physical Dimensions

Malaysia has a land area of about 330,434 square kilometres. Situated in the tropics, it is located seven degrees north of the Equator in the heart of Southeast Asia. It is divided into two regions – the Peninsula (West Malaysia) from Johore in the south to the Thai border in the north, and East Malaysia which consists of two states – Sabah and Sarawak - on the island of Borneo. West Malaysia consists of 11 states – Perlis, Kedah, Penang, Perak, Selangor, Negeri Sembilan, Malacca, Johore, Pahang, Terengganu, and Kelantan. The two parts of Malaysia are separated by the South China Sea. To the north of Malaysia are Thailand, and the Philippines; at all other points lies Indonesia. Directly south of West Malaysia is Singapore, once a part of Malaysia.

Climate

The climate is warm and humid throughout the year with cooler temperatures in the hill resorts such as the Genting Highlands, Fraser's Hill, Maxwell Hill, and the Cameron Highlands. Temperatures range from 21 to 32 degrees Celsius. The average annual rainfall varies from 2,000 to 2,500 mm, and humidity is high all year round. The rainy seasons, caused by the monsoons, occur on the west coast from August to September, and on the east coast from November to February. Time-wise, Malaysia is eight hours ahead of GMT and 16 hours ahead of U.S Pacific Standard Time.

Population

Malaysia is a multi-racial and multi-ethnic country with a population of more than 18.2 million broadly classified into two main categories: *Bumiputera* (literally meaning "son of the soil", a reference to the Malays and those whose lineage can be traced to this community; today, this term also refers to all the indigenous peoples of Sabah and Sarawak) and non-*Bumiputera* (a reference to the immigrant communities whose forefathers came from China, India and other parts of Asia and Europe to work and settle in the country). But these categories are misleading because they represent a diversity of racial ancestry and ethnic heritage. The *Bumiputera* group is as varied as the non-*Bumiputera* group, and comprises the largest percentage of the total population, that is, more than 56 percent.

More than 15 million inhabitants live on the Peninsula, and 3.2 million inhabitants reside in East Malaysia. In West Malaysia, the principal component of the *Bumiputera* community is made up of the Malays, with the other non-Malay *Bumiputera* component being the aborigines or *Orang Asli*, (that is, Malay-related descent groups) consisting of more than 62,000 people,

including the Negritos, Senoi, and Proto-Malays. The Chinese and Indians, being descendants of migrant parentage from mainland China, the Indian continent, and Sri Lanka, respectively, form the non-*Bumiputera* community, together with a minority group of Eurasians whose original parentage stems from Britain, Portugal and the Netherlands.

In East Malaysia, the *Bumiputera* community, comprising the Malays, includes the Javanese, Bugis, Minangkabau and Bajau. However, the non-Malay *Bumiputera* community is made up of a diversity of aboriginal natives of Sabah and Sarawak, comprising the Iban, Bidayuh (Land Dayaks), Melanau, Kenyah, Kayan, and Bisayah who live in Sarawak; and the Kadazan or Dusun, Murut, Kelabit, and Kedayan who are found in Sabah.

Language

Bahasa Malaysia, (also known as Bahasa Melayu) or the Malay Language is the national language of the country. It is the language of formal instruction in schools, colleges, and universities. However, the English language (*Bahasa Inggeris*) is widely used, in both formal and informal communication as it is accepted as the *lingua franca* for business and international interactions. Mandarin is widely used by the Chinese community as are a variety of dialects such as Hokkien, Cantonese and Teochew, reflecting the diverse dialect groups in the community. Tamil and Telugu are commonly used by the Indian community which also has a rich diversity of linguistic groups among its people, including the Sikh and other North Indian communities. A potpourri of ethnic-cum-linguistic groups is also evident in Sarawak, with more than 23 ethnic groups and in Sabah where more than 50 languages and about 100 dialects are spoken.

Religion

A population of diverse racial origin and ethnic heritage is synonymous with a diversity of linguistic and religious preferences. Nevertheless, Islam is the official religion of the country and the main religion of the Malays and the Muslim community in Malaysia. However, religious tolerance is also a national trademark of Malaysia and its people because Buddhism, Hinduism, Christianity, and Sikhism, among other sectarian religions, are freely practised by the non-Muslim communities in the country. In short, the racial and ethnic diversity of Malaysia is complemented by its cultural plurality, especially in terms of the different religions and religious ceremonies which Malaysians practice. Although Islam is the official religion of the country, the freedom of other forms of religious worship is guaranteed by the Constitution. Among the significant religious celebrations acknowledged as public holidays are “Hari Raya Aidil Fitri, usually celebrated after the month-long Ramadan (fasting month), Chinese New Year, ushering in the new lunar year that is celebrated with a family reunion dinner and lion dances to ward off evil spirits, “Deepavali” or “the Festival of Lights”, a celebration which marks the triumph of good over evil, with Hindu homes emblazoned with lights to symbolize this triumph, and Christmas, celebrated with midnight services held at churches on Christmas eve by Christians who sing carols to usher in the spirit of yuletide. Other non-religious public holidays include the National Day, celebrating the country’s independence on 31 August and City Day, commemorating Kuala Lumpur the country’s capital as the Federal Territory on February 1.

The Political Context

Political Processes

When Malaysia gained independence from Britain on August 31, 1957, attention was focussed on the first Prime Minister, the late Tunku Abdul Rahman Putra Al-Haj and his Alliance Party, comprising the United Malays National Organization (UMNO), the Malaysian Chinese Association (MCA), and the Malaysian Indian Congress (MIC). This initial phase of development after independence was characterised by a leadership which advocated cultural pluralism,

anchored to a philosophy of unity in diversity. Cultural pluralism provided the impetus for the growth of a multi-racial and a multi-lingual society where racial and ethnic differences were sublimated in the interest of decolonization. Then, after the May 13, 1969 riots – a manifestation of inter-ethnic conflict between the different races over the distribution of political and economic power in the country - the focus shifted. The second Prime Minister, the late Tun Abdul Razak ushered in a new era of ethnocentric development characterized by the promulgation of a National Ideology (Rukun Negara) and a national development policy called the New Economic Policy (Dasar Ekonomi Baru). His successor, the late Tun Hussein Onn, continued this legacy before it was inherited by Dr. Mahathir Mohamad, the present Prime Minister.

If the first Prime Minister is acknowledged as the “Father of Independence” (Bapa Merdeka), the present leader, Dr Mahathir Mohamad, is tagged with more than one label, including the “Father of Vision 2020” (Bapa Wawasan 2020). Perhaps Dr. Mahathir’s greatest achievement has been his ability to position Malaysia as a showcase of successful development, a “developing country” that is able to lead as well as to follow, the current economic scenario notwithstanding. Throughout this period Malaysia has been a parliamentary democracy backed by a formidable Constitution. Since attaining independence in 1957, Malaysia has been ruled first by the Alliance Party and then its expanded successor – the *Barisan Nasional* (National Front) Party. The latter is a coalition party which commands a two-thirds majority in Parliament.

Government Structure

Malaysia comprises 13 states, and two federal territories – Kuala Lumpur (in the state of Selangor) and Labuan (an island off the coast of Sabah). Nine of the states each have a hereditary ruler from whom the Supreme Head of State – the *Yang Di-Pertuan Agong* (the King) is elected every five years by his peers. His Majesty is assisted by a Deputy known as the *Timbalan Yang Di-Pertuan Agong* who is usually the next-in-line for succession to the throne. The unique system of constitutional monarchy has preserved the rich cultural heritage of Malaysian society, especially that of the nine traditional sultanates which form the majestic resource pool for Malaysia’s kingship system. This system has also provided a significant symbol of unity for all Malaysians as well as an aura of respectability beyond the shores of the country. The supreme law of the country is a written federal constitution which can only be amended by a two-thirds majority in Parliament.

The King is the sovereign head of the country although his role is mainly symbolic and ceremonial. As the head of the Government, the Prime Minister leads the Cabinet of Ministers. The government is based on parliamentary democracy and comprises the House of Representatives (*Dewan Rakyat*) and the Senate (*Dewan Senat*). Members of the former are elected every five years, except when the government dissolves Parliament and calls for a snap general election before the stipulated period expires. The senators are theoretically nominated by the *Yang Di-Pertuan Agong* and Heads of the thirteen states; in practice, however, political nominees, are recommended by the respective State Governments and the Federal Government. State elections are held once every five years to the various State Assemblies; each state has a Chief Minister (*Menteri Besar*) who is elected to office with the State Assembly.

The Constitution of the country continues to guarantee, among other things, the preservation of race and ethnicity, especially the rights and privileges of the traditional rulers and the *Bumiputera*. The Judiciary, as an independent entity, comprises senior members of the legal profession who have been appointed by the government, with the consent of the King, to provide a “check and balance” to the Parliamentary system.

Real political power is wielded by Parliament which is the supreme authority where the laws of the land are enacted. Usually, the national agenda is debated and passed by a fully elected House of Representatives or the Lower House; then it is approved and endorsed by the appointed members of the Upper House or Senate. The Prime Minister, chosen from the party with the largest representation in Parliament, appoints a Cabinet of Ministers and Deputy Ministers, assisted by Parliamentary Secretaries to the various ministries, to oversee the day-to-day affairs of the country. The Prime Minister's Department, the Ministry of Finance, the Ministry of Home Affairs, the Ministry of Trade and Industry, the Ministry of Primary Industries, the Ministry of Transport, the Ministry of Information, and the Ministry of Human Resources (previously known as the Ministry of Labour and Manpower) are among the various ministries which conduct the affairs of government and ensure the implementation and effective governance of public policies. The latter are usually manifested in the 5-Year Development Plans which constitute the blueprint for setting and achieving targeted growth for the country and its people.

Economic Context

Overview

The Malaysian economy has grown steadily with real GDP growth exceeding eight per cent annually before the current Asian economic and monetary crises that started in the last quarter of 1997. The country remains a leading producer and exporter of palm oil, tropical hardwoods, petroleum and pepper. Government efforts at creating a more diversified economy have witnessed several industrialization programs and a greater role for the manufacturing sector, reinforced by liberal policies on encouraging foreign investments, attracting potential investors, providing supporting physical and administrative infrastructures, and promoting business through the Malaysian Industrial Development Agency (MIDA) - a one-stop agency to assist local and foreign entrepreneurs. The national goal is to realize Vision 2020 – the year targeted for Malaysia to become a developed nation with an economy that is fully competitive, dynamic, robust and resilient. This requires the country to maintain a growth rate of 7 per cent per annum for the next 25 years, based on the past 20-year record of an average growth rate of about 6.7 per cent per annum, with inflation kept below 4 per cent during the last several years.

Malaysia's rapid growth and structural change, with low inflation for a decade, have been very impressive. Led by export-oriented industrialization in the late 1980s, followed by a construction and property boom, this impressive record was fuelled by financial sectors favouring short-term investments, usually involving loans with collateral, thereby increasing the volume of "non-tradables" which tended to aggravate current account trade deficits. Two major macroeconomic concerns surfaced by the mid-1990s arising from the rapid growth of the last decade: first, the savings-investment gap (which was 5 per cent of GNP in 1997), which lies behind the current account deficit, and has exceeded RM12 billion since 1994. This gap had been bridged by heavy reliance on foreign direct investment (FDI). Second, there has been in recent years an explosion of private sector debt, especially from foreign borrowings, ensuing from increased demand for credit to finance share purchases as a result of the official policy of privatization. The ratio of loans to GNP rose rapidly to over 160 per cent of GNP.

Economic Policies

Malaysia's "open door" policy is reflected in its liberal policy regarding foreign equity participation. This confirms the Government's commitment to create a conducive investment environment. The key features of this policy relate to equity participation, expatriate personnel, and exchange control regulations. On equity participation, the Government allows foreigners

as much as 100 percent ownership of projects in the manufacturing sector. In other sectors, they are encouraged to form partnerships with local investors, according to a prescribed schedule of equity participation with local partners. With regard to the employment of expatriate staff, the condition imposed is that where Malaysians are unavailable to fill specified positions, then expatriates are permitted to do so. But, to safeguard the interest of investors, the policy allows for certain key posts to be permanently filled by foreigners. Insofar as the exchange control regulations are concerned, the Government allows foreign companies to bring in funds for approved projects, remit profits, and repatriate capital freely.

Over the last few years, to stimulate further growth and greater liberalization, the Government has encouraged the inflow of foreign funds for local investment, especially the participation of foreign-fund managers in the local bourse and currency market. The Promotion of Investments Act (PIA) 1986 provides attractive tax incentives for manufacturing, agricultural and tourism activities. Some of the incentives include "pioneer status", that is, partial exemption from payment of income tax; incentives for research and development (R & D) and training; and incentives for high technology (high-tech) industries.

Given the existing policies and the comprehensive infrastructure, international corporations are quite comfortable doing business in Malaysia. The established stock and commodity exchanges, business councils and associations, as well as the sophisticated legal, accounting, advertising, and consultant firms are well able to service the complex needs of present day businesses. Business procedures and practices derived from the British system conform to business norms and ethics accepted worldwide. The following industries provide a spectrum of investment opportunities for both local and foreign entrepreneurs: the electrical and electronic industry, the transport equipment industry, the chemical and petrochemical industry, the industrial machinery sector, the engineering support industry, agro-based industry, the ceramics industry, the textile industry, and the information technology industry.

The current setback and impending recession have provided the platform for questioning the wisdom of too much liberalization, and attention is now being given to trading in local currencies among Asian and Southeast Asian countries in order to check the decline in economic and financial health.

Economic Performance

Since independence in 1957, Malaysia has experienced fairly high economic growth and socio-economic development and undergone enormous structural transformation. Between 1965 and 1970, the Gross Domestic Product (GDP) grew at a rate of 6 percent per annum, and in the 1970s, at a rate of 7.8 percent per annum, reaching its height at 8.7 percent. The growth of GDP, however, began to decline in the 1980s. Its growth was recorded at 5.6 percent per annum between 1981 and 1985 and in 1986, at only 0.5 percent. Still in 1986, Malaysia's GDP increased at a higher rate than her counterparts in the ASEAN region with the exception of Singapore. The rate of growth in Gross National Product (GNP) per capita is another indicator of Malaysia's sound economic growth. In 1977, for example, Malaysian GNP per capita was US \$930, approximately 2.1 times that of the Philippines, 2.2 times that of Thailand, and 3.1 times that of Indonesia. The GNP per capita for Malaysia grew by about 2.2 times between 1977 and 1985, whilst that of Thailand was 1.9 times, and that of the Philippines was 1.3 times.

After 1986, Malaysia experienced consistently high GDP and GNP growth. The main impetus came from strong manufactured exports and brisk expansion of the industrial sector. Private investment expanded rapidly in the industrial sectors, particularly manufacturing and construction, petroleum exploration and production, and in the export-oriented industries located in the Free Trade Zones (FTZs). This growth momentum continued into the nineties as

the economy firmed up further with private investments and exports remaining buoyant. Compared to an average growth rate of 6.7 percent during the 1971-1990 period, the Malaysian economy grew by an average of 7 percent per annum during the first part of the decade of the Second Outline Perspective Plan (OPP2), covering the period 1991- 2000. This growth is associated with the public policy known as the New Development Policy (NDP). The latter succeeded the New Economic Policy (NEP), which lasted the 20 years now classified under the First Outline Perspective Plan (OPP1), covering the period 1970-1990. The current cloud of currency and market crises has shrouded Malaysia's record of fast and high growth. However, she is not the exception. Her neighbours and other Asian countries now labelled the "wounded Asian tigers", share the same gloomy outlook as they battle to revise their projected growth rates in alignment with the harsh realities of impending recession.

Manufacturing forms a large component of Malaysia's economy. The share of manufacturing in GDP is projected to increase from 27 percent in 1990 to about 37 percent by the year 2000, making Malaysia an industrial-oriented economy, increasingly dependent on manufacturing exports for the growth of income and employment in the country. Manufacturing exports are projected to account for about 81 percent of total exports by the year 2000, while the share of agriculture exports will decline to six percent. Also, Malaysia is one of the world's largest producers of rubber, tin, palm oil, timber, pepper and petroleum. Tourism is also emerging as a major revenue earner. However, recent events in Asia's economic downturn have forced Malaysia to reassess its position and focus on strengthening its agricultural base, especially in terms of ensuring adequate domestic and local consumption of agricultural produce.

As for employment, it has been projected to grow by 3.1 percent per annum. Despite a high labor force growth rate of 2.9 per cent per annum, the expansion of the economy at the rate projected will enable unemployment to be reduced to about four percent by the year 2000 (in 1986, following the country's recession, unemployment peaked at 8.3 per cent and then fell to 6 per cent in 1990, with new entrants to the labor force comprising mainly young school leavers). This will call for a substantial outflow of labor from the traditional sectors to the urban-based sectors of commerce and industry to meet the projected demand. The issue of foreign labor, usually taking over the employment opportunities in the traditional sectors, and also seen in large numbers in the construction sector, remains a very sensitive aspect of high-speed development, and even more so in the current period of financial and economic uncertainties.

Infrastructure

Malaysia can claim to possess one of the most highly developed infrastructures in Asia in terms of road networks, transport and communications. It is currently being made more efficient by a continuing program of privatization. There are over 178 developed industrial estates and 12 Free Trade Zones (FTZs) which cater for the sophisticated needs of export-oriented and high-tech manufacturing companies. The prices of industrial land, depending on location, range from between RM7.00 to RM161.00 per square metre (RM, Malaysian Ringgit is the Malaysian currency). There are also three specialized parks, namely, Kulim High-Tech Park, Technology Park Malaysia, and JSEDG Technopark located in the states of Kedah, Selangor, and Johore respectively. These parks are equipped with modern and up-to-date facilities for high-tech manufacturing activities and R & D companies. A new Biotechnology Park is also being developed in the State of Sarawak.

Banking and Finance

The stable but rapid growth of the economy has enabled the establishment of more than 37 commercial and 12 merchant banks which provide sophisticated banking facilities to cater for the demands of a modern industrial sector. Other smaller finance companies and credit-providing institutions cater for the nations support network. However, due to the recent

economic slowdown and the non-performing loan repayment problem, the government has encouraged local bank mergers and urged finance and credit-providing institutions to be more efficient and productive. The Bank Negara Malaysia or the Central Bank oversees the smooth running of the country's financial system. The Ministry of Finance continues to provide the policy framework for meeting the country's monetary and fiscal requirements.

Recent History

Malaysia's history has been one of continuing interaction with foreign powers and influences because of its strategic position between the Indian Ocean and the South China Sea. This has made it the meeting place for traders and travellers. Hindu-Buddhist influence was strong in the northwest before the coming of Islam. The Portuguese, the Dutch, and the British have had a strong influence in pre-independent Malaya. In the 1930s, however, the first stirrings of Malaysian nationalism were felt. Following the end of World War II, there was a resurgence of the nationalist movement, culminating in independence for the Federation of Malaya on 31 August 1957. In 1963, Malaysia was formed (with Singapore as an original member). Malaysia is a prominent member of the original seven-member Association of Southeast Asian Nations (ASEAN) which today comprises Brunei Darussalam, Indonesia, Philippines, Singapore, Thailand and Vietnam, Laos, Myanmar, and Cambodia. The latter two, however, have been admitted as members with controversies surrounding their "human rights" stance which concerns the international community.

Labour Market

Workforce Characteristics

Working Population

Under the Sixth Malaysia Plan (SMP, 1991-1995), the labour force increased gradually from 7.02 million in 1990 to 8.14 million in 1995, at average annual growth rate of 2.9 percent (including over one million foreign workers who entered the labour market). The male and female labour force participation rates, were 86.8 percent and 47.1 percent respectively in 1995. The labour force is projected to grow at a rate of 2.8 percent per annum to reach 9.3 million by the year 2000. The overall participation rate of the labour force is expected to increase to 67.1 percent during the Seventh Malaysia Plan (1996-2000) and the female participation rate to rise to 47.5 percent. The labour force will continue to have a young profile, with 60 percent between 15-34 years. Table 1 below shows the labour force structure for the years 1990 to 2000.

				Average Annual Growth	
	1990	1995	2000	6MP	7MP
Labour Force (000's)	7,042	8,140	9,327.1	2.9 percent	2.8 percent
Local	6,752	7,490	8,546.1	2.1 percent	2.7 percent
Foreign	290	650	781	17.5 percent	3.7 percent
Unemployment (000's)	356	224.6	260.9		
Unemployment Rate	5.1 %	2.8 %	2.8 %		
Employment Growth Rate				3.4 %	2.8 %

Source: Seventh Malaysia Plan (1996-2000), Government Printers, 1996.

Table 1 Labour Force and Employment Rate, 1990-2000 ('000 persons)

The unemployment rate declined from 5.1 percent in 1990 to 2.8 percent in 1995 and stood unchanged at 2.8 percent in 1996, reflecting a near full employment situation. It has also been expected to stabilise at about 2.8 percent by the year 2000. The rate of employment growth during the Seventh Malaysia Plan is expected to be at 2.8 percent (with the creation of about

1.2 million additional jobs) which will be lower than the rate experienced during the Sixth Malaysia Plan (3.4 %). This is due to a shift in the economy towards higher capital intensity and increasing efficiency in the use of human resources, together with less dependence on foreign labour. (Note: this growth figure is that forecasted in the 7th Malaysia Plan without taking into the account the impact of the current economic downturn. Employment growth is expected to be lower in 1998 and 1999).

In 1995, there was a progressively more educated workforce with about 55 percent of the labour force having undergone secondary education as compared with 52 percent in 1990. However only 6.3 percent of the population had pursued a college or university education. For those in the 19-24 age-group, the number enrolled in a first degree in local public institutions was about 3.5 percent, a rate much lower than that in developed countries. Efforts to increase the rate of enrolment to 5.6 percent by the year 2000 are being intensified.

Employment by Sector

While the labour force grew at 2.9 percent per annum during 1991-1995, employment expanded at a faster rate of 3.4 percent per annum. Table 2 shows employment by sector for the years 1990 to 2000.

Industry	1990		1995		2000		Average Annual Growth Rate (percent)		Net Job Creation	
	1990	Percent	1995	Percent	2000	Percent	6MP	7MP	6MP	7MP
Agriculture, Forestry, Livestock & Fishing	1,738.0	26.0	1,428.7	18.0	1,187.7	13.1	-3.8	-3.6	-309.3	-241.0
Mining & Quarrying	37.0	0.6	40.7	0.5	44.5	0.5	1.9	1.8	3.7	3.8
Manufacturing	1,333.0	19.9	2,051.6	25.9	2,616.3	28.9	9.0	5.0	718.6	564.7
Construction	424.0	6.3	659.4	8.3	845.4	9.3	9.2	5.1	235.4	186.0
Electricity, Gas & Water	47.0	0.7	69.1	0.9	84.0	0.9	8.0	4.0	22.1	14.9
Transport, Storage & Communications	302.0	4.5	395.2	5.0	506.9	5.6	5.5	5.1	93.2	111.7
Wholesale & Retail Trade, Hotels & Restaurants	1,218.0	18.2	1,327.8	16.8	1,469.6	16.2	1.7	2.1	109.8	141.8
Finance, Insurance, Real Estate & Business Services	258.0	3.9	378.5	4.8	479.0	5.3	8.0	4.8	120.5	100.5
Government Services	850.0	12.7	872.2	11.0	894.2	9.9	0.5	0.5	22.2	22.0
Other Services	479.0	7.2	692.2	8.7	938.6	10.4	7.6	6.3	213.2	246.4
Total	6,686.0	100	7,915.4	100	9,066.2	100	3.4	2.8	1,229.4	1,150.8
Labour Force	7,042.0		8,140.0		9,327.1		2.9	2.8		

Source: Seventh Malaysia Plan (1996-2000), Government Printers, 1996.

Table 2 Employment by Sector, 1990-2000 ('000 persons)

Although labour force growth remained high, the relatively stronger growth of employment resulted in labour shortages in most sectors of the economy. However, due to the economic downturn, the figure for agriculture is expected to be underestimated and the figures for manufacturing and construction overestimated.

The manufacturing sector accounted for about one quarter of local employment and generated almost 60 percent of the net employment created. The demand for labour in this sector during the 1991-1995 period grew at 9 percent per annum. During the Seventh Malaysia Plan, employment in the manufacturing sector has been projected to grow at 5.0 percent per annum, creating a total of 564,700 new jobs, and accounting for 49 percent of the total new jobs created. However, due to the economic crisis, this sector is now expected to grow rather slowly. During the 1991 to 1995 period the services sector accounted for about one half of the total employment. Employment in the services sector under the Seventh Malaysia Plan was expected to grow at 3.2 percent per annum. Due to the recent mergers of financial institutions, employment rates for the banking and finance sector are expected to grow at a slower rate.

Employment in the construction sector accounted for 19 percent of the total jobs created and grew at an average rate of 9.2 percent per annum during the Sixth Malaysia Plan period. Under the Seventh Malaysia Plan, the employment rate in this sector was projected to grow at 5.1 percent and account for 9.3 percent of the total employment in the year 2000. This sector is also badly affected by the economic crisis and is expected to grow very slowly. Employment in the agriculture sector declined by 3.6 per annum during the Sixth Malaysia Plan period and accounted for 18 percent of the total employment in 1995. It was projected to further decline to about 1.2 million, equivalent to 13.1 percent of the total employment, in the year 2000. However, the agricultural sector is still expected to grow rapidly as efforts to reduce food imports and save foreign exchange are intensified.

Projected Employment by Occupation under the Seventh Malaysia Plan (1996-2000)

As shown in Table 3, the demand for manpower in most occupational categories has been projected to increase during the Seventh Malaysia Plan (1996-2000) (7MP). The demand for administrative and managerial workers'; professional and technical workers and production workers has been expected to register high growth and dominate total manpower requirements. However, as mentioned earlier the demand for agricultural workers was forecast to continue to decline. The projected figures in the 7MP did not take into account the recent economic downturn in which manufacturing and construction have been badly affected. The occupational categories discussed below reflect the projections of the Seventh Malaysia Plan. Refer to the following subsection 'impact of Asian Financial Crisis' for a discussion of the emerging implications for the Labour Market.

							Average Annual Growth Rate (percent)		Net Job Creation			
Occupational Group	1990	%	1995	%	2000	%	6MP	7MP	6MP	%	7MP	%
Professional, Technical & Related Workers	586.4	8.8	815.3	10.3	1,097.0	12.1	6.8	6.1	228.9	18.6	281.7	24.5
Administrative & Managerial Workers	163.8	2.4	213.7	2.7	290.1	3.2	5.5	6.3	49.9	4.1	76.4	6.6
Clerical & Related Workers	652.6	9.8	799.5	10.1	933.8	10.3	4.1	3.2	146.9	11.9	134.4	11.7
Sales Workers	768.9	11.5	894.4	11.3	1,042.6	11.5	3.1	3.1	125.5	10.2	148.2	12.9
Service Workers	777.6	11.6	981.5	12.4	1,169.5	12.9	4.8	3.6	203.9	16.6	188.0	16.3
Production & Related Workers, Transport Equipment Operators & Labourers	1,846.0	27.6	2,548.8	32.2	3,046.2	33.6	6.7	3.6	702.8	57.2	497.5	43.2
Agricultural, Animal Husbandry & forestry Workers, Fishermen & Hunters	1,890.7	28.3	1,662.2	21.0	1,486.9	16.4	-2.5	-2.2	-228.5	-18.6	-175.4	-15.2
Total	6,686.0	100.0	7,915.4	100.2	9,066.2	100.0	3.4	2.8	1,229.4	100.0	1,150.8	100.0

Source: Seventh Malaysia Plan (1996-2000), Government Printers, 1996.

Table 3 Employment by Major Occupational Groups, 1990-2000 ('000 persons)

Professional, Technical and Related Workers

The group of professional, technical and related workers has a projected annual average growth rate of 6.1 percent over the years 1996-2000 and has expected to account for 12.1 percent of total employment by the year 2000. As shown in Table 4, there was a forecast demand for 33,900 engineers and 73,600 engineering assistants under the 7MP. The high demand is due to the shift towards more capital-intensive industries such as machinery manufacture and engineering; manufacture of transportation equipment and construction materials, industrial chemicals and non-ferrous metals. There was also planned to be a substantial increase in the demand for professionals in the fields of electrical, electronics, mechanical and civil engineering. There was also to be increasing demand for engineers in non-traditional fields such as electro-mechanical, industrial efficiency, instrumentation, materials and software engineering. As the per capital income increases, there was also to be a greater demand for improved health services. Therefore, there will be a high demand for physicians, surgeons, pharmacists and other health personnel. Major specialist areas in high demand include general health, paediatrics, general surgery, obstetrics and gynaecology, anesthesiology, psychiatry, pathology, haematology, forensic medicine, orthopaedics and cardiology. For R & D personnel, an estimated 23,300 scientists and technologists will be required by the year 2000.

The growth rate for the category of administrative and managerial was estimated at 6.3 percent per annum during the plan period and accounted for 6.6 percent of the total jobs created. Within this category, a greater demand for managers and supervisors with a wide range of technical competence and computer literacy.

6MP					7MP			Output		Demand - Supply Gap Shortage/Surplus	
Occupation	Stock 1990	Employment 1995	Net Increase	Stock 1995	Employment 2000	Net Increase	6MP	7MP	6MP	7MP	
Engineers ¹	18,904	55,254	36,350	49,729	83,590	33,861	13,092	26,570	-23,258	-7,291	
Civil	6,429	16,695	10,266	15,026	24,051	9,025	1,707	4,110	-8,559	-3,260	
Electrical & Electronics	6,151	15,759	9,608	14,183	24,566	10,383	2,696	7,123	-6,912	-3,260	
Mechanical	2,989	12,583	9,594	11,325	19,488	8,163	2,367	5,904	-7,227	-2,259	
Chemical	1,037	1,708	671	1,537	2,452	915	649	1,113	-22	198	
Others	2,298	8,509	6,211	7,658	13,033	5,375	5,673	8,320	-538	2,945	
Engineering Assistants	43,276	92,082	48,806	78,269	151,844	73,575	26,581	41,899	-22,225	-31,962	
Civil	18,752	25,971	7,219	22,075	37,754	15,679	6,432	9,717	-787	-5,962	
Electrical & Electronics	16,492	40,023	23,531	34,020	65,459	31,439	9,573	14,361	-13,958	-17,078	
Mechanical	5,106	18,706	13,600	15,900	36,345	20,445	5,768	9,282	-853	-990	
Chemical	333	1,425	1,092	1,211	2,641	1,430	239	440	-853	-11,163	
Others	2,593	5,957	3,364	5,063	9,645	4,582	4,569	8,099	1,205	357	
Medical & Health Professionals	9,722	14,903	5,181	12,917	21,328	8,411	3,865	5,941	-1,316	-2,470	
Physicians & Surgeons	7,012	10,316	3,334	9,504	15,510	6,006	2,728	4,525	-606	01,481	
Dentists & Dental Surgeons	1,471	2,586	1,115	1,791	2,909	1,118	677	452	-438	-666	
Pharmacists	1,239	1,971	732	1,622	2,909	1,287	460	964	-272	-323	
Allied Health Professionals	39,131	51,588	12,457	44,750	75,016	30,266	10,947	21,852	-1,510	-8,414	
Physiotherapists & Occupational Therapists	234	517	283	410	911	501	225	401	-58	-100	
Radiographers	508	758	250	537	1,297	760	187	512	-63	-248	
Health Inspectors	1,007	1,647	640	1,418	2,695	1,277	335	601	-305	0676	
Med. Assists. & Med. Lab Technologists	4,903	6,750	1,847	5,392	9,842	4,450	1,064	2,895	-783	1,555	
Dental Paramedics & Auxiliary	2,137	3,235	1,098	2,720	6,361	3,641	779	1,377	-319	-2,264	
Pharmaceutical Assistants	1,410	2,172	762	1,872	3,359	1,487	497	655	-265	-832	
Nurses ²	28,932	36,509	7,577	32,401	50,551	18,150	7,860	15,411	283	-2,739	
School Teachers	172,164	244,188	72,024	222,890	322,807	99,917	66,771	99,917	-5,253	0	
Primary	101,098	144,191	40,093	135,790	197,835	62,045	38,268	62,045	-1,825	0	
Secondary	68,966	99,997	31,931	87,100	124,972	37,872	28,503	37,872	-3,428	0	

Notes: ¹Output includes graduates from local public and private tertiary institutions as well as overseas graduates privately sponsored and those sponsored by the Government and major corporations

² Nurses comprise staff nurses, community nurses, assistant nurses and midwives.

Table 4 Employment by Selected Occupation, 1990-2000 ('000 persons)

Clerical and Related Workers

Under the 7MP, the clerical and related workers category was planned to register a growth rate of 3.25 per annum and to account for 11.7 percent of the new jobs created. The skills required of this category of workers were expected to shift towards those required to work in more automated work environments. As for the service workers category, demand was envisaged in the areas of tourism and hospitality services as well as in the personal services sub-sector. It was estimated that 188,000 new jobs in this category would be created by the year 2000 and would account for 16.3 percent of the total new jobs. Personnel would need to be trained in computer skills in order to handle the increased use of computer-based technologies to increase front desk and administrative efficiency in hotels and travel agencies.

Production Workers

Under the 7MP, the category of production workers was estimated to account for 43.2 percent of the incremental demand for manpower. With greater industrialisation and restructuring towards automation and robotics, more skilled production workers with computer literacy and ability to interface with automated machinery would be required. As for the agricultural workers category, there was an expected net reduction of employment of 175,400 during the plan period. This occupational group includes plantation managers and supervisors; farmers; agricultural and livestock workers; forestry workers; fishermen and nursery workers and gardeners. However, with increasing urbanisation and development of recreational parks and gardens, there was an estimated increase in demand for skilled nursery workers and gardeners for landscaping and horticultural services.

Impact of Asian Financial Crisis

The immediate effect of the currency depreciation following the onset of the Asian financial crisis in 1997 was an increase in the prices of most goods. The prices of imported goods increased in tandem with the depreciating Malaysian ringgit. Local products which depended on imports such as chicken (imported animal feed), newspapers and magazines (imported newsprint) escalated in cost. Surprisingly, the prices of goods which do not depend on imports but instead are exported also rose because export prices are set mainly in US dollars. When the dollar rose, the ringgit cost of the product also rose.

In order to reduce production costs and in response to decreasing demand, most employers have already reduced overtime work, lowered or withdrawn bonuses, frozen salaries, cut allowances and wages and in extreme cases retrenched workers. There are cases of employers who are not genuinely affected by the economic slowdown using the opportunity to impose cost-cutting measures on staff. Retrenched workers are only likely to be re-employed, if at all, at a lower wage level given the loose labour market, thus resulting in a loss in earnings. Most industries producing goods for local consumption will be affected. Industries producing necessary items such as food products may be exempted. Primary industries such as agriculture, mining and quarrying will be minimally affected. The effect on workers in manufacturing and services will be varied. The worst hit sector will be construction, especially after the current projects tied to the holding of the Commonwealth Games have been completed.

As with inflation, it is hard to forecast the damage to employment. In Thailand and Indonesia, more than a million became unemployed by the end of 1997, while Singapore is expecting 50,000 jobs to be lost. For Malaysia, estimates of unemployment and job losses can be made based on the projected reduction of GDP growth from 8 percent to -2 percent for 1998. However, estimates are still being calculated. Potentially, between 20-40 percent of upper middle and high income earners (those earning above RM 1,500 a month) will face a significant reduction in earnings. Out of this about 10 percent will be affected severely, losing at least one-third of

their income or be retrenched. Among the lower middle and lower income earners, the percentage of affected workers will be less, possibly about 30 percent. However, the percentage who are severely affected will be higher at about 15 percent, suffering mainly from a loss of overtime or retrenchment (The Star, December, 1997). Potential net job losses, by sector, can run up to 20 percent in the construction sector (excluding undocumented migrant workers who will lose their jobs), 15 percent in the wholesale and retail trade and 5 percent in manufacturing, finance and real estate and transport. Table 5 gives a summary. The figures should be viewed as tentative.

Industry	1997 (‘000)	Estimated Job Loss (%) in 1998	Estimated Job Loss (‘000) in 1998
Agriculture, Forestry, Livestock & Fishing	1,274.7	0	0
Mining & Quarrying	43.9	0	0
Manufacturing	2,307.6	5	115.3
Construction	768.4	20	153.7
Electricity, Gas & Water	76.0	0	0
Wholesale & Retail Trade, Hotel & Restaurants	1,386.7	15	208.0
Finance, Insurance, Real Estate & Business Services	422.4	5	21.1
Transport, Storage & Communication	436.5	5	21.8
Government services	880.9	0	0
Other services	793.7	5	39.7
Total	8,390.9		559.6

Employment figures from Economic Report 1997/8

Table 5 Malaysia - Estimated Employment by Sector for 1998

Role of Education

The development of human resources remains a fundamental prerequisite for Malaysia’s sustained growth through industrial and technological upgrading. Higher levels of formal education and training, combined with employment or enterprise-based training, are essential to cope with rapidly advancing production technologies and the increasingly competitive trading environment. The following briefly traces key developments in education and training and highlights some of the pressing issues and concerns.

At present, only 10 per cent of those in employment have received tertiary education, with about 50 per cent having completed secondary education, and about 8 per cent with no formal education at all (see Table 6). In other words, about 80 per cent of the workforce have only primary or secondary education. The low educational attainment of those employed is primarily due to the low-absorptive capacity for skilled workers - a legacy of the labour-intensive export-industrialisation strategy initiated in the early 1970s based on low-cost labour, as well as constraints in the supply of highly educated and skilled labour as highlighted earlier.

	1980*	1985	1990	1993	1996
No Formal Education	14.5	14.1	9.8	8.1	7.1
Primary	44.5	39.7	34.6	30.4	29.0
Secondary	37.3	41.5	49.9	51.4	52.8
College/University	3.7	4.7	5.7	10.1	11.1

Note: * Refers to West Malaysia only.

Source: Department of Statistics, *Labour Force Survey*, various issues.

Table 6 Malaysia: Educational Attainment of the Labour Force 1980-1993

Compared to many developed and developing economies with which it has to compete, Malaysia's overall educational attainment is relatively low. Though it provides relatively high quality education, only about 59 per cent of those in the relevant age-group are in secondary schools compared to Japan (96 per cent), the United States (97 per cent), South Korea (93 per cent) and Singapore (68 per cent). Malaysia's tertiary enrolment ratio is around 7 per cent in contrast to 30 to 80 per cent in industrialised economies. In the case of technical and vocational education, only about 7 per cent of secondary students are enrolled in vocational/technical schools, whereas in Japan and Germany enrolment in vocational education is 28 and 60 percentage points respectively (UNESCO, 1995 Statistical Yearbook).

The infusion of increasingly sophisticated technology to bring about the desired strategic shift towards higher value-added, more technology and skill-intensive production processes will require a substantial supply of manpower trained in the science and technical fields. Current indicators of student enrolment in science and technical education are not very encouraging. Enrolment in science and technical disciplines at the school level is weak, as reflected in Table 7. The Malaysian school system streams students into science, technical, vocational and arts disciplines at the upper secondary level (Form IV). The number of students opting to pursue science and technical education at this level declined drastically from 55,000 in 1986 to about 36,000 in 1991, before the trend was reversed. However, the 1995 enrolment in the science/technical streams was still below that in 1986. The government has recognised the seriousness of the problem, and is currently examining ways and means to inculcate greater awareness and interest in science-based subjects. The future supply of science and technology graduates will depend very much on present enrolment, but it looks like the present school system is not preparing enough students interested in science and engineering-related professions. The low level of interest in science and technology has been attributed to the higher fees charged for technical courses, the greater risk of failing, limited career prospects and lack of adequate preparation in the earlier stages of education (UNDP/World Bank 1995, p. 85)

Year	Science/Technical		Vocational		Arts		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1986	55,036	31.0	8,877	5.0	113,622	64.0	177,535	100.0
1987	51,524	28.7	9,634	5.4	118,325	65.9	179,483	100.0
1988	47,594	26.4	9,877	5.5	122,721	68.1	180,192	100.0
1989	46,294	25.7	12,247	6.8	121,955	67.6	180,496	100.0
1990	44,589	24.3	13,555	7.4	125,680	68.4	183,824	100.0
1991	35,856	19.3	15,642	8.4	133,938	72.2	185,436	100.0
1992	39,439	19.3	31,040	15.2	134,198	65.6	204,677	100.0
1993	44,584	19.5	39,515	17.3	144,518	63.2	228,617	100.0
1994	42,710	19.8	39,608	18.4	133,515	61.8	215,733	100.0
1995	50,679	21.3	21,981	9.2	165,821	69.5	238,481	100.0

Source: Ministry of Education, *Educational Statistics of Malaysia*, various issues.

Table 7 Form IV Student Enrolment in Science/Technical, Vocational & Arts Streams 1986-1993

The bias towards arts-based courses is also reflected at the tertiary level where the output of science and technical graduates was only about 42 per cent of the total output from public training institutions during the Sixth Malaysia Plan period (1991-1995), declining from 47.4 per cent in the Fifth Malaysia Plan period (1986-1990) (see Table 8). Both percentages are far below the policy target of 60 per cent set as early as 1967. The corresponding ratio at the diploma level was more or less constant at around 50 per cent. Only at the certificate level has

the output of science and technical students far exceeded the policy target of 60 per cent. Early preparation and emphasis on science and technical education are needed to produce enough qualified people to facilitate the shift towards higher value-added activities requiring new technologies. The government has recognised the need to increase the output of science and technical graduates, and in the Seventh Malaysia Plan period (1996-2000), output of graduates in science and technical disciplines is targeted to increase by 50 per cent, thereby raising the ratio of science and technical graduates to 50 per cent.

Area of	Level	Output			Percentage Increase		
		5MP	6MP	7MP	5MP	6MP	7MP
Arts	Degree	27,780	38,270	54,090	-	27.4	29.2
	Diploma	18,450	18,690	31,590	-	1.3	40.8
	Certificate	2,140	7,760	8,470	-	72.4	8.4
Science	Degree	17,510	17,370	33,980	-	-0.8	48.9
	Diploma	7,950	7,060	7,040	-	-12.6	-0.3
	Certificate	12,240	4,500	8,460	-	-172.0	46.8
Technical	Degree	7,550	9,830	20,010	-	23.2	50.9
	Diploma	10,450	39,870	63,630	-	73.8	37.3
	Certificate	14,380	17,520	23,990	-	17.9	27.0
					Percent of Science/Technical Output		
					5MP	6MP	7MP
Total	Degree	52,840	65,470	108,080	47.4	41.5	50.0
	Diploma	36,850	65,620	102,260	49.9	53.1	50.4
	Certificate	28,760	29,780	40,920	85.1	73.9	79.3
	Total	118,450	160,870	251,260	53.5	52.1	55.7

Note: 5MP: 1986-1990 6MP: 1991-1995 7MP: 1996-2000

Source: Sixth Malaysia Plan, 1991-1995 Seventh Malaysia Plan, 1996-2000

Table 8 Output of Students from Local Public Institutions by Discipline & Level of Specialisation, 1986-2000

One of the main reasons for the present skill shortages is the delayed response to the human resource needs of the nation. While the public sector lacked the resources to expand education and training opportunities, restrictions were also placed on private sector provision of education at the degree level. Enterprise-based training was also limited as the private sector generally suffers from a poor training culture. Except for a few large firms, the majority are reluctant to invest in training and often resort to staff poaching to meet their manpower needs. Training, if at all carried out, was restricted to on-the-job training which is often quite adequate, given the simple production processes involved. More recent developments in education and training point to positive measures to redress the shortage of skilled manpower. Apart from the increase in the government allocation, several new policy measures have been introduced to encourage private sector participation in education and training. Refer to the section on Training and Development for more detail on the systems in place in Malaysia.

Government Policies

Government investment in education and training has risen significantly in recent years as reflected by the various Five Year Development Plans. Development expenditure on education and training has risen from 7.8 per cent during the First Malaysia Plan period to 13.4 per cent during the Sixth Malaysia Plan period and to 15.1 per cent during the Seventh Malaysia Plan period (see Table 9).

	1MP	2MP	3MP	4MP	5MP	6MP	7MP
	(1966-1970)	(1971-1975)	(1976-1980)	(1981-1985)	(1986-1990)	(1991-1995)	(1996-2000)
Economic	63.3	72.3	64	60.5	64.8	50.6	50
Social	17.7	13.7	17.1	21.5	24.8	24.8	29.3
Education & Training	7.8	6.9	7.3	10.1	16.1	13.4	15.1
Security	15.7	10.4	16.6	16.2	7.2	20.1	13.6
General Administration	3.3	3.6	2.2	1.8	3.2	4.5	7.1
Total Expenditure (RM million)	4,242	9,821	21,202	46,320	35,300	54,705	67,500

Sources: Malaysia, *Seventh Malaysia Plan, 1996-2000* (7MP), p.177 Malaysia, *Sixth Malaysia Plan, 1991-1995* (6MP), p.62. Malaysia, *Fifth Malaysia Plan, 1986-1990* (5MP), p.226-227. Malaysia, *Fourth Malaysia Plan, 1981-1985* (4MP), p.240-243. Malaysia, *Third Malaysia Plan, 1976-1980* (3MP), p.240-241. Malaysia, *Second Malaysia Plan, 1971-1975* (2MP), p.68-71.

**Table 9 Federal Government Development Expenditure by Sector
(Percentage Share)**

Since the late 1980s, several new approaches have been adopted to improve and expand education and training. Basically, there has been a shift from a largely supply-driven approach to education and skills training to a more demand-driven approach. Elements of this shift include mandatory training by industry, liberalisation of the education and training market, greater incentives for the private sector to invest in education and training and industry-institution links. Mandatory training through a levy-grant was introduced in 1993. A Human Resource Development Council was established in 1992 which began operating the Human Resource Development Fund in 1993. Larger manufacturing firms and selected service industries are required to pay a mandatory levy of one per cent of wages and fixed allowances to the Fund which was set up with a government grant of RM55 million. The mandatory training levy was primarily aimed at creating a training culture amongst Malaysian employers and to encourage reskilling, upskilling and multiskilling of the workforce to facilitate industrial restructuring. Training became more demand driven, as the firms themselves decide upon the type and level of training required to boost productivity.

Several channels of communication have been forged between the public and private sectors through the establishment of consultative councils to obtain feedback on changing industry demands for curriculum development, and training requirements to overcome the perennial problem of a mismatch in skills. Joint public-private training efforts have also been initiated, the most significant of which is the joint establishment of Skills Development Centres in industrial zones to cater for the growing demand for skills upgrading programs. Another related recent development is the 'time-sector' privatisation program, whereby the private sector is allowed to lease public training facilities during off-peak periods. Both public and private trainers are engaged in these training programs. The government has introduced several measures to enhance direct private investment in education and in training in order to cater to the increasing demand for education and training and to alleviate the problem of resource constraints. Financial and fiscal incentives have been provided, training institutes have been established on a collaborative basis, and there has been a gradual shift towards a more liberal policy in the provision of educational services in line with the changing needs of the country. Until recently, private institutions were only allowed to award certificates and diplomas. Thus, students in private colleges obtained their degrees through external examinations. A very recent development is the twinning or credit transfer programs that allow students to do part of their credit hour requirements locally and complete their studies in universities overseas. The government has just passed the National Council on Higher Education Act (1996) and the Private Higher Educational Institutions Act (1996) to encourage private investment in education and training and to promote an orderly development of private education in the country. With

the Private Higher Educational Institutions Act 1996, local and foreign universities with science and technical-based programs are allowed to establish branch campuses in Malaysia and to award degrees. The establishment of such arrangements however requires the prior approval of the Minister of Education. To-date, five private universities have been approved by the Minister. A National Accreditation Policy is currently being formulated to ensure the quality of private education.

With all these developments, a very comprehensive skills delivery infrastructure is being developed as reflected in Figure 1. The previously predominant role of the public sector in education and training is being balanced by the growth and development of private sector driven education and training institutions. Gradual changes are also being introduced into public training institutions to foster greater flexibility and decentralisation and so allow them to respond more efficiently to market needs.

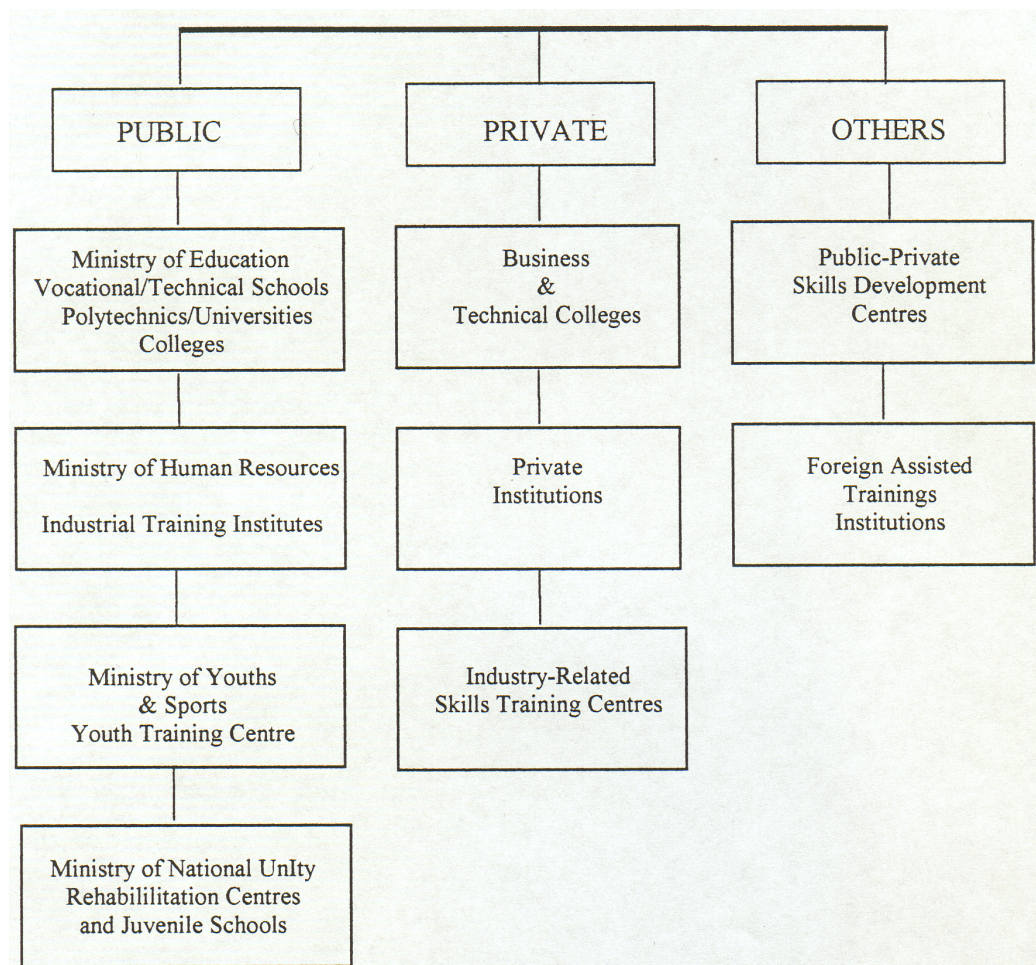


Figure 1 Skill Delivery Infrastructure in Malaysia

Employment Law

Overview

Malaysian employment law is governed basically by two statutes, viz. the *Employment Act 1955 (EA)* and the *Industrial Relations Act 1967 (IRA)*. The EA regulates *individual* employment while the IRA regulates *collective* employment. Under the Ninth Schedule to the Malaysian Constitution, “labour and social security” are federal (as opposed to state) subjects. Consequently, the two statutes aforementioned are *federal laws*, and they are administered by two departments in the same federal agency - the *Ministry of Human Resources*. The EA is administered by the Department of Labour and the IRA by the Department of Industrial Relations. Each department is headed by a Director General, who reports to the Minister of Human Resources.

The EA and the IRA apply essentially to the private sector. There is no law as such in Malaysia governing employment in the public sector. Instead, government circulars (called “service circulars”) regulate employment in this sector. These circulars are issued by the federal government through the *Public Service Department*, a federal agency which functions as the “human resource department” of the government. The “public sector” in Malaysia comprises: the federal and state government services; the federal and state statutory authorities; and the federal and state local authorities. It does not of course include any service or authority which has been “privatised” as contrasted with “corporatised”, nor does it include any public corporation or state enterprise which is engaged in agricultural, mining, commercial or industrial activities, ie. the “public enterprises”.

Sources of Employment Law

The Employment Act 1955 and the Industrial Relations Act 1967 are not the only sources of employment law in Malaysia. The provisions in these statutes are complemented by the decisions handed down by various courts and tribunals. The most important of these are the *Labour Court* and the *Industrial Court*. The former is an administrative tribunal established by the EA to resolve disputes between *employers and employees*, whereas the latter is an arbitration tribunal established by the IRA to resolve disputes between *employers and unions*. However, neither the Labour Court nor the Industrial Court is a “law court”, ie. a court (like the High Court) which has the *inherent jurisdiction* to interpret as well as to apply the law. Hence, both tribunals are required to refer any “question of law” that arises in the course of the proceedings before them to the High Court for decision. Furthermore, as both the Labour Court and the Industrial Court are inferior tribunals, they are subject to the *supervisory jurisdiction* exercised by the High Court through the prerogative writs over subordinate courts. Consequently, the propriety of the decisions made by both tribunals may be reviewed by the High Court, which will set them aside if it finds them wanting in any way. Appeal from the High Court lies to the Court of Appeal and thence to the Federal Court, the highest court in the land.

Although the jurisdiction of the Labour Court and the Industrial Court is limited and their decisions are subject to judicial review, the decisions made by these tribunals complement the provisions in the EA and the IRA and so are an important source of employment law. But as the EA and the IRA apply essentially only to the private sector, the decisions of these tribunals affect only private sector employment law.

Individual Employment Law

As noted earlier, individual employment in Malaysia is governed by the *Employment Act 1955*. The EA *inter alia* regulates the *employment relationship*. It also legislates the *basic terms and conditions of employment*. The Act does not, however, prohibit discrimination in employment

on the basis of race, religion, age or gender. There is no “equal employment opportunity” legislation here.

The Employment Relationship

The EA first see the employment relationship as being essentially *contractual* in nature, and it terms this contract the “contract of service”. The Act defines the “contract of service” as:

“any agreement, whether oral or in writing and whether express or implied, whereby one person agrees to employ another as an employee and that other agrees to serve his employer as his employee...” [Section 2].

An “employer” is “any person who has entered into a contract of service to employ any other person as an employee ...”, while an “employee” is “any person ... in the First Schedule [to the Act] ...” [Section 2]. This schedule lists two classes of persons, namely:

- any person, irrespective of his occupation, who has entered into a contract of service with an employer and whose wages do not exceed RM1500 a month; and
- any person, irrespective of the amount of his monthly wages, who has entered into a contract of service with an employer and who is in any of the occupations specified in the schedule.

Thus, there are two classes of persons who are “employees” under the EA, one based on *wage* and the other based on *occupation*. (The IRA, however, does not impose any restriction - whether on the basis of wage or on the basis of occupation - in its definition of “employee”. It defines an “employee” as “any person employed by an employer under a contract of employment to work for hire or reward ...” [Section 2]. This definition is much broader than the one in the EA, and many who are not “employees” under the EA would be such under the IRA.)

The EA then goes on to regulate the contract of service (hereafter the “employment contract”). The Act declares that such a contract cannot stipulate terms and conditions *worse* than those legislated by it; but it adds that the contract can stipulate terms and conditions *better* than those legislated by it; and it confirms that a contract can stipulate terms and conditions *other* than those legislated by it. [Sections 7, 7A and 7B]. For the terms and conditions of employment legislated by the EA, see below. The Act also prohibits the employment contract from restricting in any way the rights of employees to form, to join, and to participate in the activities of trade unions [Section 8].

Finally, the Act describes how and when the employment contract can be terminated, as follows. Firstly, the contract may be terminated by either party at any time by the giving of *written notice* to the other party. The length of the notice is to be the period provided for in the contract and, “in the absence of such provision in writing,” varies from 4 to 8 weeks’ notice depending on the length of service of the employee [Section 12]. Secondly, the contract may be terminated by the payment of an *indemnity* to the other party “of a sum equal to the amount of wages which would have accrued to the employee” had proper notice been given [Section 13(1)]. Thirdly, the contract may be terminated by either party without notice “in the event of a *wilful breach* by the other party of an [important] condition of the contract” [Section 13(2)]. And fourthly, the contract may be terminated without notice:

- by the employer “on the grounds of *misconduct* inconsistent with the fulfilment of the express or implied conditions of his service” by the employee; and
- by the employee “where he or his dependants are immediately threatened by *danger to the person* by violence or disease such as he did not by the contract undertake to run” [Section 14].

Terms and Conditions of Employment

Besides regulating the employment relationship the EA also legislates various terms and conditions of employment. Among these are the following:

- i hours of work (including overtime work);
- ii wages (the truck system, not wage rates);
- iii a rest day;
- iv public holidays;
- v annual leave, sick leave and maternity leave; and
- vi termination, layoff and maternity benefits.

As the employment contract cannot stipulate terms and conditions worse than those legislated by it, the terms and conditions legislated by the Act constitute the basic terms and conditions of employment. And as these terms and conditions are legislated by law, every employer (local or foreign) is legally obliged to abide by them, and every employee (unionised or not) is legally entitled to their benefit.

(i) Hours of Work (including overtime work) [Section 60A]

The “hours of work”, according to the EA, refer to “the time during which an employee is at the disposal of his employer and is not free to dispose of his own time and movements”, and “overtime” means “the number of hours of work carried out in excess of the normal hours of work per day.” Also according to the Act, the “normal hours of work”, that is, “the number of hours of work agreed upon by an employer and an employee to be the usual hours of work per day,” cannot exceed these limits:

- more than 5 consecutive hours without a break of at least 30 minutes;
- more than 8 hours in one day;
- in excess of a “spreadover period of 10 hours” in one day (“spreadover period of 10 hours means a period of 10 consecutive hours to be reckoned from the time the employee commences work for the day, inclusive of any periods (s) of leisure, rest or break within such period of 10 consecutive hours” .
- more than 48 hours in one week.

However, it adds that these limits may be exceeded in *exceptional circumstances*, such as “urgent work to be done to machinery or plant”, or “work essential to the life of the community”. Furthermore, under the EA:

- overtime work must be paid for at a rate not less than 1 1/2 times the hourly rate of pay; and
- the maximum hours of overtime work cannot exceed 104 overtime hours in any one month.

Finally, the Act declares that, in *ordinary circumstances*, “no employer shall require any employee to work for more than 12 hours in any one day.”

(ii) Wages (the truck system)

The EA defines “wages” as “basic wages and all other payments in cash payable to an employee for work done in respect of his contract of service”, and declares that the “wage period”, that is, “the period in respect of which the wages earned by an employee are payable”, cannot exceed one month [Sections 2 and 18]. Hence, wages must be paid at least once a month.

Furthermore, under the Act:

- the employer must pay the wages earned by an employee in a wage period not later than one week after that period (s 19);

- the employer must pay wages in the form of legal tender, for payment in any other form “shall be illegal, null or void” ; however, payment by cheque is permitted, as is payment into the bank account of the employee (ss 25 and 25A);
- the employer cannot impose any condition in the employment contract as to the place at which or the manner in which or the person with whom the wages paid to the employee are to be spent (s 26);
- the employer cannot make an advance of wages exceeding the amount of wages earned by the employee in the preceding month of his employment, except for specified purposes, such as the purchase of a house or car (s 22); and
- the employer cannot make any deductions from the wages of an employee other than those deductions specifically permitted by the EA, such as union subscriptions and entrance fees, and “deductions authorised by any law” (s 24).

Finally, in certain circumstances and subject to various conditions, the EA gives priority to the payment of wages over the payment of other debts, and makes principals and contractors equally liable with employers to pay wages. [Sections 31 and 33]. It should be noted that the Act does not fix wage rates nor prescribe a “minimum wage”. Indeed, there is no minimum wage law in Malaysia.

(iii) Rest Day [Sections 59 and 60]

Under the EA, an employer is required to allow each employee “a rest day of one whole day in each week,” and to prepare a roster informing each employee of his rest days in the coming month. An employee cannot, other than in exceptional circumstances, be compelled to work on his rest day, but may do so voluntarily. And if an employee does work on his rest day (either voluntarily or because of exceptional circumstances) the Act prescribes the rate at which he is to be paid, whether for a normal days work or for overtime work on that day. The weekly rest day is not a paid day off under the Act.

(iv) Public Holidays [Section 60D]

Under the EA, an employee is entitled to a paid holiday on 10 gazetted public holidays in a calendar year. Four of these days are fixed, but any other days may be substituted by agreement between the employer and the employee for the remaining six days. An employer may require an employee to work on any paid holiday to which the latter is entitled. But, in such an event, the Act prescribes the rate at which he is to be paid, whether for a normal day’s work or for overtime work on that day, such payment being “in addition to the holiday pay he is entitled to for that day”.

(v) Annual Leave [Section 60E]

Under the EA, an employee is entitled to paid leave of 8 to 16 days a year, depending on his years of service. But he cannot accumulate his leave and must use it up within one year of becoming entitled to it; otherwise he loses his entitlement to it. In providing for annual leave, the Act follows the “earned leave” concept, for it declares that an employee is entitled to paid annual leave only after he has earned it by “twelve months of continuous service”.

(vi) Sick Leave [Section 60F]

Under the EA, an employee is entitled to paid sick leave *where no hospitalisation is necessary* of 14 to 22 days in the aggregate in each calendar year, depending on his years of service, and *where hospitalisation is necessary* of 60 days in the aggregate in each calendar year. However, if he takes any “no hospitalisation” sick leave, then his “hospitalisation” sick leave is reduced by the same number of days. Furthermore, under the Act, an employee is entitled to paid sick leave only after examination and certification by a doctor or dentist; and he must inform his

employer that he is on sick leave within 48 hours of commencing it. Otherwise, he will be deemed to be absent from work without permission and without reasonable excuse.

(vii) Maternity Leave and Maternity Benefits

Under the EA, an employee is entitled to 60 consecutive days of *maternity leave* for each confinement and to a *maternity allowance* for every day of such leave; however, if she has five or more children, she will not be entitled to any maternity allowance, although she remains entitled to the maternity leave [Section 37(1)]. The maternity allowance is to be paid by her employer at her daily rate of pay or at the rate fixed by the Minister of Human Resources, whichever is the greater [Section 37(2)]. Furthermore, it is an offence for the employer:

- to dismiss an employee at any time during the period in which she is entitled to maternity leave [Section 40]; or
- to terminate an employee if she remains absent after the expiry of her maternity leave because of illness arising out of her pregnancy or confinement until her absence exceeds a period of 90 days [Section 42].

(vii) Termination and Layoff Benefits

The *Employment (Termination and Layoff Benefits) Regulations 1980* (hereafter the 1980 Regulations) which were made under the *Employment Act 1955* require the payment by an employer of termination or layoff benefits to an employee “... who has been employed under a continuous contract of service for a period of not less than twelve months ... if (a) ... the employee is terminated; or (b) the employee is laid off ...” [Reg 3]

An employee is deemed to be *terminated* and to be entitled to *termination benefits*, if his employment contract is terminated ‘for any reason whatsoever’ other than by reason of his retirement or resignation or dismissal [Reg 4(1)]. But he would not be entitled to termination benefits if:

- the employer renews his contract or re-engages him under a new contract, on terms and conditions not less favourable than before; and
- the renewal or re-engagement takes effect immediately from the date on which his termination takes effect. [Reg 4 (2)]

An employee is deemed to be *laid off* and to be entitled to *layoff benefits*, if he is employed on an employment contract under which his remuneration depends on his being provided by the employer with work of the kind he is employed to do, and:

- the employer does not provide such work for him on at least a total of 12 normal working days within any period of four consecutive weeks; and
- the employee is not entitled to any remuneration under the contract for the period(s) (within such period of four consecutive weeks) in which he is not provided with work [Reg 5].

The 1980 Regulations also prescribe the amount of the termination and layoff benefits payable. This amount varies from 10 to 20 days wages “for every year of employment under a continuous contract of service with the employer”, depending on the years of service of the employee [Reg 6].

The Labour Court

Although the *Department of Labour* is the agency responsible for administering the Employment Act 1955, the agency responsible for enforcing those provisions in the EA which legislate the basic terms and conditions of employment is the *Labour Court*. The Department of Labour, however, enforces the other provisions in the Act. It also conducts hundreds of inspections of

places of employment each year to ensure that employers comply with the EA, and prosecutes in the law courts yearly scores of employers who blatantly flout the Act.

The Labour Court is empowered by the EA *inter alia* to “inquire into and decide any dispute between an employee and his employer *in respect of wages or any other payments in cash* due to such employee” under:

- any term of the employment contract between the employee and his employer; or
- any provision of the Act or any regulation made thereunder;

and, in pursuance of such decision to “make an order for the payment by the employer of such sum of money as it deems just, *without limitation of the amount thereof*” [Section 69]. And if its order is not complied with by the employer, the EA provides that the Labour Court may send a copy of it to a law court to be recorded, upon which “the order shall for all purposes be enforceable as a judgment of [the law court]” [Section 75].

The Labour Court is not, however, without its limitations. For one thing, the EA declares that this court cannot “enquire into, hear, decide or make any order in respect of any dispute which in accordance with the IRA has been referred to or is pending in any proceedings before the Industrial Court” [Section 69A]. For another, the Act states that if a “question of law” arises in the course of its proceedings, the Labour Court may refer that question to the High Court for decision, and if it does so, then “it shall decide the proceedings in conformity with such decision” [Section 76].

Collective Employment Law

As noted earlier, collective employment in Malaysia is governed by the *Industrial Relations Act 1967*. The IRA establishes the *principles* on which such employment is based, namely:

- trade unionism: the principle that employees - and employers too! — have the right to organise themselves in trade unions in order to protect and to promote their respective interests;
- union recognition: the principle that employee unions must (aside from being registered as such by the state) be recognised by employers as the proper representatives of their employees before they (the unions) can bargain collectively with employers;
- collective bargaining: the principle that employee unions can negotiate periodically with employers the terms and conditions of employment of employees, and can, together with employers, set down in writing the terms and conditions agreed upon by them for a specified period; and
- dispute resolution: the principle that disputes between employee unions and employers should if possible be resolved through peaceful means (ie. negotiation, conciliation, arbitration) rather than by means of industrial action (ie. strikes, lockouts etc.)

Besides establishing these principles, the IRA specifies the *means* for resolving disputes between employers and unions (such as negotiation, conciliation, arbitration, and industrial action) and it also identifies the *mechanisms* involved in the use of these means. (viz. grievance machinery, the Department of Industrial Relations, the Industrial Court, and picketing, the strike and the lockout, respectively). The principles, means and mechanisms aforementioned are discussed in the section on “Employee Relations”.

The Industrial Court

The responsibility for enforcing the Industrial Relations Act 1967 is shared by two agencies: the *Department of Industrial Relations* and the *Industrial Court*. The Department of Industrial

Relations is responsible for handling all *administrative matters* falling within the purview of the IRA, such as ensuring that unions meet the conditions for recognition before they are recognised by employers. (These conditions are described elsewhere in this chapter: see “Employee Relations”.) It also conciliates disputes between employers and unions which they are unable to resolve entirely by themselves through the means of negotiation. The Industrial Court, on the other hand, is responsible for handling all *quasijudicial matters* falling within the purview of the Act. It has two principal functions:

- to promote collective bargaining between employers and unions; and
- to provide a peaceful alternative to industrial action, viz. arbitration.

The court promotes collective bargaining by certifying collective agreements, which of course are the fruits of collective bargaining. A collective agreement which has been certified becomes binding on the parties thereto and enforceable by the court. The court also arbitrates disputes between employers and unions which they are unable to resolve by themselves through other means (such as negotiation or conciliation) and thereby provides a peaceful alternative to industrial action. Its decisions (which are called “awards”) are under the IRA “final and conclusive” and there is no appeal from them [Section 33B].

The Industrial Court is also not, however, without its limitations. For one thing, the IRA declares that if a “question of law” arose in the course of its proceedings, the determination of which affected its award, the Industrial Court may refer that question to the High Court, which “may confirm, vary, substitute or quash the award, or make such other order as it considers just or necessary” [Section 33A]. For another, as mentioned earlier, the decisions of the Industrial Court (like those of the Labour Court) are subject to judicial review by the law courts, and will be set aside by them if found wanting in any way.

Recruitment and Selection

Sources of Recruitment

In Malaysia, the ability of an organisation to recruit employees normally depends on the organisation’s reputation, the attractiveness of its location and the attractiveness of the specific job offer. If the people with the appropriate skills are not available in the organisation they may have to be recruited from external sources.

Internal Recruitment

Many large firms such as IBM and Kentucky Fried Chicken prefer to fill vacancies other than entry level positions through promotions and reassignments. There are three major advantages of this practice. First, individuals recruited from within will already be familiar with the organisation; thus they are likely to succeed because of their knowledge of the organisation. Second, a promotion from within helps to foster loyalty and inspire greater effort among organisation members. Finally, it is usually less expensive to recruit or promote from within than to hire from outside the organisation. The major disadvantages of this practice are that it limits the pool of talent available to the organisation; it reduces the chance for a fresh viewpoint to enter the organisation. This practice may also encourage complacency because employees may assume that their seniority will assure their promotion.

External Recruitment

For most large companies, college and graduate school campuses are a major source of new managerial and professional talent. A company representative will usually work with the school or college placement office to set an interview schedule and to have company brochures

distributed. Campus recruiting tends to be quite expensive. In most cases, 10 or 15 interviews may be conducted for every candidate hired. In addition, a large proportion of those hired will not remain with the organisation for more than two or three years.

Competition for middle management and professional talent is particularly intense in areas where top-quality ability is in short supply, such as advertising and investment analysis. Recruiters in such areas may place large advertisements in newspapers and national publications. Professional and middle management candidates are also recruited by word of mouth. Recruitment of senior executives is usually undertaken through executive search firms, advertising in newspapers, journals, personal contacts and professional associations

Advertising attracts the bulk of job hunters, but most companies also have a continuous flow of walk-in applicants. Walk-ins seldom apply precisely when openings occur, but promising candidates may be hired in anticipation of future openings. Larger firms can afford this luxury, while smaller ones tend to fill only vacant positions.

Methods of Recruitment

Recruitment methods are procedures aimed at attracting suitable candidates for positions. Firm's may recruit through the following ways:

- 1 Recommendations
- 2 Walk-in interviews.
- 3 Campus recruitment and career fairs.
- 4 Newspaper advertisements.
- 5 Advertisement in professional journals.
- 6 Recruitment through an employment agency (private and governmental)/consultant.

The most popular methods of recruiting candidates are through advertisement or by word of mouth. Sourcing clerical positions, for example, may only require print media advertisements. For example 'walk in' is not appropriate for selecting 'an actor' as each applicant had to undergo a series of selection devices. Advertising is commonly used because this method can reach the target group more directly. In Malaysia most semi-skilled and unskilled labour are recruited through employment agencies. Most foreign maids, contract workers (foreign or local) are either recruited through employment agencies or from the Ministry of Human Resources, Malaysia.

Advertisement of vacancies is widely practiced in Malaysia. Instead of sending in an application letter, applications are now often submitted via facsimile. If an advertisement is soliciting lower level positions, applicants are often asked to "walk-in" for instant interviews. Since written applications take a longer time to reach the human resource department, faxed-in resumes and phoned-in appointments may sometimes have a time advantage over the posted applications.

Shortages and Surpluses

Refer to the section 'Labour Markets' for details on shortages and surpluses.

Recruitment of Foreign Workers

The policy on the employment of foreign workers was set to be valid for five years (1992 - 1996). Yet, after 1996 there was no change in the policy; but the recruitment of the foreign labour has been temporarily frozen (except for the sectors listed below). However, if existing

foreign workers have been retrenched, they can be re-employed according to the needs of the critical sectors. The employment of foreign workers is currently allowed in:

- i the construction sector
- ii the plantation sector
- iii the service sector (domestic servants, hotel industry, trainers and instructors)
- iv the manufacturing sector.

The employment of these workers will be based on the merit of each case and subject to conditions that will be determined from time to time. This policy applies only to foreign workers belonging to the skilled, semi-skilled and unskilled categories and not to expatriates in management, professional and technical/supervisory categories.

An employer's application to employ foreign workers will only be considered after efforts to find qualified local citizens and permanent residents have failed. An employer must provide evidence of having:

- a advertised the vacancies for recruitment purposes;
- b contacted Employment Offices under the Ministry of Human Resources and, where applicable, village headmen; and
- c obtained confirmation letters from Employment Offices and/or village headmen to confirm insufficient supply of workers.

To ensure that employers will employ foreign labour only when necessary, an annual levy on foreign workers is imposed. The rates of levy on various categories of workers for the manufacturing sector are as follows (see Table 10):

Category Of Workers		Levy Per Worker/Per Year (RM)
i	General Worker	420
ii	Semi-Skilled Worker	600
iii	Skilled Worker	900
iv	Technical Personnel	1200
v	Professionals	1800
vi	Middle Management	1800
vii	Upper Management	2400

Source: Immigration Department, Ministry of Domestic Affairs, Malaysia, Kuala Lumpur.

Table 10 Annual Levy Imposed on Employment of Foreign Workers

However, expatriates, officers and foreign workers are exempted from the payment of the levy if they pay local income tax.

Selection Process

A wide repertoire of selection devices is used by organizations including applications forms, interviews, tests, health and background checks. The actual selection processes used vary from organization to organization and between levels in the same organisation. For example, the selection interview for lower-level employees may be quite perfunctory; heavy emphasis may be placed on the initial screening interview or on tests. In selecting middle or upper level managers, on the other hand, interviewing may be extensive, sometimes lasting more than an hour, and there may be little or no formal testing. Instead of initially filling out an application, the candidate may submit a resume.

In some organisations in Malaysia, after candidates had gone through the interviewing process, they may be required to undertake testing. Such tests are designed variously to measure the degree of intelligence of the applicants, aptitude, skills or personality of the candidates. Through

testing, an organisation attempts to measure a candidate's relevant job skills and ability to learn on the job. Most written tests in current use are graded by computer, and testing companies have taken care to eliminate cultural and gender biases. Complete testing packages are available to organisations; they may include a computer, a scanner for scoring, and test-generating software.

Training and Development

Overview

Malaysia's rapid economic growth in the first half of the 1990's which was projected to continue during the period of the Seventh Malaysia Plan, 1996-2000 resulted in a higher demand for labour. Industry development was becoming more capital intensive and moving towards high technology and higher value-added activities. Consequently, the demand for semi-skilled, skilled and higher skilled labour, especially in the field of science and technology has been particularly strong. In order to meet the various sectors' demand for manpower, in particular from the manufacturing, service and construction sectors, the government has given education and training a high priority in order to generate a sufficient pool of labour that is knowledgeable, skilled, computer literate and strongly-motivated. One of the key elements that support innovative manufacturing is the training and retraining of the workforce in order to cope with new technology and consumer expectations. (Also refer to the 'Role of Education' in the Labour Market section).

Education System

For Malaysia to move vigorously ahead economically, the development of its human resources is essential. This goal is reflected in the mission of the Ministry of Education: "to develop a world class quality education system which will realise the full potential of the individual and fulfil the aspirations of the nation". Education is the responsibility of the Federal Government. The national education system encompasses education beginning from pre-school to higher education.

Pre-School Education

Pre-school education is part of the national education system under the Education Act, 1996. The aim of pre-school education is to provide a firm foundation for formal education. Pre-schools are run by government agencies, non-governmental organisations (NGO's) as well as private institutions. The major government agencies that are responsible for pre-school education are the Ministry of Education, the Ministry of Rural Development, and the Ministry of National Unity and Community Development. Children enrol between the ages of 4 and 6.

Primary Education (Standard 1 to Standard VI)

Education at this level aims to provide the child with a firm foundation in the basic skills of reading, writing and arithmetic, as well as emphasising thinking skills across the curriculum. While education at this level is not compulsory, more than 99 percent of this age group are enrolled in primary schools throughout the country. There are two types of schools at the primary level: the national schools and the national-type schools. In the national schools the medium of the instruction is the Malay Language. The medium of instruction in the national type schools is either Chinese or Tamil. In both types of schools, the Malay language is a compulsory subject. English is taught as a second language in all schools. Chinese, Tamil and indigenous languages are also taught as subjects in national schools.

Promotion from Year 1 to Year VI is automatic as pupils are given continuous school-based assessment to monitor their progress in the mastery of the basic skills. The Education Act,

1996 provides for a course of primary education designed for a duration of six years but which may be completed between five to seven years. To identify pupils who are able to complete their primary education within five years, the Level One Assessment (PTS) was introduced. PTS is a testing procedure administered jointly by the Examinations Syndicate and the school concerned at the end of Year III of primary school. The PTS is not compulsory as students can opt not to sit for it. Those selected for double promotion can still opt not to proceed to Year V. At the end of Year VI, pupils sit for a common public examination, the Primary School Achievement Test (UPSR). The subjects tested are the Malay language, English language, mathematics and Chinese language or Tamil language (for pupils of national type schools). From 1997, Science is also tested in UPSR.

Secondary Education (Form 1 to Form V)

Secondary education aims to promote the general development of students by helping them to acquire knowledge, insight and skills including the inculcation of values. The ultimate goal is to develop a strong foundation for life-long education. Besides receiving a general education, students begin to specialise. Education at this level is provided in the national secondary schools. The medium of instruction in these schools is the Malay Language. As is the case in primary schools, English is taught as a second language in all schools. Chinese, Tamil and indigenous languages are also offered as additional subjects. Under the Education Act 1996 foreign languages such as Arabic, Japanese, French, German will be introduced in secondary schools. The curriculum prescribed for secondary schools is the Integrated Curriculum for Secondary Schools (ICSS).

Initially, this level covers a period of three years (Form I to Form III). Pupils from the national primary schools enter Form I whereas pupils from the Chinese and Tamil medium schools proceed to a transition year (Remove Class) before entering Form I. This Remove Class is for pupils to acquire sufficient proficiency in the Malay Language. However, pupils from the national-type schools who have performed well in the UPSR are allowed to proceed directly to Form I. In line with the emphasis on science and technology, students are given early exposure to vocational education through the integrated living skills subject. The core components of this subject are manipulative skills, commerce and entrepreneurship, and family life education.

On completing three years at this level, pupils sit for a common public lower secondary school examination, the Lower Secondary Assessment or (PMR), which is a combination of centralized and school-based assessment. The school-based assessment follows guidelines set by the Examinations Syndicate. In tandem with the policy of providing five years of secondary education for all, the PMR is no longer a terminal examination; rather it is more a diagnostic evaluation. As a consequence universal education has in fact been extended from nine to eleven years. Education at the upper secondary level covers a period of two years (Form 1V and Form V). Besides following the general education programme, it is at this stages that pupils begin to specialise in either the arts, science, technical, vocational or religious disciplines. Specific schools are designated for each discipline: academic schools, technical schools and vocational schools.

(i) Academic Schools

Most secondary schools are “academic schools” which offer courses in the arts and science streams. The subjects offered under the Integrated Curriculum for Secondary Schools are categorised into core subjects, elective subjects and additional subjects. On completing two years at the upper secondary level, pupils sit for the Malaysian Certificate of Education (SPM) examination.

(ii) Technical Schools

Technical education is aimed at producing an adequate pool of qualified pupils who excel in mathematics and science, as well as in basic engineering subjects. These schools provide technically-based academic education. Pupils in secondary technical schools follow the same core subjects of the upper secondary curriculum but choose only from the elective subjects in Group II (Vocational & Technology). Admission to these schools is by application and is based on PMR results. Only pupils with a strong background in mathematics and science are selected. These schools also provide courses at the Sixth Form level. Pupils from these schools are expected to continue their studies in science and technology-related courses at the diploma and degree levels.

(iii) Vocational Schools

Vocational schools provide courses in pre-employment skills as well as general education in order to give its leavers flexibility and mobility in work life. In the vocational education stream, emphasis is given to general and technical subjects in order to provide students with a good foundation for admission into polytechnics or other institutions of higher education without significantly affecting their vocational skills development. Pupils in the vocational education stream pursue courses with greater emphasis upon academic subjects. Like their counterparts in academic and technical schools pupils sit for the Malaysian Certificate of Education (Vocational) [SPM(V)], an academic-vocational version of the SPM examination. At present, the Vocational Education Stream offers seventeen vocational subjects.

Tertiary Education Program

The Public Institutions of Higher Learning are the main providers of tertiary education. Currently, there are nine Public Universities, six Polytechnics (four more are in various stages of development) and two Government Aided Colleges offering courses at various levels leading to certificate, diploma, degree and post-graduate degree qualifications. The degree level includes enrolment in post-graduate courses in institutions of higher learning and enrolment in advanced diploma courses at the Mara Institutes of Technology (ITM), Tunku Abdul Rahman College (TAR) and off-campus courses at the Science University of Malaysia (USM) and the ITM.

The total enrolment of full time students in local public institutions of higher learning at the degree, diploma and certificate levels is projected to increase by 59 percent from about 143,340 in 1995 to 227,880 in the year 2000 (with 63% at degree level, 27% at diploma level and the balance at certificate level). In June 1996, about 57,353 students were also studying abroad at the degree level, of whom 15,448 were government sponsored and 41,905 were private students (Table 10-2,10-3, Seventh Malaysia Plan, 1996-2000).

The total enrolment in science and technical courses in institutions of higher learning is targeted to increase from 76,300 in 1995 to about 132,050 by the year 2000. In 1995, for instance, at the first degree level the total number of students of the combined science and technical stream was 45 percent (35,720 students) as compared to 55 percent (43,610 students) in the Arts stream. Efforts have been made to increase the intake of the science and technical students. It is expected the science and technical enrolment at the first degree level will increase to 51 percent (73,730 students) of the total students by the year 2000. Thus, by the year 2000, it is expected that the combined total of students generated by the science and technical disciplines both at diploma and degree levels will be equal to that of the arts disciplines.

As mentioned in 'Government Policies' in the Labour Market section, steps have been taken by the government to encourage the private sector to set up educational institutions under the Private Higher Educational Institutions Act, 1996. The Act provides for:

- the private sector to establish degree-granting institutions; and
- foreign universities to set up branch campuses in Malaysia.

This move is intended to enable the private sector to supplement the government's efforts to generate a larger pool of semi-professional and professional employees with degree and diploma qualifications. In line with this, public corporations have set up institutions of higher learning, such as the PETRONAS Institute of Technology, Telekom University (UNITEL), and Tenaga National University in providing degree level courses. There are also proposals by the private sector to set up a Multimedia University and a Malaysian University of Science and Technology (MUST) in partnership with the Massachusetts Institute of Technology (MIT).

The Private Higher Education Institutions (PHEI) which are governed by the Private Higher Educational Institutions Act, 1996, are also playing a major role in generating a trained labour force, particularly at the certificate and diploma levels. Through inter-institutional arrangements with local and foreign universities, some established institutions have been able to offer various types of educational programmes leading to a bachelor's degree. There are currently about 290 approved PHEIs offering a wide range of courses in engineering, information technology, medicine, management, accountancy, science, arts, hospitality and other technical and semi-skills related courses. To ensure that the standard of teaching and facilities of the PHEIs offering tertiary education are of high quality, a National Accreditation Board was established in 1996 to provide guidelines and standards. In addition, to ensure greater co-ordination in the planning and development of tertiary education, a Higher Education Council was established in 1996. The Council is to provide policy directions as well as to plan and co-ordinate the development of all public and private institutions of higher learning.

Distance Learning

Besides studying full time at the various institutions of higher learning, another way to acquire tertiary qualifications is by way of distance learning. Distance learning programs which are being offered on a modest scale at Science University of Malaysia, University of Malaya and Mara Institute of Technology will be further expanded and will also be implemented in other universities during the Seventh Malaysia Plan. The main objective of the government's distance learning programme is to provide more opportunities for those who are currently employed and those in the 19 - 24 age group to pursue tertiary education, particularly at the degree level. Those short courses which aim at upgrading the knowledge and skills of the workforce, particularly those at the managerial and supervisory levels are to be included in the programme. New areas of study, particularly in science, technology and management will also be introduced. The mode of delivery in the distance learning programmes will be expanded through teleconferencing and electronic mail. The utilisation of computers in education and training are to be significantly increased under the Seventh Malaysia Plan.

Training Programs

Skills Training for Private Sector Employees (Business and Industrial Sectors) by Public Training Institutions

Public Training Institutions continue to be the main source of supply of skilled labour to meet the expanding market demand. The intake and output of skilled and semi-skilled manpower for the business and industrial sectors by the Public Training Institutions are shown in Table 11.

Course	Intake		Increase (%)			Output	
	1990	1995	2000	6MP	7MP	6MP	7MP
Engineering Trades	15,540	28,720	22,960	84.8	-20.1	92,250	114,970
Mechanical	9,960	15,650	12,140	57.1	-22.4	52,510	59,310
Electrical	5,390	11,890	10,620	120.6	-10.7	38,590	34,480
Civil	190	1,180	200	121.1	-83.1	1,150	1,180
Building Trades	2,770	3,800	3,910	37.2	2.9	16,060	19,770
Printing Trades	30	160	3,090	433.3	1,831.3	320	11,960
Commerce	2,290	5,130	7,060	124.0	7.6	15,440	13,500
Agriculture	420	390	0	-1.7	-100.0	1,870	760
Others	1,070	3,310	7,200	209.3	117.5	16,230	34,250
Skill-upgrading	100	1,590	1,500	1,490	-5.7	3,500	4,800
Total	22,220	43,100	45,720	94.0	6.1	145,670	200,010

Source: Seventh Malaysia Plan, Government Printers, 1996.

Note: 6MP = 1990-1995

7MP = 1996-2000

Table 11 Intake & Output of Skilled & Semi-Skilled Manpower by Course

Some of the Public Training Institutions involved in skills training are:

(i) National Youth Skills Institute

The Ministry of Youth and Sports has established 7 skills training institutes called the National Youth Training Institutes. The purpose of these institutes is to provide skills training in the areas of vocational, commercial and business as well as further skill training opportunities for assisting youths with low academic qualifications to gain access into the formal skills training institutions as well as to upgrade their skills. Such training will help generate more skilled manpower for industry and help youths to be gainfully employed.

(ii) Giat MARA

Giat MARA provides basic skills to those leaving the school system at an early age. Besides the existing 123 centres, the government plans to set up 72 more throughout the country.

(iii) Business and Advanced Technology Centre (BATC)

BATC is managed by the Universiti Teknologi Malaysia and was established in 1992. Its task is to produce more engineering managers who can integrate state-of-art technological knowledge with practical business management skills.

(iv) Skills Development Centres (SDC)

Several Skills Development Centres owned by the State Governments have been established to upgrade the skill levels of the workforce on a regional basis. These centres are in the States of Penang, Johor, Kedah, Melaka, Pahang, Perak, Sarawak, Selangor and Trengganu. During the Sixth Malaysia Plan, 17630 personnel have been trained by these state development centres.

(v) National Labour Institute

Finally, a National Labour Institute is to be set up during the Seventh Malaysia and plan to provide labour management-related courses to enhance the skills and level of professionalism of employers and employees and government officials in the field of industrial relations and labour legislation. For training and education in the field of information technology, computer literacy and computer-assisted teaching and learning programmes will be extended to all schools and training institutions by the year 2003.

Advanced Skills Training for Specialised Trades

To meet the need for skilled manpower with advanced skills, new skills areas in specialised trades, as well as to take advantage of the advanced technology in developed countries, advanced skills training centres have been established with the support and co-operation of foreign governments. Through the collaborative efforts of the government and foreign governments, two advanced skill-training institutions have been established, namely:

- the German-Malaysian Institute, in the areas of industrial electronics and production technology, and
- the French Malaysian Institute, in the areas of electrical equipment installation, welding technology and maintenance of automated systems.

Another institute to be set up with the assistance of the Japanese Government called the Japan-Malaysia Technical Institute (JMTI) will be established and will begin operations in 1998 in Penang. Its advanced skills training programme will focus on mechatronics, instrumentation, control systems and production engineering. Another advanced skills training institute, the Japanese (NIPPON) Malaysia Institute is expected to be set up at the Kulim Hi-Tech Park in the state of Kedah in the near future.

The private sector is also expected to assume a more significant role in the provision of education and training services to complement the government's effort to increase the supply of skilled workers. The Human Resources Development Act 1992, aims to promote the training, retraining and skills upgrading of employees, particularly in the manufacturing and services sectors. Under the Act, employers in the manufacturing and services sector are liable to contribute levies (equivalent to one percent of the wages of the employees in any month) towards a central training fund called the Human Resource Development (HRD) Fund, with a matching grant from the government, for the purpose of training and retraining their employees. This HRD Fund is administered by the HRD Council set up under the Act. The purpose of the HRD Fund is to provide financial assistance to defray part of the training costs for all the training, retraining and skills upgrading programmes undertaken by employers for their employees. Since 1992, the HRD Council has introduced 10 training schemes providing training grants in various forms for contributing employers. These schemes encourage both pre-employment and post-employment training activities. Under the Act, employers registered with the HRD Council are eligible to enjoy training grants either by organising their own in-house training activities for their employees or by participating in the training programmes offered institutions (whether public and private) approved by the HRD Council. The implementation of various training schemes under the HRD Council has resulted in the establishment of many private training institutions. By the end of 1995, a total levy of RM229.9 million had been collected by the Human Resources Development Council (HRD Council). Of this, RM139.7 million or 60.8 percent was disbursed between 1993-95 on post-employment training programmes approved by the HRD Council. This involved the retraining and skills upgrading of 639,110 workers under the various training schemes. To further support private sector initiative in skills development, the government has allocated RM100 million under Seventh Malaysia Plan and provided various facilities to help the private sector increase the supply of skilled employees. (See also the 'Role of Education' in the Labour Market section).

Skills Training for Public Sector Personnel

The government has established several institutions to train various categories of public sector personnel. These include:

- the National Institute of Public Administration (INTAN), which focuses on the upgrading of managerial capability, improving efficiency and increasing the productivity of employees in the public service.

- the Institut Aminudin Baki (IAB), a specialised training institute, which conducts in-service training for education personnel.
- the Institute of Diplomacy and Foreign Relations (IDFR), which provides courses to upgrade professionalism and improve diplomatic skills among the diplomatic and foreign service practitioners.
- the Institut Kerja Jaya Malaysia (IKRAM) which conducts training for engineering professionals and technicians.
- the National Evaluation Institute which trains personnel is involved in the evaluation of the standards and performance of the related institutes.
- the Institut Latihan Kehakiman dan Perundangan (ILKAP) which provides training for public sector personnel in the judicial and legal services.
- the Institut Latihan Islam Malaysia (ILIM) to be established by the year 2000 to provide training for public sector personnel involved in the administration and management of Islamic affairs.

Management Development

Many private firms offer management development programmes designed to equip executives and managers with the ability to handle change and improve overall organisational performance. Management development programs have become more prevalent recently because of the increasingly complex demands being made of managers and because letting experience alone train managers is a time-consuming and unreliable process. For example one firm focuses on human performance improvement, rather than training as such. Its programmes are centred on enhancing knowledge, skills confidence, and application. Employees are nurtured by enabling them to focus on issues specific to their own work situations and organisational culture rather than by addressing hypothetical examples.

Management development programs are becoming more manager-centred - tailored to fit the unique developmental requirements of the managers attending. Before a program is selected, a *need analysis* is undertaken to identify the particular needs and problems of the manager or group of managers. The appropriate training activities are then recommended. There are a number of on-the-job and off-the-job management development approaches.

(a) On-the-Job Methods

On-the-job methods are usually preferred in management development programs. The training is far more likely than off-the-job training to be tailored to the individual, job-related, and conveniently located. There are four major formal on-the job development methods namely:

- Coaching* is the training of a subordinate by his or her immediate superior is the most effective management development technique. Unfortunately, in practice many managers are either unable or unwilling to coach their subordinates. Managers often feel compelled to tell their subordinates exactly what to do, thereby negating the effectiveness of coaching. In addition, some managers feel threatened by the idea of coaching their subordinates, for fear of creating a rival. Many firms, particularly those with MBO (management by objectives) programs, make a point of training their managers in the art of coaching. Managers often keep a "development file" for each subordinate, indicating the training the subordinate is receiving, the skills the subordinate is acquiring, and how well the subordinate is performing.
- Job rotation* involves shifting managers from position to position so that they may broaden their experience and familiarize themselves with various aspects of the firm's operations.

- (iii) *Training position* is a third method used to develop managers. Trainees are given staff posts immediately under a manager, often with the title of “assistant to”. Such assignments give trainees a chance to work with and model themselves after outstanding managers who might otherwise have little contact with them.
- (iv) *Planned work activities* is the final common method. This method involves work assignments given to trainees to develop their experience and ability. Trainees may be asked to head a task force or participate in an important committee meeting. Such experiences help them gain insight into how organisations operate and also improve their human relation skills.

(b) Off-the-Job Methods

Off-the-job management development programs provide opportunities for managers to meet people from other departments or organisations. Thus, they will be exposed to useful new ideas and experiences and make contacts that may be useful to them when they return to their jobs. The most common off-the-job development methods include in-house classroom instruction and management development programs sponsored by universities and other organisations, such as the Management programs offered by the Malaysian Institute of Management. Almost every management development program includes some form of classroom instruction. Specialists from inside or outside the organisation are asked to teach trainees in a particular subject. Some organisations send selected employees to university-sponsored management development programs. Many major universities have such programs which range in length from about a week to three months or more. Some universities in Malaysia like the Universiti Utara of Malaysia and National University also have one-year, full time study programs for middle-level managers.

Pay and Benefits

Overview

There is in Malaysia a significant difference in the quantum of *pay* between sectors, with the private sector enjoying higher pay at all levels than the public sector, the general rule being: the higher the level, the greater the difference in pay. This difference is compensated for to some extent by the public sector enjoying better *benefits* on the whole than the private sector, although both sectors enjoy more or less the same range of benefits. Furthermore, the way in which pay and benefits are determined in Malaysia varies by sector. In the *private sector*, pay and benefits are determined:

- by the employer and employee and stipulated in the employment contract negotiated by them; or
- by employers and unions and stipulated in the collective agreement negotiated by them.

In cases where there is *both* an employment contract and a collective agreement, the pay and benefits stipulated in the agreement supersede the pay and benefits stipulated in the contract. Indeed, even in cases where there is *only* an employment contract, the “spillover effect” of a collective agreement often influences pay and benefits.

Whether determined by the employer and employee or determined by employers and unions, pay and benefits in the *private sector* are greatly influenced by the *Employment Act 1955* (EA). The EA not only regulates the employment contract, it also legislates such basic terms and conditions of employment as:

- the hours of work (including overtime work);
- wages (the truck system, not wage rates);

- a rest day;
- public holidays;
- annual leave, sick leave, and maternity leave; and
- termination, layoff and maternity benefits.

The Act is used as a benchmark by employers, employees and their unions when negotiating pay and benefits. The provisions of the Employment Act 1955 are complemented by the decisions of the *Industrial Court*. This tribunal not only enforces the collective agreements negotiated by employers and unions, it also arbitrates disputes between them over the terms and conditions of employment. Consequently, the court's awards have the same impact on pay and benefits as collective agreements. However, just as the EA applies only to the private sector, so also the court services only this sector. (The Employment Act 1955 and the Industrial Court are described in greater detail elsewhere in this chapter: see "Employment Law").

In the *public sector*, pay and benefits are determined by *salaries commissions or salaries committees* appointed periodically (about once every five years) by the federal government. The function of these commissions or committees is to review the terms and conditions of service in the whole or in parts of the public sector, and to make recommendations thereon in their reports. If the reports of these commissions or committees are accepted by the government then their recommendations are implemented through "service circulars" issued by the *Public Service Department*. This is a federal agency which functions as the "human resource department" of the government. (For the delineation of the "public sector", see "Employment Law" in this chapter).

The Legal Framework

As noted above, pay and benefits in Malaysia are not determined by legislation in either sector. However, in the *private sector*, some aspects of wages (for instance, the truck system) are regulated by law, as are some benefits (for example, the rest day, leave benefits etc). This is true of the *public sector* as well, although only in relation to a handful of benefits. All the legislation affecting pay and benefits is *federal* in origin for, under the Malaysian Constitution, "labour and social security" are federal (as opposed to state) subjects. Most of these laws apply only to the private sector, a few - like the pensions laws - apply only to the public sector, and some apply to both sectors.

Pay Determination

The Industrial Court has sometimes elaborated on the principles it follows when fixing or determining wages or resolving pleas for increases or decreases in wages. In *Eastern & Oriental Hotel and National Union of Hotel Bar & Restaurant Workers* (Award 93 of 1990) for instance, it observed that in an earlier award made in 1987, it had declared as follows:

"In considering any revision of a wage system or wage structure, it is well established that justice should be done to the interests not only of the employer but also of the employees. On the side of the *employees*, the object of constructing a wage structure is to ensure that they obtain a *fair wage* for their labour. This is their hope and aspiration in a claim for pay revision. And there can be little doubt that if the employees are paid a fair wage, which will enable them to live in fair comfort and discharge their obligations to their families in a reasonable way, they will be encouraged to work wholeheartedly and their work would appreciably increase in efficiency and productivity. On the side of the *employer*, his *financial capacity* to bear the burden of a new wage structure is a primary consideration, bearing in mind,

inter alia, that it is right that he should be allowed a fair allocation from profits to reserves and depreciation and a fair return for his capital. Thus, the fixing of a wage structure is always a delicate task... Over the years this court has, in deciding on the question of wage increases, generally taken into account the following factors:

- (i) wages and salaries in comparable establishments in the same region;
- (ii) any rise in the cost of living since existing wages and salaries were last revised;
- (iii) the financial capacity of the employer to pay any increases; and
- (iv) the legitimate desire of the employer to make a reasonable profit.

If, after it has been ascertained, the financial position of the employer is weak, the plea of *financial incapacity* to bear the burden of a new wage structure or of an increase in wages on an incremental scale cannot be ignored, as it would not be right to compel the employer to bear the burden of the new wage structure or of the increase in wages on an incremental scale out of capital, for such a situation is likely to lead to closure of business, which is even more detrimental to the employees themselves. In such circumstances, it is of the utmost importance that the employer be kept going as long as he can pay *minimum wages*. It may sometimes be necessary for the employees to make some sacrifice to keep the business going. It is not wise to kill the goose that lays the golden eggs”.

Methods of Payment

The Employment Act 1955 allows employees to be hourly, daily, weekly or monthly rated; they may also be task or piece rated. However they are rated, they must be paid at least once a month, for the “wage period” (that is, “the period in respect of which the wages earned by an employee are payable”) cannot exceed one month [Section 18]. Employees may of course be paid more often than that; but while some are paid daily and others weekly, most are paid monthly. Furthermore, under the Act, employees must be paid in legal tender, for “payment in any other form shall be illegal, null and void” [Section 25]. However, payment by cheque or payment into the bank account of an employee is permitted “with the written consent of the employee” [Section 25A].

Minimum Rates

Neither the Employment Act 1955 nor any other law fixes minimum rates of pay. There is no minimum wage law in Malaysia.

Pay Variations

Variations in pay exist in Malaysia based on the job or occupation, but not on age or gender; the Industrial Court has long recognised the principle of “equal pay for equal work”, although there is no law here promulgating this concept. Nevertheless, jobs or occupations in which there is a preponderance of women (such as shop assistants and nursing) tend to be lower paid than those in which there is a preponderance of men.

Overtime Rate

Under the Employment Act 1955, the overtime rate is 1 1/2 times the hourly rate of pay, “irrespective of the basis on which the rate of pay is fixed ” [Section 60A(3)]. The Act provides the formulae for calculating the “hourly rate of pay” of employees employed on a monthly, weekly or daily basis or on piece rates, but adds that the employer may adopt other formulae for calculating the “hourly rate of pay”, so long as the use of these formulae does not result in

a rate “which is less than any of the rates provided” by it [Section 60I]. The rate for overtime work on rest days and public holidays, however, is higher, ranging from 2 times (rest day) to 3 times (public holiday) the hourly rate of pay.

Bonus Payments

Although the Employment Act 1955 is silent on the issue, *bonus payments* are the norm in the private sector, and range from a minimum of one month’s bonus to a maximum of 6 months’ bonus, the average (in good times) being 2-3 months’ bonus. The Industrial Court has (in its own words) been “clear and consistent” on the entitlement to bonus: in *Art Printing Works Sdn Bhd and Printing Industry Employees Union* (Award 154 of 1987) it said:

“The court’s view on bonus is very clear and consistent. If bonus has not been made contractual before or has not become an implied term of employment, the court will not make it contractual. And if bonus is contractual or has become an implied term of employment, then the court will not make it discretionary”.

The court also sees nothing wrong with *merit increments*. In *Johore Bahru Flour Mill Sdn Bhd and Food Industry Employees Union* (Award 101 of 1989) it remarked:

“This provision appeared in the 1984 Collective Agreement:

‘Nothing in this article shall preclude the company from giving an employee merit increment(s) in addition to the annual increment appropriate to his grade on 1 January or any other date for outstanding performance.’

The union now wanted it removed on the ground that it might lead to frustration amongst the employees and also because it had given the company the power to ‘divide and rule’. The company proposed that it be retained as it gives the company the opportunity of rewarding hardworking employees. We retain the existing provision, for we are of the view that employees should not be deprived of a reward for outstanding performance. The question of ‘divide and rule’ does not arise here”.

Income Taxation

Under the *Income Tax Act 1967*, *employers* in both sectors are required to deduct monthly from the wages earned by their employees in that month the tax payable by the latter, and to remit the amount so deducted to the Inland Revenue Board, the approximate tax payable being indicated in a schedule drawn up by the Board and made available to employers. On their part, *employees* in both sectors are required by the Act to submit yearly to the Board a form showing their total income for the previous year, as well as the total amount deducted from their wages for tax purposes by their employers in that year, and to make good any shortfall in the tax payable, any overpayment being credited to the account of the employee with the Board. Income is taxed at a progressive rate in Malaysia, the highest rate for individuals currently being 30% and for companies 28%. The Inland Revenue Board, which was constituted by the Act, is the agency responsible for enforcing it.

Leave & Holidays

As noted earlier, the Employment Act 1955 legislates such basic benefits as the rest day, public holidays, annual leave, sick leave and maternity leave, and termination, layoff and maternity benefits. The benefits legislated by the Act constitute the minimum which all employers (local or foreign) are legally obliged to accord and to which all employees (unionised or not) are legally entitled. These benefits are discussed elsewhere in this chapter: see “Employment Law”.

Superannuation Schemes

The *Employees Provident Fund Act 1991* (which replaced the *Employees Provident Fund Act 1951*) establishes a provident fund to protect employees against the contingencies of old age, incapacitation and death from whatever cause through a compulsory savings scheme. The Act applies to all employers employing an employee regardless of the amount of wages paid, with some exceptions, eg pensionable employees. The provident fund is financed through contributions paid by employers and employees at prescribed rates (currently, about 12% and 11% of the monthly wage for employers and employees, respectively). Contributions are payable monthly by the employer, who may recover the amount payable by his employees by deductions from their wages. The amount standing to the credit of an employee in the fund may be withdrawn: (i) *in full* upon his death, incapacitation, intended emigration or attaining the age of 55 years (upon death or incapacitation, the employee is also entitled to an additional amount ranging from a minimum of RM1,000 to a maximum of RM30,000); (ii) *in part* upon attaining the age of 50 years, or for the purpose of building or buying a house or repaying the whole or a part of a housing loan; and (iii) in part for the purpose of investing in funds managed by approved fund management institutions, and for the purpose of meeting medical or surgical expenses incurred in the treatment of specified diseases or illnesses, like cancer, cardiovascular disease, renal failure, and meningitis. The provident fund is managed by the *Employees Provident Fund Board*. The Board, which was established by the Act, is the agency responsible for enforcing it.

The *Employees Provident Fund Act 1991* applies to both sectors. However, *public sector* employees may after 10 years of service opt for coverage under the pensions laws (ie the *Pensions Act 1980* or the *Statutory and Local Authorities Pensions Act 1980*) instead of continued coverage under this Act. If they so opt, they are entitled upon retirement (at the age of 55 years) to a one-time lump-sum *gratuity* and a monthly *pension* for life, the amounts of which depend on their years of service. An employee is entitled to the maximum gratuity and pension after 25 years of service. The pensions laws are administered by the *Public Service Department*.

Social Security

The *Employees Social Security Act 1969* protects employees against the contingencies of industrial accident, occupational disease, invalidity and death from whatever cause through two social security schemes: the *Invalidity Pension Scheme* and the *Employment Injury Insurance Scheme*. The Act applies to all *private sector* employers employing one or more 'insurable employees' (presently, those earning RM2,000 or less per month). The two social security schemes are financed from contributions paid by covered employers and insured employees. Contributions towards the Invalidity Pension Scheme are payable by the employer and the employee in equal shares, while contributions towards the Employment Injury Insurance Scheme are borne solely by the employer. Contribution rates are income related and are payable monthly by the employer (who may recover the amount payable by the employee, if any) to the *Social Security Organisation* or SOCSO. SOCSO, which was constituted by the Act, is the agency responsible for enforcing it.

The *Employees Social Security Act 1969* is supplemented by the *Workmens Compensation Act 1952* which also requires *private sector* employers to insure their employees against the contingencies of employment-related accident, disease, invalidity or death. However, this law protects only foreign employees who are legally employed here, while the other law protects only employees who are Malaysian citizens or permanent residents. The *Workmens Compensation Act 1952* is administered by the *Ministry of Human Resources*.

Other Benefits

In addition to the benefits already described many *private sector* employees enjoy a variety of other benefits, such as private health insurance, car and housing loans, creches and prayer rooms, and all kinds of leave - pilgrimage leave, long service leave, prolonged illness leave, drug rehabilitation leave etc. These benefits are not legislated by law but provided by collective agreements. With the exception of private health insurance, *public sector* employees also enjoy all these benefits, sometimes on better terms (for example, car and housing loans at very low rates of interest). These benefits are made available to them, not by law, but by “service circulars.” issued by the Public Service Department.

Employee Relations

Overview

As indicated earlier in this chapter (see “Employment Law”) employee relations in Malaysia are governed by the *Industrial Relations Act 1967 (IRA)*. The IRA establishes the *principles* on which employee relations here are based, namely: trade unionism, union recognition, collective bargaining, and dispute resolution. The Act also specifies the *means* for resolving disputes between employers and unions (such as negotiation, conciliation, arbitration, and industrial action) and it identifies the *mechanisms* involved in the use of these means (viz. grievance machinery, the Department of Industrial Relations, the Industrial Court, and picketing, the strike and the lockout, respectively).

The provisions in the Industrial Relations Act 1967 are complemented by the decisions of the *Industrial Court*. This is an arbitration tribunal established by the Act:

- to promote collective bargaining between employers and unions by making collective agreements concluded by them binding and enforceable; and
- to provide employers and unions with a peaceful alternative to industrial action, viz. arbitration, as a means of resolving disputes between them.

As it is not a law court and is only an inferior tribunal, the Industrial Court is not without its limitations. Nevertheless, this court is the most important tribunal insofar as employee relations here are concerned because its decisions complement the provisions of the IRA.

The Industrial Relations Act 1967 is supplemented by the *Trade Unions Act 1959 (TUA)*. The TUA governs trade unions and union federations. As it does not regulate the relations between unions on the one hand and employers on the other, its significance to employee relations in Malaysia is limited. Both the IRA and the TUA are federal laws, and both are administered by departments in the same federal agency - the Ministry of Human Resources: the IRA is administered by the Department of Industrial Relations while the TUA is administered by the Department of Trade Union Affairs. Each department is headed by a Director General who reports to the Minister of Human Resources. Whereas the IRA applies essentially to the private sector, the TUA applies to both sectors. (For the delineation of the “public sector”, see the section “Employment Law”.)

Representative Associations

The only organisations authorised by law in Malaysia to represent employers or employees insofar as employee relations are concerned are *trade unions* and *union federations*. In 1996, there were about 530 unions, of which less than 15 were employer unions; there were also four federations, all of which were federations of employee unions (see Table 12). As noted earlier, trade unions and union federations are governed by the *Trade Unions Act 1959*.

Type or Category	1992		1993		1994		1995		1996	
	No.	Member ship	No.	Member ship	No.	Member ship	No.	Member ship	No.	Member ship
Government Employee Unions	131	215304	132	219579	133	225897	135	226823	136	241411
Statutory & Local Authority Employee Unions	90	91415	88	89402	87	88609	88	82767	88	79532
Public Sector Employee Unions	221	306719	220	308981	220	314506	223	309590	224	320943
Private Sector Employee Unions	258	373288	276	384600	281	384867	281	396663	292	407303
Employee Unions	479	680007	496	693581	501	699373	504	706253	516	728246
Employer Unions	18	640	16	616	16	616	13	572	13	528
Total	479	680647	512	694197	517	699989	517	706825	529	728774

Source: Malaysia: Labour and Human Resources Statistics: 1992-1996

Table 12 Trade Unions by Type or Category 1992 - 1996

Employer unions enjoy the same rights - and are subject to the same responsibilities - as employee unions. They may, for instance, like employee unions, bargain collectively, and many of them do, resulting in industry-wide bargaining in some sectors, for example, the plantation and the banking sectors. However, most bargaining in Malaysia is conducted at the enterprise level. They may also, like employee unions, form federations; but employer unions here have not so far attempted to do so.

Trade Unions

The Trade Unions Act 1959 (TUA):

- (i) defines trade unions;
- (ii) determines their structure;
- (iii) requires their registration; and
- (iv) regulates their membership.

The Act also prescribes the rights, powers, duties and responsibilities of trade unions, and provides for their supervision by the state through the Department of Trade Union Affairs and its head the Director General of Trade Unions.

(i) Union Definition

The TUA defines a "trade union" as:

"any association or combination of employers or of employees... in Malaya or Sabah or Sarawak ... within a particular establishment or industry or trade or occupation ... and having one or more of the following objects:

- (i) the regulation of the relations between employers and employees for the purposes of promoting good industrial relations between them, or of improving the working conditions of employees, or of enhancing their economic and social status, or of increasing productivity;
- (ii) the regulation of the relations between employers and employees, or between employees and employees;
- (iii) the representation of either employers or employees in trade disputes;
- (iv) the conducting of or dealing with trade disputes and matters related thereto; or
- (v) the promoting or organising or financing of lockouts or of strikes in any trade or industry, or the provision of pay or other benefits for its members during a lockout or a strike [Section 2].

This definition implies that:

- a union must confine its membership to employers or to employees;
- a union must confine its membership to Malaya or Sabah or Sarawak;
- a union must confine its membership to the private sector or the public sector;
- an employer union must confine its membership to employers in a *particular* trade or industry; and
- an employee union must confine its membership to employees in a *particular* establishment or industry or trade or occupation.

Under the definition, therefore, there cannot be any truly national unions, nor can there be any inter-sectoral unions.

(ii) Union Structure

The definition of a “trade union” in the TUA implies that a union is an organisation which consists of:

- either employers or employees;
- in Malaya or Sabah or Sarawak;
- in the private sector or the public sector; and
- within a *particular* trade or industry (in the case of an employer union); or
- within a *particular* establishment or industry or trade or occupation (in the case of an employee union);

and which pursues any of the objects specified in the definition. This definition has inevitably had a substantial impact on the structure of the organised labour movement in Malaysia. The way in which trade unions are structured here is pictured in Figure 2.

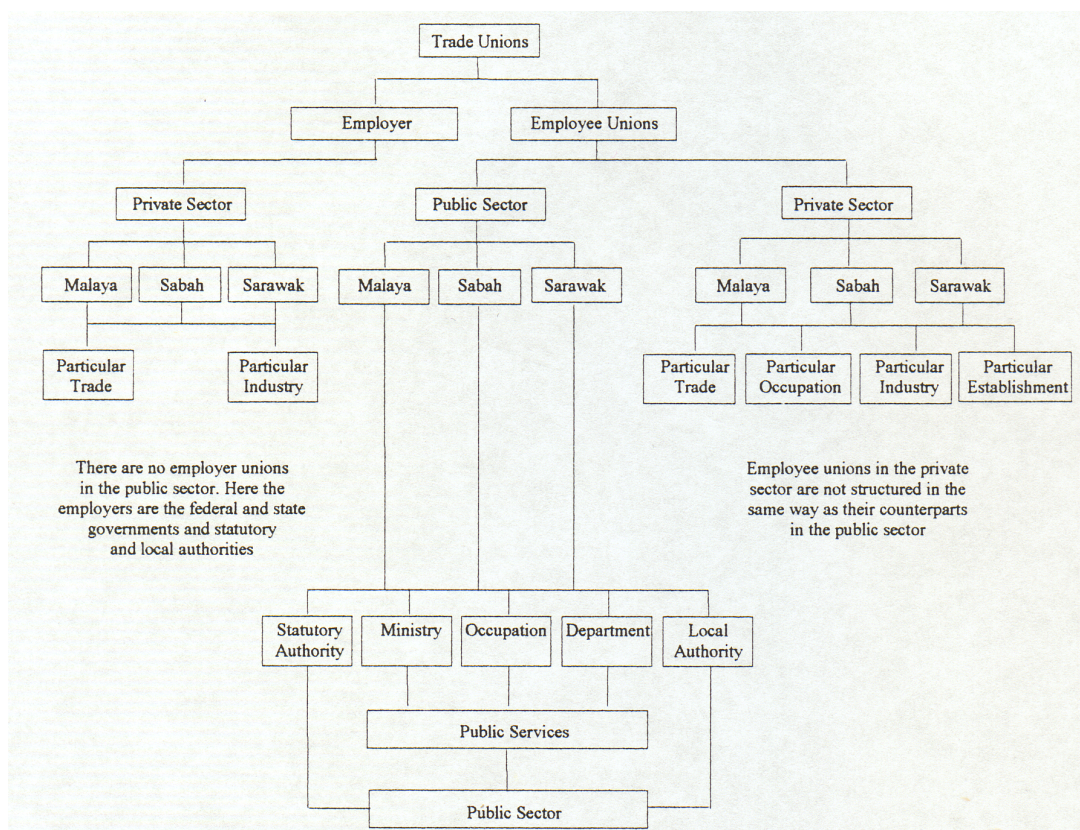


Figure 2 Trade Union Structure

(iii) Union Registration

Although its definition of a “trade union” is silent on the issue of registration, the TUA does require the registration of trade unions. The Act implies that, without registration, a union has no *legal status*. Nor can it *function* as a union for, prior to its registration, it cannot do “any act in furtherance of any of the objects specified in the definition of a trade union” [Section 59]. The TUA requires a union to apply for registration “within one month of the date on which it was established” and declares that if its application for registration is rejected, or if its registration is subsequently revoked, then *inter alia*:

- “the union shall be deemed to be an *unlawful association*, and shall cease to enjoy any of the rights, immunities or privileges of a registered union...;” and
- “the union shall be *dissolved* and its funds disposed of in such manner as may be prescribed...” [Section 19]

The registering authority is the Director General of Trade Unions, on whom the Act confers enormous discretionary powers *vis a vis* the registration of unions. The Director General may, for example, *reject* the application of a union for registration if “he is of the opinion that the union is likely to be used for unlawful purposes”; or he may *revoke* the registration of a union if “he is of the opinion that the union has been or is being or is likely to be used for unlawful purposes”! [Sections 12 and 15].

(iv) Union Membership

The TUA regulates the right of employers and employees to join trade unions. In the *private sector*, *employers* may join only unions which are confined to the trade or industry in which they are engaged. Similarly, *employees* may join only unions which are confined to the establishment or industry or trade or occupation in which they are employed. In addition, they must be Malaysian citizens or permanent residents and at least 18 years of age [Section 26]. Furthermore, *public sector employees* do not enjoy the right to join unions [Section 27]. Indeed, there is a blanket prohibition on *employees of the federal and state government services* joining unions, and they can join them only if they have been exempted from this prohibition by the King. The vast majority of government employees have been so exempted. But even the King cannot exempt a small minority of them, for instance:

- uniformed members of the Armed Forces and the Police Force;
- those employees prohibited by any law from being members of a union; and
- those employees “engaged in a confidential or security capacity.”

Table 13 shows the membership of employee unions by sector from 1992 - 1996. The services sector with 287,640 employee union members in 1996 (39.5% of the total) has by far the largest representation. It is also interesting to note that membership of employee unions has experienced steady growth over this five year period.

Sector	1992		1993		1994		1995		1996	
	No.	Member ship	No.	Member ship	No.	Member ship	No.	Member ship	No.	Member ship
Agriculture, Forestry & Fishing	35	84,415 (12.4%)	37	82,742 (11.9%)	36	83,943 (12.0%)	39	86,421 (12.2%)	43	91,983 (12.6%)
Mining	5	3,110 (0.5%)	5	2,921 (0.4%)	5	2,186 (0.3%)	4	1,531 (0.2%)	3	1,491 (0.2%)
Manufacturing	102	149,569 (22.0%)	106	147,487 (21.3%)	117	147,359 (21.2%)	119	141,021 (20.0%)	119	144,814 (19.9%)
Construction	7	3,402 (0.5%)	7	4,588 (0.7%)	6	4,661 (0.7%)	6	2,849 (0.4%)	6	4,032 (0.6%)
Electricity, Gas & Water	26	33,585 (4.9%)	26	32,625 (4.7%)	24	32,725 (4.7%)	27	51,436 (7.3%)	30	54,843 (7.5%)
Commerce	30	46,501 (6.8%)	32	53,035 (7.7%)	31	54,574 (7.8%)	45	102,803 (14.6%)	45	100,480 (13.8%)
Transport & Communication	73	60,123 (8.8%)	78	55,413 (8.0%)	78	55,908 (8.0%)	75	46,018 (6.5%)	73	42,963 (5.9%)
Services	201	299,302 (44.0%)	205	314,470 (45.4%)	204	318,017 (45.5%)	189	274,174 (38.8%)	197	287,640 (39.5%)
Total	479	680,007 (100%)	496	693,581 (100%)	501	699,373 (100%)	504	706,253 (100%)	516	728,246 (100%)

Source: Malaysia: Labour and Human Resources Statistics: 1992-1996

Table 13 Employee Unions by Industrial Sector 1992 - 1996

Employees of the federal and state statutory and local authorities can join only unions which are confined to the particular statutory or local authority concerned. Even then, those employees who are “engaged in a confidential or security capacity” cannot join unions. Whether an employee is “engaged in a confidential or security capacity” is to be decided (in both cases) by the Chief Secretary to the Federal Government. (This is the highest government post in the federal hierarchy). There are no *employer unions* in the public sector, as the employers here are the federal and state governments *and* the federal and state statutory and local authorities.

Union Federations

The TUA does not formally define a “union federation”. But the Act does make it clear that:

- a federation must confine its membership to employer unions or to employee unions;
- a federation need not confine its membership to unions in Malaya or Sabah or Sarawak, but can be pan-Malaysian in the scope of its membership;
- a federation must confine its membership to unions in the private sector or the public sector;
- an employer federation must confine its membership to employer unions in *similar* trades or industries; and
- an employee federation must confine its membership to employee unions in *similar* industries or trades or occupations.

Hence, there can be truly national federations, but not inter-sectoral federations nor “establishment” federations, ie. federations of “house” unions.

The TUA regulates federations in much the same respects and to the same extent as it does unions, for it declares that “the provisions of this Act relating to trade unions (including the provisions as to penalties) shall apply, so far as the same may be applicable, to a union federation as if such federation were a trade union” [Section 75]. Consequently, a federation (like a union) must apply for registration to the Director General of Trade Unions “within one month of the

date on which it was established,” and a federation whose application is rejected suffers the same fate as a union in similar circumstances, ie. it “shall be deemed to be an unlawful association” and “shall be dissolved” [Section 19]. The Director General of Trade Unions enjoys the same extraordinarily - wide discretionary powers *vis a vis* the registration and deregistration of federations as he does *a vis avis* the registration and deregistration of unions.

There are currently four registered federations, all of which are federations of employee unions; to date, there has never been a registered federation of employer unions. The four employee union federations are:

- the Congress of Unions of Employees in the Public and Civil Services (CUEPACS);
- the Congress of Teachers Unions in the Education Service (CTUES);
- the Federation of Textile and Garment Industry Employees Unions (FTGIEU); and
- the Sarawak Wharf Employees Unions Federation (SWEUF).

CUEPACS is primarily a federation of government employee unions, although some statutory and local authority employee unions have been allowed to join it. CTUES is a federation solely of teachers unions, and was registered in 1978. FTGIEU is a federation of state-based textile employee unions, and was registered in 1989. And SWEUF is a federation of wharf employee unions based in Sarawak, and was registered in 1970. While CUEPACS and CTUES are federations of public sector employee unions, FTGIEU and SWEUF are federations of private sector employee unions.

There are also some organisations which function as federations, but which cannot be registered as such because their membership comprises unions from *different* (ie. not “similar”) industries or trades or occupations. The most important of these are the *Malaysian Employers Federation* (MEF) and the *Malaysian Trades Union Congress* (MTUC). Both are registered under the Societies Act 1966, and both are pan-Malaysian in scope. The Malaysian Employers Federation (established in 1978) is recognised as the national representative of private sector employers. The Malaysian Trade Union Congress (constituted in 1950) and the aforementioned Congress of Unions of Employees in the Public and Civil Services (established in 1957) are recognised as national labour centres. The MEF, the MTUC and CUEPECS represent employers and employees respectively, both locally (for instance, on the boards of the Employees Provident Fund and the Social Security Organisation) and internationally (for example, in the International Labour Organisation).

Principles and Processes

As noted earlier, the *Industrial Relations Act* 1967 establishes the *principles* on which employee relations in Malaysia are based, namely:

- (i) trade unionism;
- (ii) union recognition;
- (iii) collective bargaining; and
- (iv) dispute resolution.

The implementation of these principles necessarily involves various *processes*. Amongst those involved in these processes are:

- (i) employers, employees and their unions;
- (ii) the Director General for Industrial Relations, the Director General of Trade Unions, and their respective departments;
- (iii) the Minister of Human Resources; and
- (iv) the Industrial Court.

Trade Unionism

The IRA begins by conferring on employers as well as employees the basic “trade union” rights. It does so simply by declaring that:-

“No person shall interfere with, restrain or coerce an employee or an employer in the exercise of his rights to form and assist in the formation of and join a trade union and to participate in its lawful activities” [Section 4(1)].

In order to buttress these rights, the Act imposes various *responsibilities* on employers and employees. Employers, for instance, cannot “impose any condition in the contract of employment seeking to restrain the right of a person ... to join a trade union”; and employees cannot “intimidate any person to become or refrain from becoming ... a member of a trade union ...” or “induce any person to refrain from becoming ... a member of a trade union ...” [Sections 5 and 7]. Any contravention of these rights and responsibilities is considered an “unfair labour practice”.

The IRA also describes the process for remedying a contravention of these rights and responsibilities. An “unfair labour practice” may be complained of to the Director General for Industrial Relations for *remedy*, failing which it may be referred by the Minister of Human Resources to the Industrial Court for resolution. The court is thereupon required to “conduct a hearing in accordance with the Act [and] to make such award as may be deemed necessary or appropriate” [Section 8].

Union Recognition

After giving employees the right to form unions, the IRA requires (employee) unions to seek *recognition* from employers as the proper representatives of their employees before they (the unions) can bargain collectively the terms and conditions of employment of those employees. In order to be recognised by an employer as the proper representative of his employees, a union must meet a number of *conditions*, as follows:

- the union must be a *registered* union, ie. it must be registered as an employee union under the law governing the registration of trade unions, viz. the TUA;
- the union must be *competent* to represent the employees concerned ie. the union must be confined to the same establishment, trade, occupation, or industry as those employees;
- the union must be the *appropriate* union to represent the employees concerned, ie. it must be a blue collar union if those employees are blue collar employees; and a white collar union if they are white collar employees; and
- the union must be sufficiently *representative* of the employees concerned, ie. it must represent at least 50.1% of those employees on the date on which its claim for recognition is made.

Only a union which meets *all* these conditions can be recognised by an employer as the proper representative of his employees. It will be appreciated that at most only *one* union will be able to meet the fourth condition. Consequently, for any class or group of his employees, an employer will have to bargain collectively with at most only one union.

The Act also describes in detail the process a union has to follow when seeking recognition from an employer, as well as the process for determining whether or not all the conditions for recognition have been met. These processes involve, besides the union and the employer concerned, the Director General for Industrial Relations, the Director General of Trade Unions, and the Minister of Human Resources. They do not, however, involve the Industrial Court.

Collective Bargaining

Under the IRA, once a union has been recognised by an employer as the proper representative of his employees, the union may *bargain collectively* on behalf of *all* the employees in the class or group concerned, whether members of the union or not. If the bargaining is successful, a collective agreement will be concluded; if not, a “trade dispute” is deemed to exist. A “trade dispute” is defined as “any dispute between an employer and his employees which is connected with the employment on the non-employment or the terms of employment or the conditions of work of any such employees”. Furthermore, the Act requires the deposit of every *collective agreement* that is concluded with the Industrial Court for *certification*, and gives the court the discretion to certify an agreement or to refuse to do so [Section 16]. An agreement that is certified by the court becomes *binding* on the parties thereto and *enforceable* by the court [Sections 17(1) and 56]. It also supersedes the employment contracts between the employer and the employees bound by it [Section 17(2)].

The IRA expects employers and unions to bargain collectively over the *terms and conditions of employment* of employees. The Industrial Court has noted that the phrase “terms and conditions of employment” is of very wide import, and that practically any matter can be a term or condition of employment. In *Rothmans of Pall Mall (M) Bhd. and Rothmans Employees Union* (Award 43 of 1990) the court remarked:

“The phrase ‘terms and conditions of employment’ is not defined in the IRA. But suffice it to say that the ‘terms of employment’ refer to all matters covered by the employment contract. In *British Broadcasting Corporation v Heam & Others* [1978] 1 All ER 116, Lord Denning said:

‘Terms and conditions of employment may include not only the contractual terms and conditions but those terms which are understood and applied by the parties in practice, or habitually, or by common consent, without ever being incorporated into the contract’.

“Basically, ‘terms of employment’ include bonus, wage rates (in all forms, including allowances), hours of work, overtime, paid holidays, leave benefits, superannuation benefits, grading and promotion, and dismissal and retrenchment procedures. But ‘conditions of employment’ appears to mean something different from ‘terms of employment’. In an Irish case, *Brenda Dunne Ltd. v Fitzpatrick* [1958] IR 29 ‘conditions of employment’ were described as:

‘The physical conditions under which a workman works, such as appertain to matters of safety and physical comfort’.

This interpretation appears to be comprehensive enough to include ‘safety, health and physical comfort’ and all forms of welfare, like sports clubs and dramatic societies, as well as lockers, seats, showers and cabinets, creches, colour schemes, lighting, heating, airconditioning, ventilation, overcrowding, rest periods, etc. Thus, the phrase ‘terms and conditions of employment’ is of very wide import”.

Managerial Prerogatives

However, the IRA exempts *managerial prerogatives* from the ambit of collective bargaining. Unions may not bargain on these prerogatives as they are reserved for employers. Among the prerogatives expressly recognised by the IRA are employment, placement, promotion, transfer,

termination, dismissal and reinstatement [Section 13(3)]. The Industrial Court has acknowledged that managerial prerogatives are reserved for employers and cannot be bargained on by unions. The court has made it clear, however, that every such prerogative is a *qualified* and not an *absolute* prerogative. In *Ming Court Beach Hotel and National Union of Hotel Bar & Restaurant Workers* (Award 136 of 1987) it pointed out that almost 10 years earlier in *All Malayan Estates Staff Union and Malayan Agricultural Producers Association* (Award 120 of 1978) it had declared:

“Time and again the courts here and in the British Commonwealth [now the Commonwealth of Nations] have held that managerial prerogatives are not absolute. Where it is shown that the exercise of these prerogatives is not *bona fide* or amounts to unfair labour practice or indicates victimisation, the Industrial Court will not hesitate to strike down such exercise as bad”.

The Act also describes in detail the process leading to collective bargaining, and the process leading to the certification of collective agreements. These processes involve, besides the employer and the union concerned, the Director General for Industrial Relations (in the bargaining process) and the Industrial Court (in the certification process).

Dispute Resolution

As indicated earlier, the IRA specifies the *means* for resolving disputes between employers and unions and it also identifies the *mechanisms* involved in the use of these means, as follows.

Means	Mechanisms
(i) negotiation:	The grievance machinery;
(ii) conciliation:	The Department of Industrial Relations;
(iii) arbitration:	The Industrial Court;
(iv) industrial action:	Picketing, the strike and the lockout.

Negotiation indubitably is the “one best way” for resolving any dispute, employer - union disputes not excepted. Hence, it is not surprising that the Act promotes the use of negotiation by suggesting that the grievance machinery ought to be the “first resort” of employers and unions for resolving disputes between them. The IRA also promotes the use of *Conciliation* and of *Arbitration* to resolve employer-union disputes, and it implies that the former ought to be resorted to before the latter. The Act describes in detail the process leading to conciliation by the Department of Industrial Relations, as well as the process leading to arbitration by the Industrial Court. These processes involve, besides those parties or agencies aforementioned, the Minister of Human Resources.

Although the IRA recognises *Industrial Action* as a legitimate way of resolving employer - union disputes, it is clear that the Act does not favour the use of this way to resolve such disputes. For one thing, the IRA acknowledges only three mechanisms for industrial action: picketing, the strike and the lockout; apparently other mechanisms (for instance, the boycott) are illegal in Malaysia. For another, the Act carefully regulates the use of these three mechanisms. The strike, for example, can be resorted to only “in furtherance of a trade dispute”, and cannot be resorted to “after a trade dispute has been referred to the Industrial Court for arbitration” [Sections 44 and 45]. The use of these mechanisms otherwise would be illegal, and the penalty for illegal use of these mechanisms is severe. For instance, it is an offence punishable by imprisonment to participate in, to instigate others to participate in, or even to financially support, an illegal strike, and offenders may be arrested without warrant and remanded without bail! [Sections 46-48 and 50]. This may explain why there are comparatively few strikes in Malaysia (see Table 14).

Item/Year	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Number of Strikes	13	9	17	17	23	17	18	15	13	9
No. Of Workers Involved	3,178	2,192	4,761	98,510*	4,207	6,110	2,399	2,289	1,748	995
No. Of Workdays Lost	11,035	5,784	22,877	301,978*	23,448	16,164	7,162	5,675	4,884	2,553

Source: Labour Indicators 1991/1992 and Labour and Human Resources Statistics: 1992 - 1996.

Table 14 Strikes - Number of Strikes, Workers Involved & Workdays Lost 1987-1996

The Industrial Court has been more liberal than the IRA. In its landmark decision on the strike and the lockout handed down almost 25 years ago, in *South East Asia Fire Bricks Sdn. Bhd. and Nonmetallic Mineral Products Manufacturing Employees Union & 73 Others* (Award 38 of 1974) this court held that:

- there is a right in Malaysia to strike or to lockout;
- a strike or a lockout which does not contravene the IRA (or any other written law) would be a legal strike or lockout;
- a strike or a lockout must not only be legal but also justified, ie. used as a last resort, to be lawful;
- a lawful strike or lockout merely suspends and does not sever the employment contracts between the employer and the employees involved; and
- a lawful strike or lockout affords "reasonable excuse" for absence from work of the employees involved.

Again, on picketing, in *HM Shah Enterprises Sdn. Bhd. and National Union of Hotel Bar & Restaurant Workers* (Award 148 of 1988) the court declared:

"In this country, picketing, strikes and lockouts are allowed but within the confines of Part IX of the IRA. No union will take picketing or strike action straight away, without negotiations having first been entered into. What the union in this case has done in the form of negotiations and then picketing appears to be well within the law and cannot be deemed as "duress". If the law and the courts frown upon such lawful action, that would be the day when democracy begins to crumble".

The Trade Unions Act 1959 describes the process employers and unions have to follow before declaring a lockout or calling a strike. This process involves, besides the employer and the union concerned, the Director General of Trade Unions.

Performance Indicators

As indicated by the statistics on strikes (see Table 14), employee relations in Malaysia have been, if not altogether harmonious, then at least stable in recent years. This is borne out by the statistics on trade disputes in the first half of the 1990's (see Table 15).

Sector	1992	1993	1994	1995	1996
Agriculture/Estates	144	150	146	95	66
Mining and Quarrying	4	9	2	6	3
Manufacturing	262	203	198	175	210
Construction	4	1	0	0	2
Electricity, Gas and Water	3	0	0	0	0
Commerce	13	52	39	68	54
Transport, Storage and Communication	76	66	76	121	109
Services	45	53	42	46	32
Number of Workers Involved	64,194	58,426	87,575	48,657	52,338

Source: Malaysia: Labour and Human Resources Statistics: 1992 - 1996

Table 15 Trade Disputes by Industrial Sector 1992 - 1996

Current HRM Issues and Trends

Focus on Human Resource Development

During the 1990s, human resource development in Malaysia has assumed a new and prominent significance. Competitiveness, productivity, innovativeness, and capability in the management of new technologies will be largely determined by the quality of human resources. Thus, in view of the challenges ahead, and with increasing globalization and internationalization of the world economy, Malaysians need to be well equipped with a strong base in education and training.

Responses to Skills Shortages

There is growing evidence of skill shortages at all levels, particularly in the technical fields. A number of industrial sectors have expressed concerns about upgrading and deepening skills, and about high turnover rates for middle-level skilled employees. The Malaysian government's expenditure on education has been relatively high, of which a significant proportion is spent on tertiary education. Despite this, education policy since the mid-1980s has not resolved the skill shortage problem. The relatively low tertiary level enrolment rates in Malaysia underline the skill gap. Comparing tertiary enrolment in technology-related subjects, as well as vocational training, Malaysia is well behind the larger newly industrialised economies and Japan in providing human capital for an economy with considerable high technology activities. In short, despite having one of the highest government expenditures per capita for education in the ASEAN region, Malaysia's higher educational structure continues to neglect industry's technical needs. There are large gaps between demand and supply at all levels of skills in all types of education.

Various government initiatives since the late 1980s, have sought to raise the skills of Malaysian workers; and skill levels have risen significantly since the early days of labour-intensive assembly activities and the increasing sophistication of the manufacturing processes in Malaysian industries, through industry-led training centers such as the Skills Development Corporations of various states throughout the country. While these are encouraging trends, from the perspective of human resources development, several problems may still be noted. In-house training goes some way to meeting market failures in the provision of technical skills, but cannot substitute for major gaps in the formal education system. Also, most large firms do little formal training beyond the minimum needed for operational purposes, and the creation of better long-term human resources for advanced design or development work is not considered by most. Furthermore, the SME (small-and medium enterprises) sector does almost no training apart from apprenticeship that suffices only to pass on simple skills.

On the whole, human resources development must contain policies and programs to continuously upgrade and improve the education and training programs and facilities to meet the changing skills requirements. Further, with rising incomes, the demand for higher education will increase further. Most of this demand will have to be met locally as Malaysia cannot rely as much as before on foreign universities and colleges to solve the problem of providing places for its students. In view of the larger financial resources required to provide most of this demand locally, it will not be possible for the government alone to bear the full burden. Hence, policy initiatives such as corporatization of local universities and education franchising are fast becoming acceptable norms in both public and private institutions of higher learning toward the close of the twentieth century.

Aligning HRM with Corporate Goals

Since the late 1980s, Malaysian managers have increasingly used the term “human resource management” (HRM) in place of the older terms “personnel management” or “manpower planning”. Also, in 1990, the former Ministry of Labor discarded its old name in favour of the Ministry of Human Resources, in alignment with the international trend and the need to recognize people as a key resource for national development as well as the changing nature of work itself. National development, especially in production, has been evolving through three stages in Malaysia: labor intensive through to skill intensive, and finally to knowledge intensive. The closing years of the 1990s and beyond, therefore, will present more interesting and varied challenges to the management of human resources in government and the private sector. To meet these challenges, human resource management, will have to align itself with organizational goals in the following: product innovation and competitiveness, regionalization of business, technological enhancement, and environmental consciousness.

Key Role for Ministry of Human Resources

The role of the Ministry of Human Resources is imperative in supporting the nation’s thrust to industrialize the economy and this is seen in its stated objectives, among which are to restructure and promote the balanced distribution of manpower in accordance with the New Economic Policy (NEP), to preserve, develop and improve the welfare and well-being of workers, to preserve the safety and health of workers with emphasis on pollution control in factories and places where machinery is used, to provide data concerning manpower which is needed by the nation and the demand and supply characteristics of the labor market, and to provide training facilities in industrial skills for manpower so as to meet the basic and expert skills and to provide standards and trade certifications. These objectives are to be achieved through its agencies such as the Department of Trade Union Affairs, the Occupational Safety and Health Department, the Industrial Relations Department, the Industrial Court, the Labor Department, the National Vocational Training Council, Social Security Organization (SOCSO), and the Labor Market Information Service.

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Economy Context

Geography and People

Area and Land

The People's Republic of China has a total land area of 9.6 million square kilometres, and is the third largest country in the world (after Russia and Canada). China's land border is 22,800 kilometres long, its coastline is 3,200 kilometres. The nation is bordered by Mongolia, Russia, Kazakhstan, Kirghizia, Tadzhikistan, Afghanistan, Pakistan, India, Nepal, Bhutan, Myanmar, Laos and Vietnam, and North Korea.

China has 95.1 million hectares of cultivated land (9.86% of the total land area), situated mostly in the Northeast, North China, and Middle-Lower Yangtze plains, the Pearl River (Zhujiang) Delta and the Sichuan Basin. China has 128.63 million hectares of forest cover; grasslands cover 400 million hectares. China is rich in mineral resources, with total reserves ranking third in the world. It has deposits of all the world's known minerals, such as coal, iron ore, petroleum, mercury, tin, tungsten, antimony, manganese, molybdenum, vanadium, magnetite, aluminium, lead, zinc, uranium.

Climate

Most of China is situated in the temperate zone. Some parts of south China are located in tropical and subtropical zones while the northern part is near the arctic zone. In north China, summers are warm and short and winters long and cold. In the tropical and subtropical south, trees and other vegetation remain green all year. The eastern coastal regions of China are warm and humid and have four distinct seasons. The temperatures in the interior areas of northwest China change greatly during the course of a day.

Population

China has more people than any other country. By the end of 1997, China had a population of 1,236 million (excluding Taiwan, Hong Kong and Macao). Of the total population, 369.9 million lived in urban areas, accounting for 29.9 percent; and those living in rural areas were 866.4 million, accounting for 70.1 percent. In 1997, the natural growth rate of population in China was 10.06 per thousand. The composition of population in China is as follows: 0-14 years account for 25.9 percent of the total population; 15-64 years account for 67.2 percent; 65 years and over accounting for 6.9 percent of the total population (1996 est.).

Ethnic Distribution

China is a united, multinational country of 56 ethnic groups. According to the Fourth National Population Census taken in 1990, there were 1,042.48 million Han people, accounting for 91.96 percent of China's total population. The other 55 ethnic groups represent 91.2 million people

, or 8.04 percent of the total. The largest of the 55 ethnic groups is Zhuang , which has 13.38 million people, while the Lhoba, the smallest, has only 2,312 people.

Languages

Mandarin (Putonghua, based on the Beijing dialect) is the official language. In addition, many dialects and minority languages are spoken in China.

Political System and the Structure of the State

The People's Republic of China is a socialist state. According to the Constitution promulgated first in 1954, all power in the People's Republic of China belongs to the people. The National People's Congress (NPC) and the local people's congresses at various levels are the organs through which the people exercise state power. All administrative, judicial and procuratorial organs of the state are created by the people's congresses to which they are responsible and by which they are supervised.

The main central state structures in China include:

The National People's Congress System (NPC)

The NPC is the highest organ of state power in the People's Republic of China. It exercises the state power of legislation; makes decisions on important issues in national life; elects and decides on the choice of the leading personnel of the highest state organs of the People's Republic of China, ie. members of the Standing Committee of the NPC, the President and Vice-President of the state, the choice of the Premier and other component members of the State Council; elects the Chairman of the Central Military Commission and decides on the choice of other component members of the Commission; and elects the President of the Supreme People's Court and the Procurator-General of the Supreme People's Procuratorate. The Standing Committee of the NPC is composed of the Chairman, Vice-Chairmen, Secretary-General and members. The present Chairman is Li Peng. There were 2978 deputies to the 8th NPC, who were elected to serve from 1993 to 1998.

The Multi-Party Cooperation and Political Consultation System

China is a multinational and multi-party country. Before the state adopts important measures or makes decisions on major issues having bearing on the national economy and the people's livelihood, the Communist Party of China (CPC), as the party in power, consults with all ethnic groups, all political parties, all circles and nonparty democrats in order to reach a common understanding. This system adopts two main forms. One is the Chinese People's Political Consultative Conference (CPPCC) and the other is the consultative meetings and forums of democratic parties and nonparty personages held by the CPC Central Committee or local Party Committees at different levels to provide consultancy on state policies and to exercise supervision over the work of the state organs. The CPPCC has a national committee and local committees. The committees at various levels hold a consultative plenary session once a year.

State Council

The State Council, namely the Central People's Government, is the highest organ of state administration. It implements the laws and resolutions adopted by the NPC and its Standing Committee, is responsible and reports on its work to them. The State Council has the power to adopt administrative measures, enact administrative rules and regulations and issue decisions and orders within the limits of its functions and powers. The State Council is composed of the Premier, Vice-Premiers, State Councillors, Ministers in charge of ministries or commissions, the Auditor-General and the Secretary-General. The Premier is Zhu Rongji. There are 29 ministries, commissions and agencies under the State Council. The Ministry of Personnel and the Ministry of Labour and Social Security are the most relevant ministries (see Figure 1).

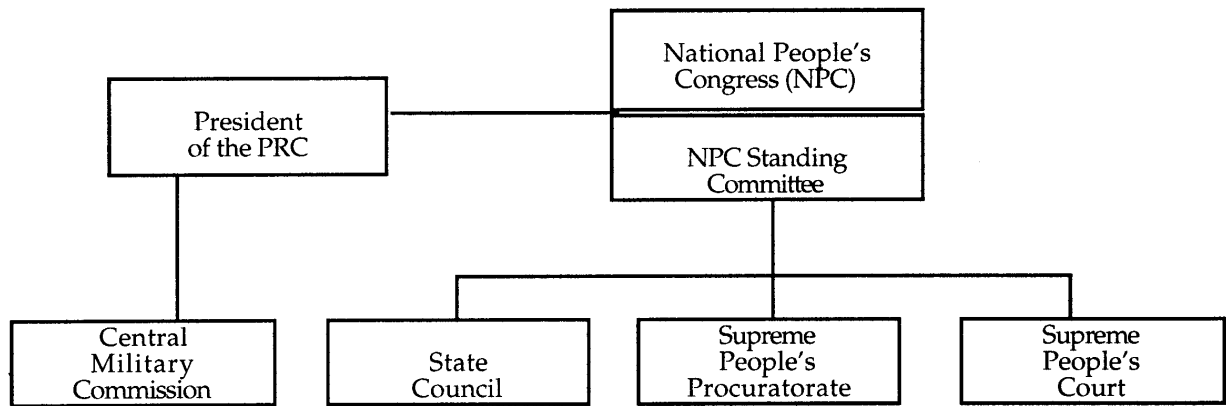


Figure 1 The Organizational Structure of China's Central State Organs

Administrative divisions

As of March 1, 1998, China is divided into 23 provinces (Anhui, Fujian, Gansu, Guangdong, Guizhou, Hainan, Hebei, Heilongjiang, Henan, Hubei, Hunan, Jiangsu, Jiangxi, Jilin, Liaoning, Qinghai, Shanxi, Shandong, Shanxi, Sichuan, Taiwan, Yunnan, Zhejiang), 5 autonomous regions (Guangxi, Inner Mongolia, Ningxia, Tibet, Xinjiang), and 4 centrally administered municipalities (Beijing, Chongqing, Shanghai, Tianjin), and a special administrative region (Hong Kong). According to the Constitution, each province, autonomous region and centrally administrative municipality and special administrative region will establish a people's congress and a people's government to exercise the corresponding state power delegated by the state. They are responsible for local development planning and setting policies corresponding to those of the State.

Economic Context

The Size and Growth of the Economy

Substantial success has been achieved in China's economic development since the founding of the People's Republic of China in 1949, notably after implementation of the reform and opening policy in 1979. In 1997, the nation's gross domestic product (GDP) was 7.477 trillion yuan, growing by 8.8 percent over the previous year. The average annual increase in GDP was 9.8 percent from 1979 to 1997.

Economic Structure

Of the total GDP in 1997, primary industry's share was 18.3 percent, secondary industry's share was 49.2 percent, the tertiary industry's share was 32.5 percent. The GDP created by state owned enterprises and joint-ownership enterprises where the state held the controlling share registered 1.1726 trillion yuan; that created by enterprises of other types of ownership such as joint-ventures, cooperative enterprises and foreign-funded enterprises reached 445 billion yuan (refer to Note 1). Of the total GDP, the share produced by light industry (such as food manufacturing, paper making etc.) registered 1.468 trillion yuan, and by heavy industry, 1.7072 trillion yuan.

Economic Policy

Economic policy in China is set chiefly by the People's Bank of China (PBOC) (monetary policy), The Ministry of Finance and the State Tax Administration (financial policy). Since the mid-1980s, China's economic and financial systems have experienced substantial changes. The unitary State banking system has gradually been replaced by a variety of financial institutions. The capital market has also developed rapidly in the 1990s with more and more enterprises going to securities markets to raise funds. In the last two years, the transition from direct monetary control to indirect monetary control has been speeded up. Carrying out a moderately tight monetary policy, China's inflation rate had been reduced from 1994's 21.7 percent to 1.8 percent in the first half of 1997, thus successfully avoiding stagflation.

According to the 15th National Congress of CPC and the Ninth National People's Congress, China will continue its moderately tight monetary policy. As a major step to reform the country's financial system, PBOC will draw on international financial management practices for administrative reforms to increase independence, authority, and professionalism of the central bank, and provincial PBOC branches will be gradually closed and a number of regional branches set up. The ultimate goal of the new round of reforms is a modern financial system and a sound financial order over the next three years to keep up with socialist market economy development. Commercial banks will become real banks with autonomy in business decisions and a modern banking system established with boards of directors and internal control systems. In keeping with international loan practices, China will develop a new loan classification system to improve commercial banks' loans.

Since January 1, 1998, the credit quota ceiling system governing State-owned commercial banks has been abandoned, while a new system of balance and risk management will gradually be put in place. This is a critical effort in furthering the country's financial reform as well as a major transition in macro-economic controls. China will adhere to an "appropriately tight" financial policy. The financial authorities will deepen the reform of financial and taxation systems, strengthen supervision over the utilization of funds, cut unnecessary spending, overhaul the accounting system and improve tax auditing.

Economic Performance

The total volume of export and import in 1997 reached 325.1 billion U.S. dollars. Of the total, the volume of export was 182.7 billion U.S. dollars, and that of import was 142.4 billion U.S. dollars. Most of the main exports and main imports were manufactured goods, which accounted for about 85% of total exports and total imports. In terms of trade volume, China has moved from the 11th to the 10th place in the world. By the end of 1997, China's foreign exchange reserve hit a record high of 139.9 billion U.S. dollars in spite of the financial crisis in Asian emerging industrial countries.

China signed contracts involving utilization of 61.7 billion U.S. dollars in foreign loans in 1997, and foreign funds actually utilized in the past year amounted to 64 billion U.S. dollars. Overseas-funded enterprises in China have provided 17 million jobs for China, 10 percent of the non-agricultural working force. Since 1980, China has approved the establishment of more than 300,000 overseas-funded enterprises, and 145,000 of them which are now operational employ 2.75 million foreign and Chinese workers. There were 24,556 foreign direct investment projects in 1996. Among them, 18,280 are industrial projects, 1,961 are projects of real estate, public utilities and services, 1,655 are projects of commerce, catering services, and the rest primarily involved in transportation and telecommunications.

Economic Infrastructure

China's economic infrastructure has improved significantly in the last twenty years. By 1996 the total length of rail lines opened to traffic in China had reached 56,700 kilometres, including electrified lines of over 10,000 kilometres. The volume of freight was 1.688 billion tons, and passenger transport totaled 940 million. In 1996, China had 1.16 million kilometres of highways opened to traffic, of which 3,258 kilometres were expressways and about 17,000 kilometres were high-grade highways. In 1996, some 9.47 billion tons of freight and 11.22 billion passengers moved on China's highways. Today every county in China is accessible by highway. Moreover, highways link 98 percent of the townships in the country. By 1996, China had opened 876 air routes totaling 1.167 million kilometres. International air routes numbered 98, totaling 386,000 kilometres reaching more than 50 cities.

In 1997 the capacity of switchboards in urban and rural areas reached 1109.7 million gates. All telephone users above the county level were programme-controlled. The total number of telephone users topped 132.3 million, which ranked the second largest in the world. There were 8.1 telephones for every 100 households overall; there were 26.1 telephones for every 100 households in urban areas. The users of computer network services were also increased rapidly in the recent years, 3 to 4-fold growth every year. By the end of 1997, there were 744 medium and short wave radio transmitting and relaying stations (with radio broadcasting covering 85.8 percent of the population), 1295 television transmitting and relaying stations, each with a capacity of over 1,000 watts (with TV broadcasting covering 87.4 percent of the population).

Social-Cultural Context

Religious Belief

China is a country with a great diversity of religious beliefs. The main religions are Buddhism, Taoism, Islam, Catholicism and Protestantism. Citizens of China may freely choose and express their religious beliefs, and make clear their religious affiliations. According to incomplete statistics, there are over 100 million followers of various religious faiths, more than 85,000 sites for religious activities, some 300,000 clergy and over 3,000 religious organizations throughout China. In addition, there are 74 religious schools and colleges run by religious organizations for training clerical personnel.

Currently China has some 13,000 Buddhist temples and about 200,000 Buddhist monks and nuns. China has over 1,500 Taoist temples and more than 25,000 Taoist priests and nuns. Nowadays in China there are 18 million people whose faith is Islam. Their 30,000-odd mosques are served by 40,000 Imams and Akhunds. At present, China has four million Catholics, 4,000 clergy and more than 4,600 churches and meeting houses. There are about 10 million Protestants, more than 18,000 clergy, more than 12,000 churches and 25,000-some meeting places throughout China.

Festivals

China's Legal holidays include: New Year (January 1st), a national one-day holiday; Spring Festival (the lunar New Year), a national three-day holiday; International Working Women's Day (March 8th); Arbor Day (March 12th); International Labour Day (May 1st), a national one-day holiday; Chinese Youth Day (May 4th); International Children's Day (June 1st); Army Day (August 1st); Teachers' Day (September 10th); and National Day (October 1st), a national two-day holiday.

China's biggest and most popular traditional festivals include: Spring Festival (or Lunar New Year); Lantern Festival (The 15th day of the first lunar month); Pure Brightness Day (around April 5 every year); Dragon Boat Festival (the fifth day of the fifth lunar month); Mid-Autumn Festival (the 15th day of the eighth lunar month).

Recent History

The forces for world peace have grown rapidly since the 1980s, and peace and development have become the two major issues of the day. In this new era, the major task facing the Chinese people is to develop the economy and overcome the poverty and backwardness of the nation. With this in mind, China has focused its development strategy on economic construction.

The Third Plenary Session of the CPC Eleventh Central Committee, held in December 1978, is considered a major turning point in modern Chinese political history. "Left" mistakes committed before and during the Cultural Revolution were "corrected," and the "two whatevers" policy ("support whatever policy decisions Chairman Mao made and follow whatever instructions Chairman Mao gave") was repudiated. The classic party line calling for protracted class struggle was officially exchanged for one promoting the Four Modernizations (announced by Premier Zhou Enlai in 1975: the modernization of industry, agriculture, science and technology, and national defence). The focus was shifted to modernization centred around the economy; a socialist modernization road with Chinese characteristics was defined.

In October 1992, the 14th National Congress of the CPC put forward as the goal of China's economic reform the establishment of a socialist market economy, signalling an historic change in the development of China's national economy. The "Decision of the CPC Central Committee on Certain Issues Concerning the Establishment of a Socialist Market Economic Structure"; adopted at the Third Plenary Session of the CPC 14th Central Committee in November 1993 has become the general plan and program of action for China's economic structural reform. According to this Decision, public ownership would continue to be the main form of ownership as various types of ownership are jointly developed. The operational mechanism of state-owned enterprises would be further transformed to meet the requirements of a market economy; the property rights and responsibilities of the enterprise would be clearly defined, the functions of the government separated from those of the enterprise. An open and unified national market system would be established. Governmental functions in administering the economy would be transformed so as to establish an optimal macro-regulatory system chiefly employing indirect means. An income distribution system based on distribution according to work would be established in which efficiency is given precedence and fairness in distribution is taken into account. A multi-tier social security system would be set up which will include, for example, a pension system, an unemployment insurance system, and a medical insurance system.

At the 15th National Congress of CPC held in September 1997, some most important decisions were made: the Chinese Communist Party takes Marxism-Leninism, Mao Zedong Thought and Deng Xiaoping Theory as its guide to action; proposing that the public sector includes not only the state-and collectively-owned sectors, but also the state and collectively owned elements in the sector of mixed ownership; accelerating the reform of state owned enterprises, and effecting a strategic reorganization of state owned enterprises by managing well large enterprises while relaxing the control over small ones and invigorating them.

Despite numerous reforms in the last two decades, many problems in economic and social development still remain unchanged, such as the poor operations of some state-owned enterprises causing an increase in unemployment, inappropriate investment resulting in many redundant construction projects, uneven regional development, the current social conduct and

public security still fall short of the expectations of the people, and corruption and extravagance and waste are still spreading. Thus, in order to build an efficient, coordinated and standardized administrative management system, further improve the public service system, form a contingent of qualified administrators and gradually build an administrative management mechanism with Chinese characteristics which keeps abreast with socialist market system, the institutional restructuring plan of the State Council was examined and approved at the First Session of the Ninth National People's Congress, which was held on March 5 to March 19 in 1998 in Beijing.

Labour Market

Overview

China has abundant human resources. In 1997, China's population totalled almost 1.3 billion, 21 per cent of the world's population. China is also still a developing country. About 70.1 per cent of its population lives in rural areas and depends upon agricultural production which is chiefly carried out by manual labour with little mechanised equipment (in 1996, the tractor-ploughing areas, the tractor-sowing areas and the tractor-reaping areas only accounted respectively 0.578%, 0.346% and 0.195% of total cultivated land). The overall labour productivity of the industrial sector in 1996 is 22,018 Yuan/person. Clearly, though human resources are abundant in China, they are relatively under-developed and under-utilized. Therefore, the development and effective utilization of human resources is considered by the government as one of the major problems to be solved now and in the coming years.

Workforce Characteristics

The total number of employed persons were 688 million in 1996 (655 million in 1992), of which 198 million were in urban areas and 148 million were staff and workers in urban areas (see Notes 2 and 3). The number of female staff and workers in urban areas was 57 million in 1996 (55.8 million in 1992), which accounts for 26 per cent of the total urban staff and workers. The number of newly employed persons in urban areas were 7.05 million in 1996 which fell from 7.20 million in 1995, 7.15 million in 1994, 7.05 million in 1993, and 7.36 million in 1992. The registered unemployed persons in urban areas increased from 3.64 million in 1992 to 5.53 million in 1996. The registered unemployment rate rose from 2.3 per cent in 1992 to 3.0 per cent in 1996. By the end of 1997, this rate increased to 3.1 per cent (see Tables 1 and 2).

Item	1992	1993	1994	1995	1996
Total Number of Employed Persons(10000 persons)	65554	66373	67199	67947	68850
Primary Industry	38349	37434	36489	35468	34769
Secondary Industry	14226	14868	15254	15628	16180
Tertiary Industry	12979	14071	15456	16851	17901
Composition of Employed Persons(total=100)					
Primary Industry	58.5	56.4	54.3	52.2	50.5
Secondary Industry	21.7	22.4	22.7	23.0	23.5
Tertiary Industry	19.8	21.2	23.0	24.8	26.0
Number of Employed Persons by Residence in Urban and Rural Areas (10000 persons)					
Urban Areas	17241	17589	18413	19093	19815
State-owned Units	10889	10920	11214	11261	11244
Urban Collective Owned Units	3621	3393	3285	3147	3016
Joint Owned Units	56	66	62	53	49
Share Holding Units		164	292	317	363
Foreign Funded Units	138	133	195	241	275
Units Funded by Entrepreneurs from Hong Kong ,Macau & Taiwan	83	155	211	272	265
Units of Other Type of Ownership	5	18	9	11	9
Private Enterprises	98	86	332	485	620
Individuals	740	930	1225	1560	1709
Rural Employed persons	48313	48784	48786	48854	49035
Township and Village Enterprises	10625	12345	12017	12862	13508
Number of Staff and Workers (10000 persons)	14792	14849	14849	14908	14845
State-owned Units	10889	10920	10890	10955	10949
Urban Collective Owned Units	3621	3393	3211	3076	2954
Units of Other Types of Ownership	282	536	747	877	942
	2541	3123	3839	6096	7580
Number of Contract Staff & Workers (10000 persons)					
State-owned Units	2058	2396	2853	4396	5549
Urban Collective Owned Units	399	526	645	1149	1394
Units of Other Types of Ownership	84	200	341	551	637
Number of Female Staff & Workers(10000 persons)	5586	5542	5646	5755	5745
Number of Newly Employed Persons in Urban Areas(10000 persons)	736	705	715	720	705
Number of Registered Unemployed Persons in Urban Areas(10000 persons)	364	420	476	520	553
Registered Unemployment Rate in Urban Areas (%)	2.3	2.6	2.8	2.9	3.0

- a) Since 1990 the data on the economically active population, employed persons and its numbers in urban and rural areas have been adjusted in accordance with data obtained from a sample survey on population changes. As a result, the sum of the data by region, by ownership or by sector are not equal to the total.
- b) Source: China Statistical Yearbook, p. 93.

Table 1 Distribution of Employment

Item	1980	1985	1990	1995	1996
Number of schools					
Regular Institutions of Higher Education	675	1016	1075	1054	1032
Secondary Schools	124760	104848	100777	95216	94115
Specialized Secondary Schools	3069	3557	3982	4049	4099
Regular Secondary Schools	1837	93221	87631	81020	79964
Primary Schools	917316	832309	766072	668685	645983
New Student Enrolment(10 000 persons)					
Regular Institutions of Higher Education	28.1	61.9	60.9	92.6	96.6
Secondary Schools	2011.8	1789.8	1815.8	2354.1	2384.2
Specialized Secondary Schools	46.8	66.8	73.0	138.1	152.3
Regular Secondary Schools	1934.3	1606.9	1619.6	2025.9	2042.9
Primary Schools	942.3	2298.2	2064.0	2531.8	2524.7
Total Student Enrolment(10000 persons)					
Regular Institutions of Higher Education	114.4	170.3	206.3	290.6	302.1
Secondary Schools	5677.8	5092.6	5105.4	6191.5	6635.7
Specialized Secondary Schools	124.3	157.1	224.4	372.2	422.8
Regular Secondary Schools	5508.1	4706.0	4586.0	5371.0	5739.7
Primary Schools	14627.0	13370.2	12241.1	13195.2	13615.0
Graduates (10 000 persons)					
Regular Institutions of Higher Education	14.7	31.6	61.4	80.5	83.9
Secondary Schools	1629.9	1279.1	1497.5	1636.9	1725.4
Specialized Secondary Schools	41.0	42.9	66.1	83.9	101.9
Regular Secondary Schools	1581.0	1194.9	1342.1	1429.0	1484.0
Primary Schools	2053.3	199.9	1863.1	1961.5	1934.1
Government Expenditures for Education (100 million yuan)	1142	226.8	462.5	1193.8	
Budgetary Expenditures for Education	4.2	225.7	410.4	1081.0	
Operating Expenditures	94.2	184.2	352.5	891.5	
Capital Construction Investment in Education	11.4	27.2	29.6	58.0	

Source: China Statistical Yearbook 1997, p637

Table 2 Enrolments in Education

The Composition of Employment by Industry and Sector

The number of employed persons in the primary, secondary and tertiary industries has undergone great changes over the past 20 years. The composition in 1980 was 291.11 million in primary industry, 77.36 million in secondary industry and 55.08 million in tertiary industry which changed respectively to 311.05 million, 104.08 million and 83.5 million in 1985 and to 384.28 million, 136.54 million and 118.28 million in 1990, and to 347.69 million and 161.80 million and 179.01 million in 1996. The composition in percentage was respectively 68.7%, 18.3% and 13.0% in 1980 and changed to 50.5%, 23.5% and 26.0% in 1996 (see Table 3).

Year	Economically Active Population (10000 persons)	Total Employed (10000 persons)	(year-end)					
			Composition in percentage(total=100)					
			Primary Industry	Secondary Industry	Tertiary Industry	Primary Industry	Secondary Industry	Tertiary Industry
1952	21106	20729	17316	1528	1885	83.5	7.4	9.1
1980	42903	42361	29117	7736	5508	68.7	18.3	13.0
1985	50112	49873	31105	10418	8350	62.4	20.9	16.7
1990	64483	63909	38428	13654	11828	60.1	21.4	18.5
1995	68737	67947	35468	15628	16851	52.2	23.0	24.8
1996	69665	68850	34769	16180	17901	50.5	23.5	26.0

Source: China Statistical Yearbook 1997, p94.

Table 3 Number of Employed Persons by Type of Industry

The composition of employment by sector from 1978 to 1996 is shown in Table 4. The most rapid employment growth was in the banking and insurance sector, which grew 4.4 times from 1978 to 1996; the next was in real estate trade, which grew 2.6 times; then in the scientific research and polytechnic services, which grew 1.9 times. The least growth was in the transportation, storage & telecommunication sector, which grew 1.2 times. Negative employment growth was experienced in the mining and quarrying sectors and in farming, forestry, animal husbandry and fishing. The variation in the composition of employment in different sectors reflects the economic reforms and industrial restructuring in China. The textile industry is the most typical example. Due to industrial restructuring which was planned by the State Planning Commission according to the state development policies, its employment will be decreased by 1.2 million within 3 years. In addition to the full-time employees, there are many part-time, seasonal and temporary workers. Most of them work in food, construction material production enterprises, owned by collectives and individuals in rural areas (see Table 4). Table 5 shows the numbers of female employees by sector. They are predominantly employed in the manufacturing and the wholesale, retail and restaurants industries.

Government Policies

According to traditional Chinese culture, people mean luck, fortune and prosperity. Since the founding of the New China in 1949, the population has grown rapidly. The Government did not introduce a birth control policy until in the mid 1960s. The natural growth rate of the population increased from 20 per cent in 1952, to 28 per cent in 1965. In addition, from the mid 1960s to the mid 1970s great upheavals occurred in Chinese political and economic life, which seriously undermined human resources policies and management. In the late 1970s, China launched its all round political and economic reforms. Since then, the macro policies and the management of human resources have been undergoing comprehensive reform. Their emphasis can be summarized as follows:

- 1 to continue with implementation of the birth control policy, so that the natural growth rate of the population will be at the level of 10 per cent by the year 2010;
- 2 to strive to intensify investment in education, science and technology in order to improve human resources quality; a State Science, Technology and Education Leading Group has been newly established, which is chaired by the newly elected Premier Zhu Yonggi;
- 3 to transform the "closed HRM system" into an "open HRM system", through establishing various types of labour markets to facilitate the free flow of human resources between different sectors and departments which have been isolated from each other.

In line with the main targets set up in P.R. China's Ninth Five-Year Plan (1996-2000) for National Economic and Social Development and the Long-range Objectives through to the Year 2010, the main objectives of development of labour undertakings during the Ninth Five-Year Plan period are:

- 1 by the end of this century, preliminarily establish a national labour market network and a number of sound and complete regional labour markets which will completely break with the past employment pattern of "unified planning and assignment by the state", and standardize the management of labour market according to the Labour Law (see Note 4);
- 2 a new type of labour system adapted to the demand of the socialist market-oriented economic structure will come into being, in which collective bargaining and collective contracts between employers and employees will constitute the basic forms of employment contact. The labour administrative department will provide policy guidance and consultancy on major issues, in order to maintain good employment relations;

(year-end)(10 000 Persons)

Year	Total	Farming, Forestry, Animal, Husbandry & Fishery	Mining & Quarrying	Manuf.	Electricity, Gas & Water Production & Supply	Construction	Geological Prospecting & Water Conservancy	Transport, Storage, Post & Telecommu- nications	Wholesale & Retail Trade & Catering Services	Banking & Insur.	Real Estate Trade	Social Services	Health Care, Sporting & Social Welfare	Education , Culture & Art, Radio, Film & Television	Scientific Research Services	Government Agencies, Party Agencies & Social Organisation	Others
1980	42361	29122	697	5899	118	993	188	805	1363	99	37	276	389	1147	113	522	588
1985	49837	31130	795	7412	142	2035	197	1279	2306	138	36	401	467	1273	144	799	1319
1990	63909	34117	882	8624	192	2424	197	1566	2839	215	44	594	536	1457	173	1079	1798
1995	67947	33018	932	9803	258	3322	135	1942	292	276	80	703	444	1476	182	1042	4484
1996	68850	32910	902	9763	273	3408	129	2013	511	292	84	747	458	1513	183	1093	4563

Source: China Statistical Yearbook 1997, P.98,99

Table 4 Number of Employed Persons by Sector

(End Year) (10 000 person)

Year	Total	Farming Forestry Animal Husbandry & Fishery	Mining & Quarrying	Manuf.	Electricity Gas & Water Production & Supply	Const.	Geological Prospecting & Water Conserv.	Transport Storage & Comm.	Whole- sale & Retail Trade Restau- ants	Financial Interme- diation & Insurance	Real Estate Activities	Social Services	Health Care Sporting & Social Welfare	Educat. Culture & Art, Radio Film & Televis.	Scientific Research Services	Govern. Agencies Party Agencies & Social Organ.
1980	3698	285	158	1666	49	176	31	153	496	26		118	141	284	36	79
1985	4500	287	189	1988	58	204	33	175	678	42		141	177	335	46	136
1990	5294	292	223	2352	69	199	36	192	807	70	14	166	210	422	52	191
1995	5755	248	237	2458	81	204	33	218	847	109	26	209	244	522	60	232

Source: China Labour Statical Yearbook, 1996, p.26

Table 5 Female Employees by Sector (1995)

- 3 to establish and improve the networks in employment, labour relations adjustment, wage distribution, vocational skills development , social insurance, labour safety and health, labour legislation, labour science research as well as statistics and information;
- 4 the Labour Law will be fully implemented throughout the country, in order to safeguard the legitimate rights and interests of the labourers, especially those of females, juvenile workers and retirees, so as to promote social stability and the economy's sustained, rapid and healthy development.

The main labour economics quota and work targets by the year 2000 are:

- 1 strive to keep the urban unemployment rate under 4 per cent;
- 2 workers and staff actual average annual wage will increase 4.5 per cent;
- 3 workers and staff will implement the labour contract system;
- 4 social insurance programmes will be widely enforced in enterprises in cities and towns, and the scope of insurance coverage will reach 80 per cent coverage;
- 5 vocational skills will be widely promoted, and 80 per cent of newcomers into the workforce in cities and towns will receive vocational training;
- 6 reduce and prevent major serious accidents;
- 7 reduce various occupational hazards so as to make the enterprise accident rate drop in comparison with the Eighth Five-Year Plan period.

Employment Law

Overview

In socialist China, workers enjoy a high political position in society. All social wealth and properties are considered to be produced by workers. In China's Constitution, it clearly states that work is the fundamental right and obligation of a citizen. Before the end of 1970s, the development, allocation, supervision and control of human resources in various fields were all carried out by the Government, chiefly by administrative means, such as provisions, directives and plans which were formulated according to the government development plan. There were no pertinent laws and legal regulations. After reform and opening to the outside in the late 1970s, an economic system of different forms of ownership developed rapidly, which required labour laws and regulations to adjust the employment relationship accordingly. Hence, the Labour Law, together with related regulations and provisions were formulated and put into effect in 1995.

Sources of Employment Law

During the period of national economic planning, when state ownership played the dominant role, the employment relationship was simple. The recruitment, utilization of workers, and their conditions and wages were decided and adjusted by the State plan. Since the implementation of reform and open policy at the end of 1970s, non-state-ownership in the national economy developed quickly and the economic, operational mechanism in state-owned enterprises also underwent reforms and changes. Labour relations became more complicated and diversified. The Government clearly saw the inadequacy of the existing operational and managerial mechanism and began the preparation of formulating pertinent laws and regulations. After a decade of investigation and study, the Labour Law of the People's Republic of China [4] was adopted at the National People's Congress on July 5, 1994 and was

promulgated and came into force on January 1, 1995. Further, 17 regulations pertaining to the Labour Law were issued before and after the promulgation of the Labour Law, which deal with specific labour issues, such as minimum wages, labour inspectors, compensations, safety, etc (see Table 6).

The guiding principles in formulating the Labour Law can be summarized as follows:

- 1 close compliance with the principles of the Constitution and other pertinent laws such as Corporation Law, State-Owned Enterprises Law, etc;
- 2 it is to be advantageous to the protection of employees legal rights, as well as the promotion of national economic development;
- 3 it is to establish a general legal framework and criteria which can be commonly applied to different regions, industries, enterprises and economic organizations of different types of ownerships;
- 4 it is to give full consideration of China's general situation while trying to comply with international conventions. By the end of 1995, 17 International Labour Organization/ conventions have been approved by the Ministry of Labour of PRC, which is approximately one-tenth of the total.

1	Labour Law of the People's Republic of China. 1995.1
2	Circular of the Ministry of Labour on the Implementation of the System of Guaranteed minimum Wages LMI [1994] No.409.
3	Circular of the Ministry of Labour on Printing and Distributing the Measures for Occupational Guidance LMI [1994] No.434.
4	Circular of the Ministry of Labour on Printing and Distributing the Provisions on Personnel Reduction due to Economic Reasons in Enterprises LMI(1994) No.447.
5	Circular of the Ministry of Labour on Insurance of the Measures Governing Labour Inspectors LMI [1994] No.448.
6	Circular of the Ministry of Labour on Insurance of the Interim Provisions Governing Transprovincial and Floating Employment of Rural Labour Force MLI [1994] No.481.
7	Circular of the Ministry of Labour on Insurance of the Provisions on the Period of Medical Treatment for Diseases or Non-work-related Injuries of the Staff and Workers in Enterprises LMI [1994] No.479.
8	Circular of the Ministry of Labour on Printing and Distributing the Measures of Economic Compensations for the Violation and Revocation of Labour Contracts LMI[1994] No.481
9	Circular of the Ministry of Labour on Printing and Distributing the Provision on Collective Contracts LMI[1994] No.485
10	Circular of the Ministry of Labour on Printing and Distributing the Interim Provisions on Payment of Wages LMI[1994] No.489
11	Circular of the Ministry of Labour on Printing and Distributing the Provisions on Training for Employment LMI[1994] No.490
12	Circular of the Ministry of Labour on Issuing the Provisions on Special Protection for Juvenile Workers LMI[1994] No.498
13	Circular of the Ministry of Labour on Printing and Distributing the Measures Governing Safety Inspectors in Mines LMI[1994] No.500
14	Circular of the Ministry of Labour on Printing and Distributing the Measures for the Implementation of the Supervision over Safety in Mine Construction Projects LMI[1994]No.502
15	Circular of the Ministry of Labour on Printing and Distributing the Measures of Examination and Approval for the Flexible working Hour System and the Working Hour System of Comprehensive Calculation [7] Adopted by Enterprises LMI[1994] No.503
16	Circular of the Ministry of Labour on Issuing the Measures (for Trial Implementation) for Child-bearing Insurance of the Staff and Workers in Enterprises LMI[1994] No.504
17	Circular of the Ministry of Labour on Printing and Distributing the Provisions Governing Vocational Training Entities LMI [1994] No.506
18	Circular of the Ministry of Labour on Insurance of the Measures of Administrative Punishment in Violation of the Labour Law of the People's Republic of China LMI[1994] No.532

Table 6 Labour Laws and Regulations

Individual Contracts of Employment

The system of signing individual contracts of employment between employees and employers was initially put into practice in 1980 in about 20 enterprises in Shanghai. In 1986, Interim Provisions Pertaining to Implementing Labour Contract in State-owned Enterprises was issued by the Ministry of Labour of PRC. In the Labour Law, the labour contract system is defined as a part of the legal system of labour. The major principles that should be observed by both parties when they are making contracts are:

- 1 the main contents of the contract must comply with the laws and regulations of the People's Republic of China;
- 2 the contract must be based upon voluntariness and equality;
- 3 the contract must be accepted by both parties after negotiations between them.

Written Contract

A labour contract according to the Labour Law should conclude the following items in written form:

- 1 term of a labour contract, which can either be a fixed term or flexible term, or defined according to the completion of a specific job;
- 2 contents of work;
- 3 work protection and working conditions;
- 4 wages and method of payment;
- 5 work discipline;
- 6 termination of the contract;
- 7 responsibility for the violation of the contract.

A labour contract is legally binding when concluded in accordance with the law and voluntarily accepted by the two parties.

Contract Termination, Variation & Disputes

A labour contract may be revoked upon agreement reached between the two parties through negotiation. If the employee proves to be unable to carry out the work during the probation period set by the contract, or if the employee violates labour discipline seriously and causes great loss to the employing unit, or violates criminal law, the employer can lay off the employee without advanced notice. Otherwise, the employer may revoke the contract with a written notification in advance (30 days). Similarly, if the employee wants to revoke the contract, he or she should give a written notice to the employer in advance (30 days). If the employer does not pay wages or provide working conditions as agreed upon in the contract, or if the employer illegally restricts the personal freedom of the employee by intimidation, violence or other illegal behaviour, the employee can revoke the contract without notification in advance. When labour disputes between the employers and employees occur, the parties concerned may apply for mediation or arbitration or take legal proceedings. The mediation committee is usually established inside the employing unit, composing representatives of the two parties and the relevant trade union. The arbitration committee is composed of representatives of both parties and representatives of the labour administrative department, who is the chairman of the committee. The labour administrative departments of the government at or above the county level will supervise and inspect the implementation of labour laws, regulations and rules. Trade unions at various levels shall safeguard the legitimate rights and interests of the workers.

Occupational Health & Safety

In regard to occupational health and safety, there are specific clauses in the Labour Law and Provisions and Circulars issued by the Ministry of Labour in China. For instance, the Ministry of Labour has issued Measures Governing Safety Inspectors in Mines in 1994 and Measures for the Implementation of the Supervision over Safety in Mine Construction Projects, in accordance with the relevant provisions of the Law of the PRC on Safety in Mines.

In the chemical industry, several measures have been taken according to the relevant laws to protect the workers' health, such as (1) shortening the working hours from 8 hours a day to 6 hours a day; (2) one day leave after working 3 days in succession; (3) alternate the job every one and a half months from unhealthy working conditions to healthy conditions.

The Ministry of Labour has identified 19 diseases as occupational diseases. Workers suffering from these diseases undergo necessary medical treatment and special care. Special regulations for the prevention and cure of pneumoconiosis were issued by the State in 1987. The regulations set out specifications about dustproof and monitoring and telemetering devices.

Female and Juvenile Workers

In the Labour Law, there is a whole chapter regarding the special protection for female and juvenile workers. Special care should be taken when female workers enter their menstrual period and become pregnant. After childbirth, female workers shall be entitled to no less than 90 days of maternity leave with pay. No female and juvenile workers shall be assigned to work underground in mines nor to perform heavy physical work as stipulated by the State.

Collective Employment Contract

The Provisions on Collective Contracts was formulated according to the relevant provisions of the Labour Law of PRC and the Trade Union Law of PRC which came into effect on April 3, 1992. It was issued by the Ministry of Labour on December 5, 1994 and was implemented on January 1, 1995. The contracts shall be examined by the labour administrative departments of the people's government at or above the county level.

A collective contract is a written agreement between the representatives of the staff and workers as one side and the enterprise as the other. According to the Trade Union Law, the trade union shall represent the party of the staff and workers. In an enterprise where the trade union has not yet been set up, the representatives shall be democratically elected by the staff and workers and require the agreement of more than half of all the staff and workers. The two parties negotiate in accordance with the provisions of laws, rules and regulations on matters such as remuneration, working hours, rest and vacations, occupational safety and health, and insurance and welfare on the basis of equality and unanimity through consultation. The procedures of signing the contract are similar to those in individual contracts of employment.

By the end of 1995, 13 provinces and municipalities directly under the Central Government had implemented labour contract systems. Experiments on collective bargaining and collective contract practices were carried out widely. The contracted staff and workers of enterprises in urban areas in 1996 were 75.8 million which accounted less than 50% of the total staff and workers in urban areas (see Table I).

Recruitment and Selection

Overview

Every year, large numbers of persons are recruited by different sectors of the national economy, both in rural and urban areas. In 1996, newly employed persons in urban areas were 7.05 million. Of these 2.07 million persons were graduates from universities, specialized technical secondary schools and technical schools, 2.58 million persons were recruited from rural areas (see Table 7).

(10000 persons)						
Item	1978	1980	1985	1990	1995	1996
Total	544.4	900.0	813.6	785	720	705
Grouped by Major Source						
Urban Employed Persons	274.9	622.5	502.3	340	270	258
Rural Employed Persons	148.4	127.4	150.2	118	220	210
Graduates from Universities, Specialized Secondary Schools & Technical Training Schools	37.7	80.0	88.5	168	210	207
Others	83.4	70.1	72.6	159	20	30
Grouped by Assignment						
State owned Units	392.0	572.2	499.1	475	260	243
Units of Urban Collective Owned	152.4	278.0	203.8	235	170	155
Units of Other Types of Ownership			35	155	167	167
Urban Individual Labourers		49.8	110.7	40	135	140

Source: China Statistical Yearbook 1997,p.120.

a The number of persons assigned in state-owned units before 1985 included persons assigned to various units of other type of ownership.

Table 7 Newly Employed Persons in Urban Areas.

Until the implementation of reform and open policy in the late 1970s, state policy with regard to employment and recruitment was that “ the government provides jobs to all persons who have the ability to work”. At that time, employment and recruitment were carried out strictly according to the state’s recruitment plans at all levels of government. Every worker and staff has his or her personal file which has detailed information about his or her birth place, permanent resident address, his or her family and the performances and deeds when he or she was in school, university and in employment. This personnel file was kept by the labour administrative office of the organization where the worker worked and not allowed to be seen by the worker himself/herself. Workers could not flow from rural areas to urban areas, from one city to another, even from one organization to another without the permission of their labour administration offices and agencies.

This state policy worked effectively during the economic recovery period and in the initial socialist reconstruction period (from 1950 to the early 1960s), and facilitated the economic development to a certain degree. However, grave setbacks were encountered in employment and recruitment during the Cultural Revolution. Secondary schools, universities and factories were virtually closed down. Industrial production of the whole country was kept at a very low level by the state. Many workers, staff and students were sent to rural areas by the government. Recruitment as well as employment activities virtually came into standstill.

Since the implementation of reforms in the late 1970s, the state employment and recruitment guidelines have been undergoing changes correspondingly from “the state providing jobs to all persons” in the state planning period, to “the state rendering policy guidance, the society providing assistance and services by means of various kinds of employment promotion service units, workers finding jobs through their own efforts and at their own will”, which is adapted to the socialist market economy. In 1995, 12.58 million persons were recommended for new jobs through employment promotion service units (see Note 5).

Internal and External Recruitment

There was no institutional internal recruitment mechanism in Chinese enterprise in the past. The needs and requirements of new jobs were not publicized within the enterprise. These matters were only handled by labour administrative officials in the enterprise. Generally, workers were not encouraged to move laterally within the enterprise, not to say to other enterprises and units.

Enterprises, schools and universities and government agencies did not recruit workers and staff members openly from the outside. The labour administrative departments and agencies of the governments did it for them (see Note 6). Anybody who wanted to move to another organization was required to submit a written application to the local labour administrative official in his/her organization, and then to the labor administrative agency at the next level, if it was approved by the local labour official. If one wanted to move to an organization in another city, the candidate's application required approval by both labour administrative departments of the two local governments. It usually took several months, or even several years to go through the procedures.

Reform and open policy has brought great changes into internal and external recruitment in enterprises and other economic organizations. The general guidelines of the government in recruitment, put forward in the "Interim Provisions on Recruitment of Workers in State-owned Enterprise" in 1988 are: (1) make recruitment public to the society and make recruitment open to the society; (2) all-round assessment and recruitment based upon one's qualifications. These guidelines are implemented more effectively in private and other not-state-owned economic units than in state-owned economic units, because the top and middle managers of the state-owned enterprises are generally appointed by the government.

New internal recruitment methods have been practiced in a few state-owned enterprises, where notice of recruiting mid-level and top-level managers are posted on bulletin boards publicly, and workers and staff are encouraged to apply competitively. In this case, a review board will be set up, which is comprised of representatives of the workers and staff assembly, trade union, and administrative officials in the enterprise and of the organization to which the enterprise is subordinated. An employment contract will be made with the successful applicants. This whole recruitment process is to be carried out under the supervision of the local labour administrative department or agency.

Higher education institutes and scientific and technological research institutes generally enjoy more autonomy in recruiting faculty staff, scientists and professional staff when their recruitment plans are approved by the labour administrative departments.

Methods of Recruitment and Related Laws

Various forms and methods are practiced in recruitment. The most effective and common way of large-scale recruitment are large recruitment fairs held by public and private employment service centers and organizations periodically in cities and towns. Either public or private employing organizations and agencies can take part in the fair after paying certain fees to the organizers to recruit the employees. People of all walks of life can go to recruitment fair to seek appropriate jobs. The recruitment is carried out between the two parties face to face. The Ministry of Labour has issued Measures for Occupational Guidance on October 27, 1994, which includes articles regarding the content and form of the employment promotion services, and the requirements for being an occupational guidance officer as well as the relevant responsibilities and duties. Government directives stipulate that an employing unit cannot make the recruited person pay in any form for the recruitment.

Recruitment advertising in different newspapers and using posters are another popular means. In addition to the advertisements in almost all kinds of daily newspapers, there are specialized newspapers and magazines for recruitment, such as the "Beijing Labour Market Newspaper", "Recruitment News" in Beijing. Recruitment and job-seeking advertisements also appear on radio and TV. In February 1998, China Labour Net, a computerized labour information system which covers the whole country was put into operation. This Net contains information about Chinese labour and personnel laws and regulations, vocational training, personnel exchanges, overseas labourer demands, etc. Further, many network service corporations with computer network backgrounds intend to cooperate with labour marketing organizations to provide computerized employment promotion services.

By the end of 1995 there were 30,000 employment service units put into operation, of which 25,000 are set up by the labour administrative departments. In 1995 these units provided employment services to 12.58 million persons, 1.38 million persons were re-employed.

The legal infrastructure, the labour recruitment and employment laws and regulations formulated by the government come under the Labour Law and can be chiefly divided into two groups. One group deals with the basic rights of workers, women and juvenile workers, rights of equal employment opportunity, working hours and minimum wages and labour safety and health, etc. The other group deals with the organizations and operations of employment and recruitment service agencies, centers and private corporations.

Shortages and Surpluses

In China, there are two major economic events taking place. One is the adjustment of industrial structure to speed up industrial modernization. The other is the reform of state-owned enterprises. Both events have exerted great influence upon employment. Industrial restructuring involves all sectors and industries of the national economy. Industries in high technologies such as electronics, computers and information have undergone rapid development. The production of semi-conductor and integrated circuits increased 41.2% in 1997 compared with 1996; automobiles increased 26.7%; micro-computers up 18.9%. In old and traditional industries, such as textiles and machinery manufacture, production fell. The production of metal-cutting machines in 1997 fell by 16.5% over the previous year. With regard to state-owned enterprise reform, 111 cities have been selected for carrying out a pilot project to optimize capital structure. By the end of 1997, 675 state-owned enterprises had gone through bankruptcy procedures, and 1,022 had been merged with other enterprises, resulting in the laying off of 1.69 million redundant workers. The most typical example is in the textile industry. The state planned to upgrade its productivity by destroying 10 million surplus and obsolete spindles, resulting in laying off of 1.2 million textile workers within 3 years (from 1997-1999). During 1997, 0.35 million textile workers were laid off and re-employed in other fields. The laid-off workers in urban areas by the end of 1997 were 11.50 million, of which 7.8 million were laid off from state-owned enterprises.

Shortages and surpluses in employment can be shown by the variation of employed persons in three types of industries, the primary, secondary and tertiary industries. The composition in percentage of the three industries were respectively 83.5%, 7.4% and 9.1% in 1952; and 68.7%, 18.3% and 13.9% in 1980; and 50.5%, 23.5% and 26% in 1996 (see Table 3). According to the variations in the numbers of employed persons by sectors, the sectors in which the employed persons increased more rapidly, included banking and insurance sectors (from 0.99 million in 1980 to 2.92 million in 1996), real estate trade sector (from 0.37 million in 1980 to 0.84 million in 1996), the electricity, gas and water production and supply sector (from 1.18 million in 1980 to 2.73 million in 1996) scientific research and polytechnical services (from 1.13 million in 1980 to 1.83 million in 1996) (see Table 4).

From the statistical data pertaining to the number of employees by types of ownership, it can be clearly seen that a great number of employees have been transferred to non state-owned enterprises in recent years. For instance, the number of employees in economic units funded by entrepreneurs from Hong Kong, Macao & Taiwan increased from 40,000 in 1990 to 2.65 million in 1996; the number in foreign funded economic units from 0.62 million to 2.75 million; the number in private enterprises from 0.57 million in 1990 to 6.20 million in 1996 (see Table 8).

(year-end) (10 000 persons)

Year	Total	State Owned Units	Urban Collective Owned Units	Joint Owned Economic Units	Share Holding Economic Units	Foreign Funded Economic Units	Economic Units Funded by Entrepreneurs from Hong Kong, Macao & Taiwan	Units of Other Type of Ownership	Private Enterprises	Self-Employed
1980	10525	8019	2825							
1985	12808	8990	3324	38		6				
1990	16616	10346	3549	96		62	4	2	57	614
1995	19093	11261	3147	53	317	241	272	11	485	1560
1996	19815	11244	3016	49	363	275	265	9	620	1709

Source: China Statistical Yearbook p.96-97

Table 8 Employed Persons by Residence in Urban Areas

Recruitment of Foreign Employees and Dispatch of Workers Overseas

Recruitment of foreign experts in different fields is one aspect of the policy of opening the PRC economy to the outside world. Within the 8th Five-Year Plan period, about 0.3 million foreign experts were recruited from abroad. Every year about 30,000 foreign experts come to China to work in the foreign-funded enterprises. These foreign experts not only brought technologies and expertise which are needed in the socialist construction, but also help improving the management of the enterprises. Agencies and institutes, which intend to employ foreign experts, need to apply for approval from labour administrative agencies (Foreign Expert Bureau of Ministry of Personnel). The wages of foreign experts are paid by the employing unit or by the state, according to the circumstances involved.

Dispatch of workers overseas is carried out by overseas-oriented labour service agencies and corporations, according to the contracts made with the foreign corporations. There are several international labour markets for Chinese workers. The Middle-East market was China's biggest market; more than half of the dispatched workers worked chiefly in construction projects in the Middle East before the Gulf War. In the 1990s, the number of Chinese workers in Asia-Pacific area increased rapidly, accounting for half of the total number sent overseas. A relatively small amount of Chinese employees are dispatched to Europe and North-America.

Training and Development

Overview

Modernization in China needs a large number of middle and primary-level technical workers, who have undergone adequate vocational training in different forms. Before the mid-1960s, vocational training was carried out basically in line with socialist economic development in China. There were technical schools, specialized secondary schools and colleges and

universities, which provided technical staff and workers through full-time and part-time study. During the Cultural Revolution, vocational training seriously deteriorated together with the whole education system in China. Since the late 1970s, vocational training was recovered. At present, vocational training has been developed into a system of technical schools, specialized secondary schools, technical training centers and re-employment training centers, which are sponsored and funded both by governmental and private organizations.

In recent years, a state strategy of developing the country by relying on science and education has been put forward. The development of education has gained priority in national economic development. The government appropriation for education increased from 61.78 billion yuan in 1991 to 167.17 billion yuan in 1996. In 1997, nine-year compulsory education was basically attained in areas where the population accounts for 65% of the total population. Vocational and adult education grew rapidly with students in vocational schools accounting for over 56% of those eligible for senior secondary school education. Over the last five years, 6,870,000 two-year and four-year university students were graduated and 175,000 postgraduates completed their studies. In addition, radio and television has reached 85 per cent of the population; various forms of vocational training and adult education are carried out through these media (see Table 9).

(100 persons)

Year	Regular Institutions of Higher Education	Secondary Schools	Specialized Secondary Schools	Regular Secondary Schools	Vocational Schools	Primary Schools
1952	19.1	314.5	63.6	249.0		5110.0
1980	114.4	5677.8	124.3	5508.1	45.4	14627.0
1985	170.3	5092.6	157.1	4706.0	229.5	13370.2
1990	206.3	5105.4	224.4	4586.0	295.0	12241.4
1995	290.6	6191.5	372.2	5371.0	448.3	13195.2
1996	302.1	6635.7	422.8	5739.7	473.3	13615.0

Source: China Statistical Yearbook 1997, p. 639

Table 9 Student Enrolment by Level and Type of School

However, the present status of vocational training and education still cannot meet the great demand of the national economic and cultural development. It is estimated that every year about 20 million rural labourers will go to urban areas to find jobs. About 10 million laid off urban workers need to be re-employed each year. All of them need vocational training before taking their new jobs. The present vocational training infrastructure in China is unable to meet this demand. Therefore, reforms are being implemented in vocational training, including: (1) widening fund-raising channels and training expenses to be shared by the state, local governments, enterprises and individuals; (2) state support for vocational training through providing preferential loans to enterprises and individuals who are engaging in vocational training, and formulating tax exemptions; (3) work towards promulgation of the Occupational Classification Code, and finalizing the formulation of occupational skill standards for about 100 types of work by the year 2000; (4) to improve the management of occupational skill assessment and the system of vocational qualification certificate for workers who are going to engage in the above occupations.

Education Systems

According to 1996 statistics (see Table 10), there were 645,983 primary schools, 94,115 secondary schools and 1032 regular institutions of higher education in China. The number of enrolled students are: 136.15 million in primary schools, 66.35 million in secondary schools and 3.02 million in regular institutions of higher education. The secondary schools include ordinary

middle schools and special secondary schools. In line with the state laws on education, a compulsory 9-year education system is in place in China. It includes a 6-year program in full-time primary schools and a 3-year program in junior high schools. All primary and secondary schools are public schools, with very few exceptions found in big cities such as Beijing and Shanghai. The curriculum in primary schools includes moral character, Chinese, mathematics, nature, history, geography, drawing, music and physical culture.

Year	Regular Institutions Of Higher Education	Secondary Schools	Specialized Secondary Schools	Technical Schools	Teacher Training Schools	Regular Secondary Schools	Senior	Junior	Vocational Schools	Primary Schools
1952	201	6059	1710	794	916	4298	1181	3117		526964
1980	675	124760	3069	2052	1017	118377	31300	87077	3314	917316
1990	1075	100777	3982	2956	1026	87631	15678	71953	9164	766072
1995	1054	95216	4049	3152	897	81020	13991	67029	10147	668685
1996	1032	94115	4099	3206	893	79967	13875	66092	10049	645983

Source: China Statistical Yearbook 1997, p. 638

**Table 10 Number of Schools by Level and Type
(no. of units)**

Middle schools include junior and senior high schools, each with a length of study of three years. Students who are outstanding in moral, intellectual and physical development will be recommended by the school to schools of a higher level without entrance examinations. In 1996 there were about 80,000 middle schools, with about 57.4 million students enrolled.

Higher education in China includes universities and colleges, covering almost all academic disciplines in the social and natural sciences. Universities and colleges conduct national unified entrance examinations. Students are selected on the basis of their test results, health and personal choices. The length of study for regular undergraduates is four years. For some majors, such as medical science, the study period is longer. Before the 1980s, universities and colleges students did not pay tuition fees. When they completed their learning, they would be allocated to units and organizations according to the state plan and their majors. Currently, students must pay a certain amount of tuition fees (several thousand Yuan a year). The state is still, in principle, responsible for arranging jobs for graduates within defined limits. The employing units and schools work together to coordinate the demand and supply and work out a practical allocation plan. The employing unit may select the appropriate graduates, while the graduates, in turn, may choose their employers. The students are also encouraged to seek jobs on their own if the demand of the public units or state-owned enterprise is lower than the supply of graduates of certain majors.

Currently, the state is accelerating reform in the higher education system. The state will exercise macro management for the overall plan, while the universities and colleges will have more autonomy in managing the education and running the schools. The universities and colleges will be funded in a variety of ways. The state is carrying out the "211 Project", which is focusing on cultivating, with much effort, 100 major universities and a group of important disciplines with an eye turned toward the 21 Century.

In 1996, China had 162,000 university graduates pursuing advanced degrees. Since the promulgation of the Ordinance on Academic Degree by the government in 1980, 313000 students have received Master's degrees, and 22,000 students doctorates. Today, graduate programs offering Master and Doctorate degrees have been established in most of the academic disciplines.

Vocational Education

The vocational education system in China comprises training prior to employment and on-the-job training.

Prior to Employment Training

Vocational training prior to employment is provided by two kinds of schools: technical schools and specialized secondary schools (see Table 11). The technical schools train skilled workers for industries, and enrol students graduated from junior high schools. The length of study is generally two or three years. These schools are funded by local labour administrative departments, industries or enterprises. Students need are not required to pay a tuition fee, and after finishing their study, will get their jobs arranged by the relevant labour department or enterprises. The technical schools give more emphasis on technical skill training, which is needed for being a skilled worker in industries. The specialized secondary schools include vocational senior high schools. These schools enrol graduates from junior high schools. The length of study is 2-3 years, or 3-4 years depending on the course taken. These schools offer vocational training as well as some basic courses provided by the senior high school. The training courses involve training for industrial workers but also for various commercial services. Students on enrolment are required to pay tuition fees. After graduation, the students will seek jobs by themselves through the open labour market or employment promotion centers. According to state policy, workers are required to undergo vocational training before their employment (with the exception of the university graduates). However, currently the vocational training schools, facilities and teachers are unable to satisfy this requirement.

(persons)

Item	1995			1996		
	Graduates	New Student Enrolment	Total Student Enrolment	Graduates	New Student Enrolment	Total Student Enrolment
Total	839167	1380928	3721529	1018676	1523393	4227851
Engineering	204977	400111	1090827	242784	466995	1316789
Agriculture	39828	47775	150261	45888	56679	160207
Forestry	10087	10835	36501	9773	12439	38060
Health	90855	131068	396551	111449	139394	423815
Economics & Finance	124372	230368	578151	158141	233218	657361
Administration	65205	146327	365730	95575	165608	432433
Politics & Law	28693	39071	78641	31393	46942	96197
Art	14313	41703	106729	21440	52204	137852
Physical Culture	11422	18810	25531	14349	21311	58286
Teacher Training	249415	314860	865907	287884	328603	906842

Source: China Statistical Yearbook 1997, p. 643

Table 11 Number of Students by Field of Study in Specialized Secondary Schools

On-the-Job Training

On-the-job training is of great importance in the education system in China. According to statistical data pertaining to the composition of employed persons by educational level, it can be seen that the general educational level is very low. For instance, the illiterate and semi-illiterate workers accounted for 13% of the total workforce in 1996, while workers who were college graduates only accounted for 2.8%. The educational level of employed persons is inadequate to carry out the full range of jobs in industrial enterprises. On-the-job training in China includes many forms. Short-term training before taking a new job in the enterprises is carried out regularly, and is funded by the enterprises. On-the-job training by way of technical practice competitions and drives are carried out frequently by enterprises to improve workers'

operational skills. The winners in the technical practice competitions are often awarded prize such as medals or a bonus.

Another form of training and education during employment is adult education, which is flourishing in China. Adult higher learning institutes include radio and TV universities, correspondence colleges, evening universities. Most of them run part-time programs. These higher education institutes are sponsored jointly by relevant government agencies, public communities, enterprises and individuals. Tuition fees are covered by students or by the employing units according to circumstances concerned. There were 1138 adult higher educational institutes and 2.65 million enrolled students in 1996 (see Table 12).

Item	Schools	Graduates (10000 persons)	New Student Enrolment (10000 persons)	Student Enrolment (10000 persons)	Teachers & Staff (10000 persons)	Fulltime Teachers*
Total	617498	9225.88	7969.54	6957.3	110.18	46.99
Adult Education Schools	1138	77.15	94.52	265.57	21.42	9.86
Radio and TV Universities	46	18.79	19.71	52.66	4.77	2.18
Schools of Higher Education for Staff Workers & Peasants	684	9.37	11.52	32.72	8.34	3.93
Colleges for Management Cadres	164	6.18	6.72	15.38	3.75	1.45
Pedagogical Colleges	240	8.06	8	22.54	4.42	2.23
Independent Correspondence Colleges	4	0.35	0.45	1.36	0.14	0.07
Correspondence Department or Evening Universities Run by Institution of Higher Education		34.4	48.12	142.91		
Secondary Schools for Adults	453221	8484.86	7280.33	6018.59	68.93	31.18
Specialized Secondary Schools for Adults	5070	102.05	127.18	309.71	22.49	12.13
Radio and TV Specialized Secondary Schools	173	16.15	24.94	61.24	1.65	0.81
Specialized Secondary Schools for Cadres	231	5.71	7.57	17.58	1.2	4.33
Specialized Secondary Schools for Staff	1978	34.95	43.34	109.22	8.36	0.6
Specialized Secondary Schools for Peasants	519	8.04	11.37	27.22	2.08	1.25
Specialized Correspondence Secondary Schools	81	13.69	16.91	41.47	1.22	0.5
Teacher Training Schools	2088	23.51	23.05	52.98	7.98	4.64
Secondary Schools for Adults	5383	45.79	51.61	60.01	3.87	2.1
Secondary Schools for Staff and Workers	1650	14.66	17.91	23.06	2.27	1.29
Secondary Schools for Peasants	3733	31.13	33.7	36.95	1.6	0.81
Technical Training Schools for Adults	442768	8337.02	7101.55	5648.87	42.57	16.94
Technical Training Schools for Staff & Workers	12755	688.66	734.87	405.1	7.96	4.28
Technical Training Schools for Peasants	430013	7648.37	6366.67	5243.77	34.88	12.65
Primary Schools for Adults	163139	663.87	594.69	673.14	19.83	5.95
Primary Schools for Staff & Workers	1546	11.95	12.82	14.45	0.42	0.21
Primary Schools for Peasants	161593	651.92	581.87	658.69	19.41	5.74
Literacy Courses	113143	406.78	338.71	409.79	13.89	3.91

Source: China Statistical Yearbook 1997, p. 648

*(10,000 persons)

Table 12 Student Enrolment in Adult Schools by Level and Type (1996)

Furthermore, in 1997 the Ministry of Labour, State Planning Committee and Ministry of Finance jointly issued a directive, to establish re-employment service centers in 110 cities, in which, "Optimizing Capital Structure" experimental projects have been carried out. At present, re-

employment service centers are being set up in these cities. They are organized by local government agencies or general corporations which are the leading units in charge of enterprises of certain industry. The functions of the centers include re-employment training, re-employment guidance, social insurance service and paying certain amount of wages to workers and staff who are laid off because of industrial re-structuring. The laid-off workers can remain in the center and receive these services for two years.

Management Development

During the period of the centralized and planned economy in China, the essential role of a manager of an enterprise was to carry out the production plan within the budgets and schedules laid out by the leading unit to which the enterprise was subordinated. There was no market competition. All products of the enterprise produced were bought by the state. All managers of the state-owned enterprises were appointed by the labour administrative departments of the organization to which these enterprises were subordinated. The economic system in China is changing into a socialist market economy, and the operations of enterprises have undergone corresponding reform. Yet the state-owned enterprises managers are still appointed chiefly in the original way, because of a lack of a corresponding mechanism of selecting market-oriented managers, and a lack of qualified market-oriented managers.

Since the late 1980s, great efforts have been made to overcome the inefficient management of the state-owned enterprises. First of all, the educational department of the government has intensified investment in set-up of management research institutes and faculties in universities and colleges which increased rapidly from 15 in 1977 to 287 in 1990. In the early 1990s, there were only 9 universities which had MBA programs, but now (1997) there are 56 universities. The number of enrolled students increased from 86 in the early 1990s to more than 2000 full-time students in 1997. In 1998 it is planned to enrol 4500 part-time and full-time students into MBA programs. Some of the MBA programs are jointly sponsored by Chinese and US universities, and some of them are jointly sponsored by Chinese and European universities. Another reform measure relating to the selection of enterprise managers will be selection by open recruitment instead of appointment by administrative departments. In order to facilitate the reform, labour administrative departments and agencies are engaging in exploration of a suitable enterprise personnel management system which is adapted to the market economy.

Pay and Benefits

Overview

For a long time, the state has maintained a system of low-level wage and low-level but comprehensive social security, which covered retirement, illness, birth, death and industrial injury. While national gross industrial output increased 24 times from 1952-1985, the average money wage of workers in state-owned organization and enterprises only increased 1.57 times. However, the social security system grew quickly. By 1991, the social security system covered more than one hundred million employees. A characteristic of the social security system before economic reform was that the state took care of the entire cost while industrial workers contributed no payment whatsoever. Such a system led to a total reliance on the state and enterprises and induced various kinds of waste and increased burdens for the state.

The overall strategic goal for the reform of the social security system is to set up initially by the end of this century, a social security system framework which is adaptive to the socialist market economy. This system will be composed of multiple layers of security means and funded by the state, enterprises, public communities and individuals. It will be based on centralized standards, management and use of funds, and will cover public organizations as well as other organizations not owned by the state.

Legal Framework

The general principles regarding the payment of wages, set up in the Labour Law include: (1) workers' wages are based upon the work that the workers perform in the enterprise; (2) the level of wages shall be gradually raised on the basis of economic development; (3) for state-owned enterprises, the government shall exercise macro regulation and control over the total payroll and the employing unit shall independently determine its form of wage payment and wage level according to the law and based on the characteristics of its production, business and economic performance; (4) the state shall implement a system of guaranteed minimum wages and equal pay for equal work.

With regard to social security, there are more than a dozen regulations and provisions which state specific measures and provisions regarding to minimum wages, medical treatment, worker illness, industrial injury, payment of wages, safety and special protection of female workers, juvenile workers and working hours and leave.

Pay Determination

Before the mid-1980s, the state implemented a unified wage standard system under centralized management and state wages planning. The state formulated standardized wages for different industrial sectors and standardized wages for workers engaged in different kinds of jobs. After the mid-1980s, the wage system has undergone reforms in correspondence with the reforms of the economic system. The general objectives of wage reforms of state-owned enterprises are:

- 1 the state exercises macro regulation and control of total amount of wages;
- 2 flexible wage planning will be implemented in enterprises to replace the mandatory wage planning by the state;
- 3 workers' wages will be linked to their performance and the economic effectiveness of the enterprise;
- 4 the employing unit will independently determine its form of wage distribution and wage level according to the economic effectiveness of the enterprises and in accordance with the macro regulations and control by the state.

In state-owned enterprises the fundamental factors which determine a worker's wage are: (1) the present post he/she assumes in the enterprise; (2) his/her inherent capabilities and educational level; (3) seniority; (4) the local average living standard.

In private and other enterprises which are not owned by the state, the worker's wage is chiefly determined by his/her present performance and educational level. Seniority and inherent capabilities are generally ignored. In Shanghai, the labour administrative agency is now trying a new practice to regularize wage levels. The employment service center in Shanghai has put forward wage levels for 10 different kinds of jobs, which can be used as a reference both for the employers and employees when they are determining wages. The reference wages are adjusted every three months according to the supply and demand in the labour market and the local living costs.

The present wage system for the government employees is composed of four parts. The first part is the position wage which is the main part of the whole wage and is determined by the present post the employee assumes. The second part is grade wage. There are altogether 15 grades. The grade is determined by one's ability, experience and educational level. The third part is basic wage, which is determined by the basic living costs and is equal to everyone. The fourth part is the wage component based on seniority. The standards of these wages are formulated by the state.

Methods of Payment

The most common frequency of payment in government agencies, educational and research institutes and economic units is monthly. In a few enterprises, a yearly wage bonus payment is implemented for the enterprise managers as a performance incentive. If the manager does

not fulfil the current year plan, he/she does not get the annual bonus. Most seasonal workers and temporary workers in mines or construction industry are paid on a daily basis.

In big cities, such as Beijing and Shanghai, wages are commonly paid to workers and staff in government agencies, educational and research institutes and enterprises through banks by way of credit cards or deposit cards. In small cities or towns and rural areas, wages are paid in cash because of the inadequacy of the on-line computerized systems. Wage payment by cheque is not popular even in big cities.

Minimum Rates of Pay

A system of guaranteed minimum wages was established according to the Labour Law issued in January, 1995. The specific standards on minimum wages are determined by the governments of provinces, autonomous regions, municipalities and reported to State Council for the record. The minimum wage in Beijing in 1998 is 310 Yuan/per month.

Variations in Pay

The average money wage of workers and staff per year was 6210 Yuan in 1996, and was 2140 Yuan in 1990, 761 Yuan in 1980. The average money wage in state-owned economic unit was 6280 Yuan in 1996, while the average money wage in urban collective owned units, and in units of other types of ownership (joint owned, share holding, foreign funded, and units funded by entrepreneurs from Hong Kong, Macao & Taiwan) were 4302 Yuan, 8261 Yuan respectively. The highest average wage in 1996 was the average wage in foreign funded units, 9383 Yuan.

The lowest average annual money wage by region in 1996 was in Jiangxi Province (4852 Yuan), while the highest average money wage (11087 Yuan) was in Tibet. The next highest was in Shanghai (10663 Yuan), then Beijing and Guangdong (9579 Yuan and 9127 Yuan) respectively (see Table 13).

The average annual wage levels of the total workers and staff in China does not vary widely by sector. In 1996 the highest average wage (14378 Yuan) was in air transport, the next highest (13930 Yuan) was in computer application services, the 3rd highest (10569 Yuan) was in post and telecommunication. The lowest (4050 Yuan) was in farming, animal husbandry and fishery (see Table 14).

Year Region	Average Annual Money Wage (yuan)			
	Total	State Owned Units	Urban Collective Owned Units	Units of Other Types of Ownership
1978	615	644	506	
1980	762	803	623	
1985	1148	1213	967	1436
1986	1329	1414	1092	1629
1987	1459	1546	1207	1879
1988	1747	1853	1426	2382
1989	1935	2055	1557	2707
1990	2140	2284	1681	2987
1991	2340	2477	1866	3468
1992	2711	2878	2109	3966
1993	3371	3532	2592	4966
1994	4538	4797	3245	6303
1995	5500	5625	3931	7463
1996	6210	6280	4302	8261
Beijing (1996)	9579	9645	7133	12575
Tianjin (1996)	7643	8072	4745	10522
Shanghai (1996)	10663	11015	7051	13186
Guangdong (1996)	9127	9494	6799	10569

Source: China Statistical Yearbook 1997, p. 123

Table 13 Average Annual Money Wage of Staff and Workers

Year Region	Total	Farming, Forestry, Animal Husbandry & Fishery	Mining & Quarrying	Manufacturing	Electricity, Gas & Water Production & Supply	Construction	Geological Prospection & Water Conservancy	Transport, Storage, Post & Telecommunications	Wholesale & Retail Trade & Catering Services	Banking & Insurance	Real Estate Trade	Social Services	Health Care, Sport & Social Welfare	Education, Culture & Arts, Radio & Film & Television	Scientific Research & Polytechnical Services	Government Agencies, Party Agencies & Social Organizations	Others
1980	762	616	854	752	1035	855	895	832	692	720	694	475	718	700	851	800	
1985	1148	878	1324	1112	1239	1362	1406	1275	1007	1154	1028	777	1124	1166	1272	1127	
1990	2141	1541	2718	2073	2656	2384	2465	2426	1818	2097	2248	2170	2209	2117	2403	2113	
1995	5501	3522	5757	5169	7843	5785	5962	6948	4248	7376	7331	5982	5860	5435	6846	5526	6295
1996	6211	4050	6482	5642	8816	6249	6581	7870	4661	8406	8333	6778	6790	6144	8048	6340	7188
Beijing (1996)	9578	6548	8727	8821	11740	9642	8797	10612	9241	13725	13322	10583	9761	9037	10410	9467	11261
Tianjin (1996)	7644	5720	11647	6828	11802	7918	11098	9887	6593	11540	8991	7007	8960	7669	8420	8754	8294
Shanghai (1996)	10666	8005	10478	10051	15349	11666	11482	13377	10254	17163	14504	10104	10709	10205	11193	11030	10121
Guangdong (1996)	9127	5424	6941	8570	12262	8614	1712	12473	7227	12854	12409	11386	10219	9318	11882	9860	11451

Source: China Statistical Yearbook 1997, p. 124

Table 14 Average Money Wage of Staff and Workers by Sector (in yuan)

Overtime

According to the Labour Law 1995, workers shall work for no more than 8 hours a day and no more than 44 hours a week on average. At present, it is provided by the state that workers work 8 hours a day and five days a week. The employing unit may extend working hours due to the requirement of its production or business. It is stipulated by the Labour Law that the extended work hours for a day generally can not exceed one hour. Under certain circumstances, such as emergencies, the working hours can be extended longer. However, the total overtime in a month can not exceed 36 hours.

According to the Labour Law, the wages for overtime will be paid to the workers no less than 150% of the normal hourly wages, and will be paid no less than 200% of the normal hourly wages if the extended hours are arranged on days of rest. In the case of statutory holidays, the extended working hours will be paid no less than 300% of the normal hourly wages.

The 40 hour working week system established by the state has high compliance in governmental departments, agencies and state-owned enterprises, but not so in enterprises not owned by the state, where the working hours are extended frequently.

Equal Pay

According to China's Constitution, a citizen has the right to work, and enjoys equal opportunity to work, regardless of sex, nationality, and religious belief. Furthermore, the Labour Law stipulates that there shall be equal pay for equal work. The principle of equal pay for equal work was well implemented in the period of the centralized and planned economy both in enterprises and government agencies. At that time, the wage system was standardized and unified. At present, the principle of equal pay for equal work is still being well followed in government agencies, educational and research institutes where a unified and standardized wage system, set up by the state, is implemented. In other enterprises, this principle is not well followed, due to the lack of a standardized wage system.

Performance-based Pay

The principle that the wages of an employee shall be based upon his or her performance has gained increasing emphasis in the determination of wages. This principle has been manifested in several aspects. For instance, in state-owned enterprises, the total sum of wages of an enterprise shall be linked directly to the economic effectiveness of that enterprise, that is to say, its total sum of wages is proportional to its revenue, and the worker's wage is based upon his/her performance, his/her absence record and upon the present job. In government, education and research institutes, the wage is determined by four factors: post, grade, basic living cost and seniority; the first two factors play the dominant role.

In addition, there are a variety of bonuses used by enterprises, such as bonus for surpassing the production quota, for superior quality, for safety and for saving materials, etc. The bonuses may be paid monthly, quarterly, bi-yearly or annually.

Income Taxation

The Personal Income Taxation Law of the People's Republic of China was approved by the National People's Congress on October 31, 1993, and was put into effect on January 1, 1994. According to the Law, people have to pay tax on all their personal incomes, of which there are 11 kinds, such as wages, interest and bonuses, rents of real estates, incomes from licensing, etc. A progressive tax rate is applied for personal income taxation. The income tax rate varies from 5% (500 Yuan income) to 45% (100,000 Yuan income).

Social Security Provisions and Benefits

China's social security system was established in early 1950s for taking care of retirement, industrial injury, illness, birth and death. This social security system was funded by the government and state-owned enterprises. The workers and staff did not contribute to its costs. The coverage of this system was quite narrow; it only covered the workers and staff in government departments, state-owned enterprises and units. Therefore, reforms are currently being carried out to extend the scheme. The main elements of the reforms are:

- 1 the system will broaden its coverage step by step and will be operated in economic units of all types of ownership and cover persons both in urban and rural areas;
- 2 the social security system will be funded by units of all types of employers, employees and the government; and the system will be operated under a managing agency made up of representatives from different sectors;
- 3 the social security system will be operated together with commercial personal or family insurance systems, which will supplement the social security system and make the system more effective.

Pilot studies are currently being carried out to make the reforms more practical and reasonable. In the Labour Law, there is a chapter on social security and welfare, which lays out the principles and guidelines in establishing the social security system. In some provinces, there are some regulations and provisions with regard to social security. In order to put the social security system under unified management, the state recently has established the Labour and Social Security Ministry.

Reform of Medical Care Plan

The current free labour protection medical system was set up in the early 1950s. The main shortcomings and problems are: (1) the medical expenses are all covered by the enterprises and the state, (2) the coverage of the medical care plan is quite narrow, (3) the system lacks efficient and effective management systems.

In the past few years, meaningful reform pilot studies have been carried out in some provinces and cities. One of the important reforms is to set up a combined medical care plan of workers with major ailments. The funding of this medical care plan comes from several sources. One source is the enterprise; it will pay a fixed amount of several Yuan per month per person from the after-tax profit of the enterprise. One part is from the worker who will contribute usually about 0.5 Yuan per month. All the contributions are put into a social insurance agency which operates the whole fund. The amount of medical expenses resulting from one or several visits to the hospital that has exceeded the prescribed sum (usually 300 Yuan) will be paid by the medical care fund according to certain ratio (from 80% to 90% according to the amounts of the expenses). The rest will be covered by the enterprise.

Pension and Superannuation

The main old-age insurance at present is the retirement pension system, which only covers workers and staff in government departments and institutions, and in state-owned enterprises. The old-age insurance is now undergoing changes as the economic reforms become embedded. The main target of the reform is the socialization of the old age insurance which will be carried out in several aspects. One aspect is that the system will be operated for old-aged persons throughout society. Another aspect is that the funds will be raised by society. The third aspect is the system will operate together with different types of social insurance services. In 1991, the State Council issued The Decision of the State Council on the Reform of Old Age Insurance of Workers in the Enterprises, which clearly points out that a system of combining payment by the government, enterprises and individuals should be gradually established to replace the

current practice of government or state-owned enterprises being solely responsible for the entire old age insurance. Different studies are currently being carried out both in state-owned enterprises and enterprises not owned by the state.

Holidays and Leave

The statutory holidays in China are the New Year's Day (one day), the Spring Festival (3 days), the International Labour Day (one day), the National Day (2 days). In addition, every week there are 2 days for rest (normally Saturday and Sunday). Annual vacation with pay is practised in China according to the Labour Law. Workers who have been working continuously for one year and more shall be entitled to annual vacation of 10 days with pay. In addition, a married worker will have a 30-day leave with pay to see his wife or her husband, if the worker does not live with his wife or her husband in the same city. If an unmarried worker does not live with his or her parents in the same city, the worker will have leave of 20 days with pay annually to see his or her parents who live in another city. If the worker is married, he or she will have a leave of 20 days with pay every four years to see them.

Workers' Compensation

According to the "Labour Insurance Regulation" and its related Provisions, when a worker suffers from industrial injury or from occupational diseases, the employing unit will pay for all the medical treatment, no matter who will be responsible for the injury. If the worker suffers an industrial injury or occupational diseases and is unable to work, he or she will receive a pension up to 90% of normal pay. If he or she can not do his original work after recovery from the injury or illness, he or she will be transferred to a suitable alternative job on normal pay.

Maternity/Parental Leave

In line with the Labour Law and for the purpose of safeguarding the legitimate rights and interests of female workers and staff, the Labour Ministry has issued "The Measure (for Trial Implementation) for Child-Bearing Insurance of the Staff and Workers in Enterprises" in January, 1995. Under these regulations, a female worker or staff shall be entitled to maternity leave with pay for no less than 90 days after childbirth. The expenses for prenatal examination, delivering operation, hospitalization and other medical treatments and medicine will be paid from the child-bearing insurance fund. The enterprise will pay child-bearing insurance premiums as a proportion of its total payroll to the local agency in charge of social insurance funds to establish and manage the child-bearing insurance fund. The staff and workers themselves are not required to make contributions.

Other Benefits

There are a variety of other benefits in different forms, such as low-rent housing, food allowance, local transportation allowance, and allowance for child-care, kindergarten, etc which are provided by enterprises based on their ability to pay.

Employee Relations

Overview

The relationship between employers and employees in China is comparatively simpler than in other countries. Prior to the 1980s, state ownership was the sole ownership form in China. Workers' wages, welfare and benefits were determined by government agencies through various forms of directives and provisions. The recruiting plan of an employing unit was formulated according to the state economic plans. The working conditions and productive quota were stipulated by government agencies. Therefore, both the workers and staff and the managers of an enterprise were working for the same government planning and for the common good. There were less obvious conflicts and contradictions between the two parties.

Since the 1980s, ownership in China has become more diversified. There are many other forms of ownership in addition to public ownership. However, public ownership still plays the dominant role. The total urban employees in 1996 were 198.15 million. Among them, 112.44 million employees were in state-owned units and only 6.2 million employees were in private enterprises. Therefore, the relationship between employers and employees, in general, has remained quite similar to the pre-1980s situation.

Employer Representative Associations

There is no employer representative organization in present China (nor in the past) which acts as the major mouthpiece of employers. However, there are some entrepreneur associations in China, such as the China Entrepreneurs Association and the China Female Entrepreneurs Association which were founded in the mid-1980s. They are organized loosely and have no lateral connections with each other. Their members come from enterprises in different industries and of different ownership. The main purposes of these organizations are to improve the managerial capabilities of their members in face of the unprecedented challenges of the reforms of the transitional economy, to protect their own legitimate rights and interests as entrepreneurs, and to make comments and criticisms as feedback on government economic policies and practices, including macro HRM policies and practices. These associations have no branches in different industries nor in different regions and have no involvement with the trade unions.

These associations have no representatives at any level of the People's Congress and Chinese People's Political Consultative Conference. However, there are representatives of individual entrepreneurs, selected by the workers of the enterprises or local communities, in all levels of the People's Congress and of Chinese People's Political Consultative Conference, to reflect opinions, suggestions, comments and critics from the viewpoint of Chinese entrepreneurs.

Employee Representative Associations

There are several organizations which represent workers and staff in certain aspects, such as the All-China Federation of Trade Unions and the All-China Women Federation. The All-China Federation of Trade Unions is the largest workers' organization. The above two Federations have their representatives of different levels of the People's Congress and the Chinese People's Political Consultative Conference. According to the Trade Union Law, passed by the National People's Congress on April 3, 1992, a trade union is a mass organization of workers who join the union voluntarily. A trade union is required to abide by the Constitution and carry out its activities independently in accordance with the rules and regulations of the Trade Union Law. Its legitimate rights and interests are protected by the state. The funds of the trade union comprises two parts. One part is the membership fee from the workers. The other part is from the enterprise, which pays 2% of the total sum of wages of the enterprise to the union.

The primary functions of the trade unions are: (1) to assist the enterprise in organizing the workers and staff to carry out the production tasks; (2) to promote state economic reforms and economic policies; (3) to improve workers' technical skills and educational level through various approaches and activities by the trade union; (4) to provide various kinds of welfare services; (5) to represent the workers and staff and to protect their legitimate rights and interests.

The focus of the union movement's activities have varied over time. Before the 1980s, the unions' activities were chiefly focused on promoting government policies and helping the enterprise to carry out the production tasks assigned by the government. Currently workers' welfare and benefits are gaining more attention from the unions when dealing in labour issues with enterprises or the government.

Structural Features

There are currently no formal, hierarchical entrepreneur associations in China. On the other hand, the All-China Federation of Trade Unions has a substantial formal hierarchical organization. It has local unions at the provincial, municipal and county levels. In addition, it has branches in different industries and sectors, such as the Railway Trade Union and the Machinery Industry Trade Union. The All-China Federation of Trade Unions and some local and branch unions have established 75 workers and staff universities and a number of vocational schools.

In state-owned enterprises, there is a workers' and staff representative assembly which convenes annually or bi-annually to discuss and review major production and administrative issues. Its representatives are selected by the workers. The trade union of the enterprise is the administrative office of the workers and staff representative assembly. It carries out the daily business of the assembly, and takes part in the democratic management and supervision of the operation of the state-owned enterprises. The trade union is also a member of the mediation committee established within the enterprise; this committee is chaired by a representative of the trade union. A representative of the trade union will also be a member of the labour dispute arbitration committee chaired by a representative of the labour administrative department of the relevant level of the local government.

There were 586,000 unions in 1996, with 102.1 million members, which included 40.93 million females. There were 605,000 full-time union workers and staff in these trade unions (see Table 15). In order to protect the legitimate rights and interests of the female workers and staff, under the trade union, there is a female workers and staff work committee, which is also a group member of the All-China Women Federation. Further, there are many female deputies in the National People's Congress. One of their roles is to provide comments, suggestions, and opinions on matters that affect women's special interests. The number of female deputies of the 8th Congress (1993) was 626, which accounted for 21% of the total number of all deputies of the Congress.

(10000 persons, except*)

Year	Number of Unions* (10 000 units)	Total No. of Staff & Workers In Enterprises	Females In Enterprises	Total Union Membership	Female Union Membership	No. of Full-time Personnel of Unions
1952	20.7	1393.2		1002.3	N.A	5.3
1980	37.6	7448.2	2518.6	6116.5	N.A	24.3
1985	46.5	9643.0	3596.7	8525.8	3149.2	38.1
1990	60.6	11156.9	4291.0	10135.6	3897.7	55.6
1995	59.3	11321.4	4515.3	10399.6	4116.5	46.8
1996	58.6	11181.4	4505.0	10211.9	4093.1	60.5

Source: China Statistical Yearbook 1997, p. 735

Table 15 Basic Statistics on Trade Unions

Key Processes

Labour disputes in China are chiefly settled by way of mediation and arbitration at the enterprise level. The labour dispute cases accepted by the arbitration committees in 1996 were 47951 in total, of which 46543 were settled within the same year. The dispute cases settled by mediation were 107439. By the end of 1995, 29,000 labour dispute mediation committees were set up in enterprises, and more than 3000 labour dispute arbitration committees were set up at different levels of the government.

The typical process of labour dispute mediation is: (1) the party concerned first applies orally and with a written application for mediation within a specified time after the labour dispute takes place; the party concerned will at the same time hand in relevant documents and materials; (2) the mediation committee after receiving the application will investigate all relevant documents and materials and the facts of the dispute; (3) the mediation committee then accepts the application and begins to mediate the dispute, and the mediation will be carried out based upon the principles of legality, fairness and promptness; (4) if the dispute is settled by mediation, there will be a written mediation agreement, which includes the facts, the responsibilities and the contents of the mediation. The agreement should be accepted by both parties voluntarily. According to the Labour Dispute Settlement Regulation for Enterprises in PRC, the mediation of labour dispute is to be settled within 30 days of application. If the mediation cannot be settled within 30 days, it means that the mediation has failed. If mediation fails, the party concerned may apply for arbitration. The arbitration committee is composed of the labour administrative department of the local government, the trade union representatives at the corresponding level and representatives of the employing unit. The committee is chaired by the local labour administrative department. If the party concerned is not satisfied with the adjudication, the party may bring a lawsuit to a people's court within 15 days from the date of receiving the ruling of the arbitration. When one of the parties involved neither brings a lawsuit nor implements the adjudication of arbitration within the statutory time limit, the other party may apply to the court for compulsory implementation. In general, the process of arbitration is similar to that of mediation.

Substantive Focus

The majority of labour disputes in China at present can be divided into three types. The first type of labour dispute concerns the means of terminating the relation between the employing units and employees, such as summary dismissal, dismissal or resignation without advance notice. If a worker is dismissed summarily, it usually means that the worker has seriously violated labour discipline or criminal law. It will be difficult for this worker to get a new job in another enterprise. The second type of dispute concerns wages, benefits, social security and training. The third type of dispute is concerned with labour protection and labour insurance. The last two types of labour disputes are becoming increasingly frequent with the increase in private enterprises and enterprises not owned by the state.

Employee Relations Performance Indicators

Statistical data on employment growth, wage growth, labour disputes, occupational injuries and other relevant data are shown in Tables 1, 11, and 16. These data show clearly that the national economy has maintained a good momentum of growth, and that the productive force and the standard of living of the people have been brought to a new stage of development since 1980s. During this period, China has enjoyed political stability and unity among the people. However, there are still a lot of problems and issues to be solved in economic and social development. A number of state-owned enterprises are experiencing difficulties in their production and operation, leading to an increase in unemployment. Large numbers of workers will be laid off due to industrial restructuring and poor operation and will need to be re-employed in the coming years. There are still a lot of problems in the development of work practices in China.

Item	Deaths & Injured Persons		
	Total	Death	Seriously Injured
Total	28513	20005	8197
I. State-owned Enterprises	12576	7053	5335
1 Agriculture	155	79	76
2 Industry	8929	4854	3979
(1) Mining and Quarrying	4787	3295	1487
Mining	4557	3169	1388
Colliery	3725	2586	1139
(2) Manufacturing	4142	1559	2492
3 Construction	2137	1474	605
4 Transportation and Telecommunications	482	230	251
5 Commerce, Catering, Material Supply & Sale & Storage	310	144	146
6 Others	563	272	278
II. Urban Collective-owned Enterprises	3877	2753	1093
Mining	1092	1024	68
III. Rural Collective-owned Enterprises	7138	6178	908
Mining	4964	4552	396
IV. Other Ownership Enterprises	916	522	383
1 Foreign Funded Enterprises	477	207	266
2 Mining	101	87	14
V. Private Enterprises	1993	1654	310
Mining	1426	1268	158
VI. Mining Without Production License	2013	1845	168

ISource: China Statistical Yearbook 1997,p. 432

**Table 16 Number of Occupational Deaths and Injuries
in Enterprises (1995)**

HRM Issues and Trends

General HRM Situation in China

In the past ten years or so, a series of reforms has been carried out in the development and implementation of macro and micro level HRM policies and practices. The strategic goal of these reforms is to foster a new labour management system which is adapted to the system of the socialist market economy, to improve the living standards and working conditions of workers, and to promote the economic development of enterprises and the national economy. Great achievements have been made in the development of human resource practices and valuable experiences have been accumulated for future development. However, the reforms and practices in labour undertakings are so sophisticated and unprecedented that they can only be carried out on trial and error basis, and will be further improved through repeated experiments. Therefore, for a relatively long period of time to come, problems and contradictions will be still witnessed.

Major Contradictions and Problems in HRM at Present and in the Near Future

- 1 Contradiction of labour supply surpassing market demand.

China is a developing country with a huge population. More than half of its population is in rural areas. It is estimated that by the end of this century, there will be a surplus of 100 million agricultural labourers to be transferred to urban areas, largely due to technological progress in agricultural production. In urban areas, the number of redundant employees is expected to increase accordingly, as industrial restructuring is being carried out. In addition, there are large quantities of new graduates from universities and schools every year to join the labour force. Therefore, employment promotion will be a major issue for a relatively long time to come.

- 2 Contradiction between the low-level, inefficient and narrow coverage of the social security system and the ever increasing demands of workers' compensation.

It is reported that 185 million persons in urban areas participate in the social security system, and that 45 million persons do not. Most of those who do not participate in the social security system are individual workers and workers in private and other enterprises not owned by the state. The level of social security funds is low. Its total funds in China only accounted for 8.0% of the GDP in 1996, while this percentage in developed countries is as high as 15-30%. Another problem in the social security system is in its funding sources. Most of the funds come from the state and enterprises, while the workers and staff generally contribute no payments. There is no effective mechanism to attract workers and staff to join the commercial insurance systems. Such an inefficient system neither can satisfy the increasing demands of workers' compensation, nor can meet the requirements of economic reforms.

- 3 Contradiction between the pressing need of large quantity of high quality skilled labourers in the industrial modernization, and the low technical and educational levels of the present work force.

The state has recently put forward the strategy of developing the country by relying on science and education. Yet the government is still short of regulatory mechanisms for vocational training. Fundamental infrastructures of vocational training and education both in hardware and in software are lagging far behind the state needs. Also lacking is a wages system which corresponds with national occupational classifications that are based upon a system of vocational certification and national occupational skill assessment, so as to encourage workers to participate in vocational and on-the-job training to develop their technical abilities

- 4 Many traditional old concepts and notions concerning employment and unemployment are still prevalent in workers' mindsets.

For instance, the notions of full reliance on the state and the enterprise to arrange employment, the notions of a lifetime job in one enterprise and lack of initiative in seeking jobs by oneself, still play an important role in worker and staff mindsets. All the above problems and contradictions are closely connected and interwoven and need integrated investigation. They should be gradually solved with increasing penetration of economic reforms.

Current HRM Trends

During the reform process, great changes have been taking place in the labour undertakings. Some of these changes are unprecedented, some might have profound influence in the future. Most of them are not finalized and need to be further improved through more experiments. The following trends in HRM should gain more attention in its development.

- 1 Rapid growth of the white-collar workers. Along with the technological progress and the advent of the information society, there will be more and more white-collar workers of high educational level; many of them at a professional level. These white-collar workers have their particular ways of working and appear to prefer more flexible working conditions. Technological progress will also change the organization of large-volume production. For instance, the flexible manufacturing system has already changed the traditional assembly-line production. These changes will inevitably generate profound influences upon the human resource management.

- 2 The notion of “small is beautiful” becomes popular in high-technology, especially in the computer and information industries. Small and medium enterprises in these industries grow rapidly. These enterprises have high productivity, high revenue and usually provide new jobs. However, these enterprises are full of technological and commercial risks. Therefore, the state should formulate preferential managerial policies in taxation, social insurance and venture capital in order to protect the development of these small and medium enterprises.
- 3 Disputes about the ownership of the technical know-how and the intellectual property between the employers and employees will increase, as the free flow of the employees from one enterprise to another become more common. At present, this kind of dispute only accounts for a small portion of the total disputes. However, along with the development of small and medium enterprises in high technology areas, these disputes will become prominent. Therefore, corresponding legal regulations should be formulated which can effectively and efficiently protect the owners of these kinds of property and encourage the enterprise as well as the workers to engage in technical innovations.
- 4 Further promotion of international cooperation and exchange in HRM; both in frequency and scope, based upon the following;
 - 1 though the policy of reform and opening to the outside world has been implemented for 20 years, the construction of a labour system which is adapted to the socialist market economy is still in an initial stage. Extensive international cooperation and exchanges are in urgent need to carry out joint investigations in areas of wage distribution, social insurance, labour legislation, as well as on the theories and practices of human resources development and management in order to speed up the reforms;
 - 2 international economic trading has been growing rapidly since 1980s. There were 304,800 foreign funded enterprises approved by the state by the end of 1997, of which 21,028 were newly approved in 1997. The total foreign contract investment by the end of 1997 was 521.64 billion US dollars. Employees in foreign funded enterprises in 1996 numbered 2.75 million. In order to encourage foreign investment, China has spent a lot of effort to improve the investment environments. One of the future improvements will be setting up, through international cooperation, a labour management system which operates in line with internationally accepted rules and regulations.

Key Organization Addresses

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Special Committee of Law
National People's Congress
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National Education Development Research Center
No 37, Damuchuang Hutong,
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Development Research Center
State Council, PRC
Post Box 1705
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All-China Federation of Trade Unions
No 10, Fuxingmenwai Dajie,
Beijing, China, 100865

All-China Women Federation
Jianguomennei Dajie,
Beijing, China, 100730

China Entrepreneurs Association
No 17, Zizhuyuannan Lu,
Beijing, China, 100044

China Female Entrepreneurs Association
No 5, Chongwenjmennei Dajie,
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Notes

- 1 State-owned Enterprises refer to those units in which the production means are owned by the State.

Collective-owned Enterprises refer to those units in which the production means are owned by the collective, such as owned by the townships and villages.

Private-owned Enterprises refer to those units by private individuals.

Joint owned Enterprises refer to those units jointly invested by enterprises of different types of ownership.

Share Holding Enterprises refer to those units invested in the form of share holding with its investment by all the share holders, such as enterprises limited by shares and enterprises with limited liabilities.

Foreign-owned Enterprises refer to enterprises established by foreigners in the territory of mainland China, including joint ventures, cooperative corporations and foreign enterprises.
- 2 Employed Persons, according to "China Statistical Yearbook 1997", refer to the persons who are engaged in social labour and receive remuneration payment or earn business income, including:
 - i total staff and workers,
 - ii re-employed retirees,
 - iii employed persons in private enterprises and individual economy,
 - iv employed persons in the enterprises in the urban areas,
 - v employed persons in the rural areas,
 - vi other employed persons.
- 3 Staff and Workers, according to "China Statistical Yearbook 1997", refer to the persons who work in (and receive therefrom) enterprises or institution of state ownership, collective ownership and ownership by enterprises from Hong Kong , Macao and Taiwan and other types of ownership and their affiliated units. In China, staff usually refers to white-collar employees, while workers refers to blue-collar employees.

- 4 The Labour Law is the fundamental employment law in China. It applies to all the employing units within the boundary of the People's Republic of China, and workers who form a employment relationship within. There are 13 chapters in it, dealing respectively with issues such as promotion of employment, labour contracts, working hours and rest and vacation, wages, occupational safety and health, special protection for female and juvenile workers, vocational training, social insurance and welfare, labour disputes, supervision and inspection, legal responsibility, etc.
- 5 There were about 30,000 employment promotion service units in 1995, of which 25,000 units were run by labour administrative units. The employment promotion service units generally provide services on employment information retrieval, job introduction, vocational training, unemployment insurance, etc.
- 6 There are two kinds of labour administrative units in China, the labour administrative units in the government system and the labour administrative units in enterprises and institutes. Both are integral parts of the managerial organization of the governments and enterprises. The labour administrative departments in governments formulate policies in HRM areas and provide policy guidance and consultancy on macro HRM issues. The labour administrative units in enterprises and institutes treat micro HRM issues in their enterprises and institutes in line with the related government policies and directives and according to the needs of the enterprise/institute. Prior to the implementation of the reform and open policy in the late 1970s, labour administrative departments in the government not only dealt upon macro HRM policies and issues, but were also deeply involved in micro specific HRM issues in enterprises and institutes, while the labour administrative units in enterprises and institutes treated their micro HRM issues strictly according to government macro HRM policies and directives.
- 7 Working hour system of comprehensive calculation means the working hours are calculated comprehensively on one week, one month, or one year as a cycle. However, the average working hours for one day or one week shall be approximately equal to the statutory standard working hours.

Thailand

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Economy Context

Geography

Land

Thailand is a tropical country in the Indo-Chinese peninsula of Southeast Asia and is bordered by the Lao People's Democratic Republic and Cambodia in the north and east, Malaysia and the Gulf of Thailand in the south and Myanmar in the west. The Kingdom of Thailand covers about 200,000 square miles or 514,000 km², an area slightly smaller than France. The country's greatest distance from north to south is about 1,000 miles or 1,650 kilometres and from east to west is 500 miles or about 800 kilometres. It consists of two distinct parts: one is the valley of the Chao Phraya River and the Korat Plateau which form a compact area; the other is the extension which is more than 1,000 kilometres long and reaches to the Malaysian frontier. The pattern of rivers and mountains divide the country into four natural regions: (a) the Northern Region; (b) the Northeast Region (principally the Korat Plateau); (c) the Central Region or the Chao Phraya basin; and (d) the Southern Region or the Peninsula.

Climate

Since Thailand is situated very close to the equator, and the altitude of most of the country is close to sea level, high temperatures and high humidity prevail generally. The average temperature is about 27°C. However, given the extension of the country from north to south, the climate varies considerably according to latitude. In the Central Region, the average temperature ranges between 28°C and 30°C during the wet monsoon period (July-August). In the dry season (January-March) the average temperature varies between 25°C and 32°C. In the north and northeast, the variation is much greater. The most constant temperature is in the Southern Region where the daily range is rarely more than 5°C and the annual maximum and minimum temperatures are 33°C and 24°C respectively.

Population

The population of Thailand, which was about 17.6 million immediately after the Second World War, numbered over 60 million in 1997. This increase has largely been due to advances in personal hygiene and medical services which caused a fall in the number of deaths, particularly among children. According to estimates of age structure of the Thai population in 1997, the percentage of the population aged 0-14 years is 27 percent while working age population aged 15-59 years constitutes 64 percent, and the population aged 60 years and over is 9 percent. The latest Population Census in 1990 found that the rural population forms some 70 per cent of the people and the highest rural density of the population is found in the rice growing area of the Chao Phraya river basin and the fertile valleys of the north.

Ethnic Groups

Although local and regional differences exist, language, culture and physical type make the majority of Thailand's population unmistakably one people. The ethnic Thais form nearly 82 per cent of the population and speak different dialects. Thai Yuan is spoken in the north and Thai Lao in the northeast but the official Thai language used in Bangkok is widespread. The majority of the Thais are Buddhists. The Chinese are the largest ethnic minority in the country and stem from a culture distinctively different from that of the Thai. Most of them, in the process of assimilation, have acquired Thai nationality. The ethnic Malays, numbering more than a million, are concentrated in the Southern Region and constitute the majority of Thailand's Muslim population. The other non-Thai groups are the Indians and Pakistanis who are mostly engaged in trade, the Cambodians left over from the ancient Khmer Empire and the Vietnamese in the northeast. These latter groups are considered too small or too isolated to be important in Thai economic activities or business ownership. The principal hill-tribes, who live isolated from the Thai stream of socio-economic development, are Meos, Karens, Lahus, Lissus and Khas.

Political Context

The recent history of Thailand took a very significant turn on 24 June 1932 when a group of young intellectuals, educated abroad and imbued with the concept of Western democracy, staged a bloodless coup, demanding a change from absolute to constitutional monarchy. Determined to avoid any bloodshed, King Prajadhipok (Rama VII) agreed to the abolition of absolute monarchy and the transfer of power to the constitution-based system of government as demanded. To some, this demand was premature, but thanks to the far-sightedness of King Prajadhipok and his predecessors, in particular King Chulalongkorn the Great (Rama V) and King Vajiravudh (Rama VI), Thailand was prepared for this transition. While continuing the process launched by the two previous kings, King Prajadhipok had every intention of accustoming the Thais to the Western system of constitutional monarchy and had considered the eventuality of altering the form of government. Popular readiness, he believed, was an important ingredient to success for such transition. It was only the matter of waiting for the right time.

On 10 December 1932, King Prajadhipok signed Thailand's first Constitution and thus ended 800 years of Thailand's absolute monarchy. Despite the number of successive constitutions that followed in the span of just over half a century, the basic concepts of constitutional government and monarchy laid down in the 1932 constitution have remained unaltered. The first and foremost concept of Thailand's constitution is the status of the monarch as Head of the Armed Forces and Upholder of the Buddhist Religion and all other religions. The Constitution provides that the monarch is sacred and inviolable in his person. His sovereign power emanates from the people, and as Head of State, he exercises his legislative power through the Parliament, executive power through the Cabinet headed by a Prime Minister, and judicial power through the courts. The monarch is empowered with the right to be consulted, the right to encourage, and the right to warn whenever the government appears not to administer the state affairs according to the wishes and for the good of the people.

The second concept concerns the legislative branch. The new leaders of 1932 realized that the goal of popularly-elected government could not be attained immediately, and that considerable experimentation and adaptation would be necessary before a balance could be struck. For this reason, the first Constitution was a cautious document that created a bicameral National Assembly with two categories of members, half of whom were elected by popular vote (the Lower House), the other half (the Upper House or Senate) being appointed by the King on the recommendation of the Council of Ministers (now called the Cabinet). The third concept

concerns the executive branch. Many constitutions hold that the Prime Minister is head of government and head executive. A slight difference between the Thai Prime Minister and those in other countries is that, since the creation of the post of the Prime Minister in 1933, the Thais have often looked to their Prime Minister as a protective figure, possibly due to their tendency to extend family structure into the sphere of government.

According to the Constitution of Thailand, the administration of the country is divided into various levels as shown in Figure 1:

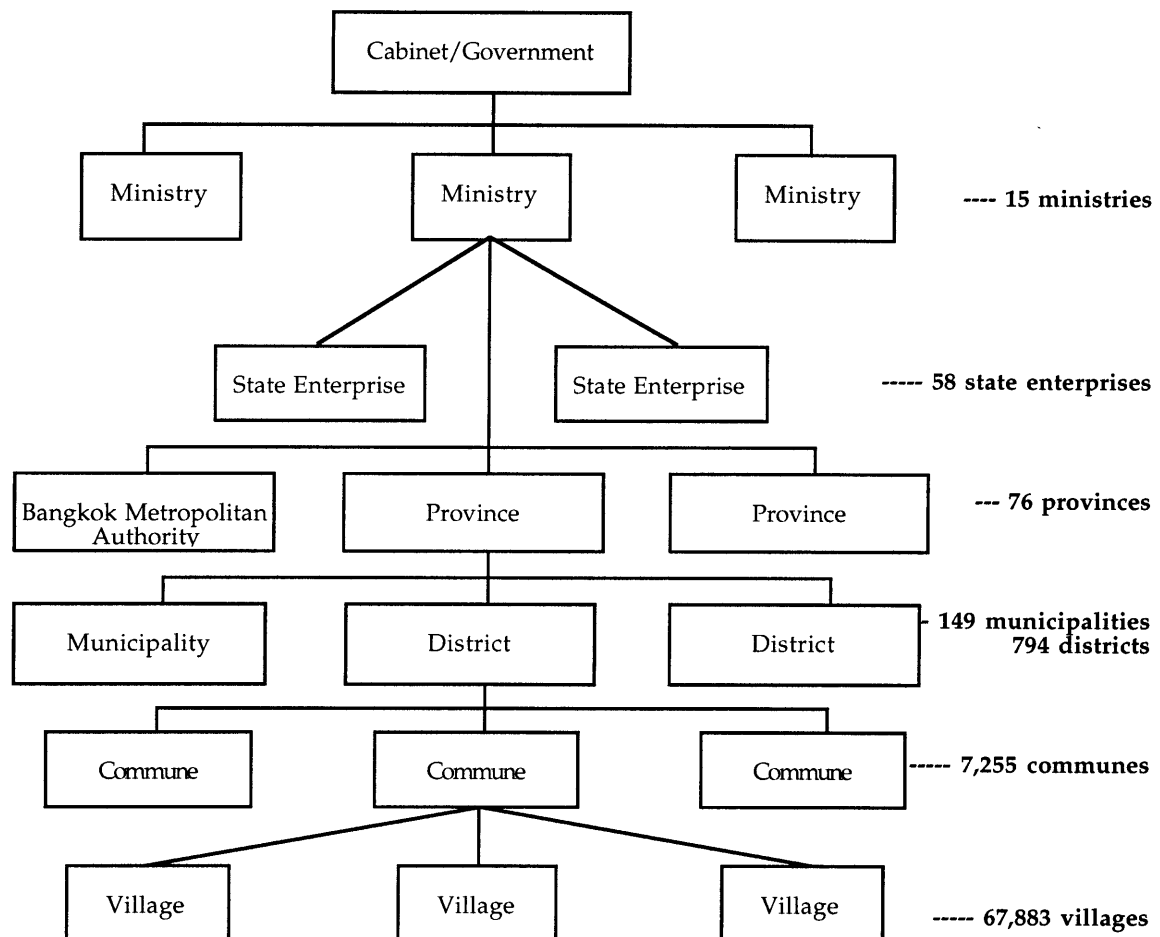


Figure 1 Levels of Government Administration

The Cabinet is responsible for the formulation of Government policy. The day to day administration of the country, however, is carried out by the Civil Service comprising officers of various services and grades. The administrative bodies fall into two categories: ministries and quasi-autonomous agencies. The political head of each ministry is a Minister of State who is responsible to the Prime Minister. The top civil service official in each ministry is the Permanent Under Secretary of State who is entrusted with the overall supervision and direction of the departments under the ministry. Outside the ministries, but subject to their direct control and supervision are a number of quasi-autonomous State enterprises such as the Port of Bangkok Authority, the Railroad Organization, the Metropolitan Electricity Authority, the Tourist Organization of Thailand, and the Telephone Organization of Thailand. Key ministries which are concerned with human resource management (HRM) are the Ministry of Education, Ministry of University Affairs, Ministry of Labour and Social Welfare and Ministry of Science, Technology and Environment. The state enterprises with a direct interest in HRM are the Teachers Council

of Thailand, Thailand Institute of Scientific and Technological Research and National Science and Technology Development Agency.

For convenience of administration, the country is divided into 76 provinces and further sub-divided into districts. The districts are divided into communes which are further sub-divided into villages. The head of the province is the governor who is appointed by and responsible to the Minister of Interior. The Governor carries out the policies of the central Government, supervises the overall administration of the province, co-ordinates the work of the various ministry representatives from Bangkok, and maintains law and order within his/her jurisdiction. He/she reviews the reports of district officers and gives final approval to the election of commune headmen/women. The Municipal Act of 1953 also empowers him/her with a supervisory responsibility over municipal government.

The head of the district administration is the district officer who is appointed by the Minister of Interior and is responsible to the governor of the province. Though occupying the lowest level in the central Government hierarchy, the district officer is nevertheless the most important and direct link between government and the people. Besides being the chief magistrate, he/she is also the chief executive in his/her district and supervises the collection of taxes, issues certificates of birth, marriage, divorce and death, registers school children and aliens, arbitrates land disputes and administers local elections.

The chief of each commune is chosen by the headmen/women of the villages constituting the commune from among themselves but is confirmed in office by the provincial governor. Though enjoying a quasi-official status, the chief's prestige is considerable. He/she is in charge of recording vital statistics, assists the district officer in maintaining public peace and helps collect taxes. He/she supervises and co-ordinates the activities of the village headmen/women and convenes a monthly meeting of the headmen/women before a monthly meeting with the district officer; thus, he/she serves as an intermediary between the district officer and the village chiefs. The administrative head of the village is the village headman/woman. He/she is elected by the villagers, and though the term of office is fixed at five years, the headman/woman tends to remain in office until death or retirement. The village headman/woman is not a regular governmental official but receives a small stipend for services rendered in support of the commune chief.

Municipal government was introduced in 1933. Its most important purpose was to familiarize the Thai people with the parliamentary system of government and to facilitate national policies with respect to local public health and welfare. There are three types of municipalities, according to the size and density of their population and the sources of tax revenue available: (a) city, (b) town, (c) commune municipality. A municipality is required to perform certain functions and provide services for its inhabitants such as lighting, piped water supply, a market, streets, sewerage, health services and educational services. The municipality is also responsible for maintaining the local population registration. However, the functions of the municipalities vary among the three types. Each municipality has its own budget, relying mainly on local revenue and a subsidy from the central Government.

Economic Context

Thai economic policy and development in the 1960s and 1970s was marked by emphasis on agricultural development and import substitution in industrial goods such as textiles, footwear, and canned foods. Gross Domestic Product (GDP) grew at an average rate of 5.6% from 1971-75, and 7.9% from 1976-1980. The principal export during most of this period was rice. Agriculture was not replaced by manufacturing as the leading economic sector until 1981. Data from the Labour Force Survey also indicate that the agricultural sector absorbed 44% of the increase in the labour force in the 1973-83 period, services (including government employment) 18.2% and industry 12.7%

Macro-economic policy adjustments in response to external shocks during the 1970s, notably oil price increases, were not wholly successful. As a result, Thailand entered the 1980s burdened with significant economic problems: persistent fiscal deficits, rising trade deficits, rapid accumulation of external debt, some overvaluation of the Thai currency (Baht), and artificially low domestic energy prices. These problems were successfully addressed during the 1980s through adjustment policies that emphasized fiscal restraint and deficit reduction, controls on external borrowing and devaluation of the Thai currency. In 1984, a further devaluation combined with improving terms of trade, led to a sharp rise in manufactured exports. This growth was further stimulated by the changing comparative advantage of other Asian newly industrialized countries (NICs), notably Taiwan, Korea and Japan. Rising labour costs in these countries have led to movement of manufacturing activities such as automobile and electronics to Thailand, as well as to increased investment in manufacturing by Thai entrepreneurs.

The net effect of these changes has been rapid transformation of the structure of the economy, and sustained growth in the mid and late 1980s. As shown in Table 1, the share of GDP generated by industry has increased, while that of agriculture has declined, with concomitant changes in the sectoral structure of employment.

	Agriculture	Industry	Services
1971			
Share in GDP	23.9%	27.0%	49.1%
Share in Employment	78.9%	5.7%	15.4%
1980			
Share in GDP	23.2%	30.8%	46.0%
Share in Employment	70.8%	10.5%	18.7%
1986			
Share in GDP	16.8%	33.8%	49.4%
Share in Employment	67.1%	10.5%	22.4%
1995			
Share in GDP	11.0%	39.0%	50.0%
Share in Employment	52.0%	19.8%	28.2%

Source: 1) National Economic and Social Development Board., National Account of Thailand, various versions.
2) National Statistical Office, Labour Force Survey, various rounds.

Table 1 GDP and Employment Proportions By Sector

Structural change has accompanied sustained export-led GDP growth at rates that are comparable to Asian NICs. The share of GDP directly generated by exports reached an historic high in the 1986-87 period. While not at the current level of Taiwan or of Korea, the export reliance ratio and absolute level of export contribution to GDP growth in 1986-87 is similar to that of Korea in the early 1970s. Outwardly oriented government economic policy, which supports private sector initiative through various export promotion and incentive structures, has had significant positive effects.

Export growth has been led by an increasingly diversified set of manufactured products. In the 1970s, ten product groups, including seven primary commodities, accounted for 70% of exports. By 1987 the share of the seven main primary commodities had fallen significantly as the share of manufactured exports rose substantially, led by expansion in textiles, integrated circuits and jewellery. Since 1985, higher export growth rates have been achieved in textiles, footwear, furniture, canned goods, toys and jewellery. Manufacturing has been stimulated by significant increases in foreign direct investment (FDI), encouraged by sound macroeconomic management and political stability, since 1980. Annual FDI averaged US \$95 million in 1976-80, rising to an average of US \$277 million in 1981-85, with Japan replacing the US as the principal source of investment. With support from such investment, Thailand moved into higher technology industries.

The rapid transformation of the Thai economy in recent years indicates that the country may have started along the path to economic growth taken fifteen years ago by Korea and other Asian NICs. The main features of this course of development are rapid growth of manufacturing, with a shift towards heavy intermediate and capital goods; increasing levels of technology-intensive industries such as metal, petrochemical and electronics, with larger firm sizes of more than 200 employees. In the meantime, there has been a major shift of the workforce out of relatively low-productivity agriculture into higher productivity employment in commerce, industry and services.

Thai development strategies, embodied in five-year National Economic and Social Development Plans, have always placed considerable emphasis on agriculture and equitable distribution of the benefits of development across urban and rural populations. Thailand has the highest per capita availability of arable land of any East or South Asian country (0.355 hectare), and a large share of employment still in agriculture. Thus a number of planners and analysts are ambivalent about a future tied to industrial growth. There is concern that industrial growth on a proportionally small base will not provide adequate employment growth or, that if it does, it will cause massive migration from rural areas to the urban centers (especially Bangkok) where modern sector enterprises are concentrated. There is also concern that more disadvantaged regions- particularly the Northeast - will be by-passed by this pattern of economic development.

The open nature of the Thai economy, through the government's policy of encouraging free trade and investment, and the government's reliance on the private sector, indicate that given favourable or unfavourable external conditions, the pattern of industrial expansion is likely to continue. The government's general role in the development process is to provide sufficient economic infrastructure such as roads, electricity, telephone and financial institutions as well as to set a framework of incentives in such a way as to support growth while addressing the important issues of financial institutions, rural development and equity.

The past two decades have seen a period of unprecedented economic growth and social development in Thailand. Economic growth rates were high, and the incidence of absolute poverty declined dramatically. Thus:

- Per capita income rose from US\$700 a year in the late 1960s to US\$2,700 in 1996 (using 1996 values).
- Living standards and critical social indicators also improved dramatically. Life expectancy rose from 56 years in the late 1950s to 70 years in the early 1990s; primary school enrolment increased from 70 percent of eligible children in 1965 to almost universal enrolment by the mid-1980s. This remarkable socioeconomic progress was driven by a combination of conservative macroeconomic policies and private investment, both domestic and foreign.
- The gains have not been evenly distributed. Although the incidence of absolute poverty declined significantly (from 57 percent in 1962 to 14 percent in 1992), the distribution of income and wealth has become less equal.
- Growth has been accompanied by environmental degradation and natural resource depletion, as it has in many other East Asian economies. The cost of lead and dust pollution in the Bangkok metropolitan area alone is estimated to be equivalent to 10 percent of the city's annual income; the cost of traffic congestion in the capital amounts to US\$400 million a year.

Since the 1970s, Thailand has become increasingly integrated into the world economy through trade and private capital flows. Globalization demands high levels of policy performance and exacts a high price for policy mistakes and weak institutional structures. Domestic economic

management has also become more demanding as the economy has become more complex. Corporate governance has become more critical to the country's economic welfare as the private sector has taken a greater role in economic activities.

Since mid 1997, Thailand has been dealing with a severe currency and financial crisis. Measures that are being put in place are designed not only to deal with problems resulting from past policy mistakes and institutional weaknesses, but also to provide the basis for the resumption of robust and self-sustaining growth. There is general recognition in Thailand that reestablishment of the country's international competitiveness, as it moves up the scale of skill and technology-intensive production, will require actions in the short and medium term. These actions include policy measures; legal and institutional developments; and regulatory, supervisory, and administrative changes that will create an environment that supports increased productivity.

Socio-Cultural Context

The Thai population is relatively homogeneous in a number of important respects. Approximately 95 percent of the population are Buddhist, the large majority are ethnic Thais, and, although regional dialects are spoken, the official central Thai language is understood virtually everywhere. There is generally a sense of national identity reinforced by a widespread allegiance to the monarchy, which serves as an effective symbol of national unity. Most non-Buddhists in Thailand adhere to Islam, which is practised by about 4 percent of the population. The majority of Thai Moslems live in the south and are the majority or near majority in 4 of the 14 southern provinces. Of the rural population in the southern region, 25 percent are Moslems according to the 1990 census.

The largest and economically most important ethnic minority in Thailand are the Chinese. While it is difficult to estimate with any precision the proportion represented by ethnic Chinese since there is no agreed-upon definition of Chinese ethnicity and considerable assimilation has taken place, various estimates suggest that they represent 5 to 10 percent of the total population. Data from the Population and Housing Census in 1990 indicates that they are disproportionately concentrated in the urban areas and are predominantly involved in commercial activities. The second largest minority group are the ethnic Malays, who are concentrated in the south and represent perhaps as much as 4 percent of the national population. Other numerically smaller minorities found in the registration system of the Ministry of Interior include Indians and Pakistanis who are engaged largely in trade, Cambodians concentrated largely along the border areas near Cambodia, Vietnamese living largely in the northeast, and a variety of hill tribes located mainly in the mountainous regions, especially in the northwest. In addition, a substantial number of temporary refugees—mainly from Myanmar and Cambodia, although also from Vietnam—live in a number of specially established refugee camps.

Labour Market

Overview

While there has been rapid decline in the Thai population growth rate since the mid 1970s, this has not yet slowed the growth of the Thai labour force. The annual growth rate of the labour force was approximately 3.5% in the 1971-83 period compared to 2% in the 1960s. Most of the increase in the labour force was absorbed by the agricultural sector. Forty-four percent of employment growth in the 1973-83 period was from the agricultural sector. Despite the rapid growth of output in the manufacturing sector (8.2% per annum during 1971-83), its employment share was only nine percent of total employment. The service sector, which includes the

commercial and communication sectors, accounted for 21% of total employment in 1984. Its employment growth rate has also been impressive, ie., 5.6% per year during 1971-83.

The extraordinarily high proportion of the labour force in agricultural employment (68% in 1984) relative to the proportion of GDP contributed by the agricultural sector (19.5%) reflects the importance of this sector as the major absorber of labour supply. In the past 20 years, increases in agricultural employment (which averaged about 3% per year) were made possible by the expansion of cultivated land which grew at about the same rate as that of agricultural GDP. Since this expansion will not be possible in the future, more nonagricultural employment opportunities will have to be created.

However, for the past two decades the labour market has performed very well. Despite the rapid increase in labour supply (3.49% each year in the 1977-83 period), employment has also grown at an almost equal pace, ie., 3.36% per year. The employment elasticity for 1971-83 is impressively high, ie., 0.584. This means that if GDP grows by 5% per year, employment will increase by 2.92%. As a consequence, open unemployment or the number of persons who are looking for jobs but cannot find any has been kept at the low level of 2%.

The real wage rate, however, has not been increasing. Stagnation in the real wage rate can be partly explained by the rapid growth in labour supply and government policies that were biased against the agricultural sector. These policies include the export tax and export quota on agricultural products which have reduced farm-gate prices, and the tax exemption on imported machines and equipment for investment promoted firms.

After the financial and economic crisis that arose in 1997, the Ministry of Labour and Social Welfare (MOLSW) estimated that there would be about 1.8 million unemployed workers in 1998. The MOLSW therefore drafted an action plan on lay-off and unemployment and also initiated the 'National Committee on Remedy of Lay-Off and Unemployment' chaired by the Prime Minister. In addition, the MOLSW has also sought financial assistance from the World Bank and the Asian Development Bank for implementation of this action plan which comprises measures to protect against lay-off, and measures to mitigate the growing unemployment problem.

Measures to protect against lay-off are 1) mitigation of lay-off by cost saving on both sides including a temporary shutdown, bringing forward holidays and a ban on overtime work, shortened working hours, wage reduction, and early retirement, 2) transparently explaining the situation to the labour unions, and every party concerned before implementing the mitigation measure, 3) gathering a list of enterprises faced with liquidity difficulties and providing this to the Ministry of Finance and the Bank of Thailand, preparatory to taking remedial action.

The mitigation of unemployment includes the following *short-term measures* 1) Thais are to assist one another to lower on the rising cost of living and to encourage minimal lending so as to assist unemployed persons to find new ways of living, and 2) directing every ministry to adjust their budget so that at least 30 percent of their wage bill will be for employees in rural regions. This is to assist the expected disguised unemployment of 1.2 million persons in rural areas plus those unemployed migrant workers in urban areas who have returned to rural areas, representing 0.3 million persons in 1998. *Medium-term measures* include 1) Foreign guest labour will be asked to repatriate with the cooperation with neighbouring countries, 2) Thai labour should be promoted to work abroad, 3) Promotion of employment in industrial sector with various measures to assist with cost saving, marketing and promotion, recruitment of laid-off persons, skill development for new technology, investment opportunity in agriculture,

and promotion of self-employed business. *A long-term measure* to reduce unemployment, proposed by the King, involves helping laid off and unemployed migrant workers in the modern sectors in urban areas to return to their rural homes, and then to assist them in achieving self-reliance through a balanced use of land and water resources on their own land.

Workforce Characteristics

The base figures for historical growth of the labour force are shown in Table 2. The working age population grew more rapidly than the labour force in the 1971-77 period; thereafter, driven by increasing labour force participation of women and demographic change, the relationship between labour force and population growth has reversed. Low rates of open unemployment throughout the period reflect the high absorptive capacity in an expanding agricultural sector in the early period, and growth in industry and services after 1980.

(persons aged 11 and over)							
	1971	1977	1984	1996 ^{1/}	1971-77	1977-84	1985-96
	----- million -----				----- annual growth (%) -----		
Population	22.98	29.02	36.31	45.87	3.97	3.25	1.97
Labour Force	16.65	20.48	26.27	32.75	3.50	3.62	1.85
Employed	16.62	20.31	25.66	32.23	3.40	3.40	1.92
Unemployed	0.04	0.17	0.61	0.52	27.27	20.02	-1.32
Participation Rates	----- percent -----						
Male	79	77	77	79			
Female	66	64	69	64			
Total	73	71	72	72			
Open Unemployment							
Rates	na	1.26	0.96	1.08			

^{1/} persons aged 13 and over.

Source: The National Statistical Office - Labour Force Survey, 1971, 1977, 1984 and 1996.

Table 2 Population of Working Age, Labour Force & Employment, 1971-1996 Peak Employment Season (August)

Increases in labour force participation rates, in addition to the rapid growth in population have contributed to the high labour force growth rates. Although labour force participation rates fluctuate from year to year, the general trend has been for them to increase (Table 2). The aggregate participation rate averaged 73 percent from 1971-77, 71 percent from 1978-84, and 72 percent from 1985-96. The male participation rates increased only marginally over these periods. Female rates have fluctuated between 64 and 69 per cent from level that was already high in 1971.

Another interesting aspect of the Thai labour market is that there are large differences between participation rates in the wet season (July to August) and the dry season (January-March). In the wet season when the labour demand is at a peak in the agricultural sector, farm households are so busy that they have to utilize all family members - young and old, male and female - in order to finish their work in time. After the harvest season, most secondary workers pull out of the labour force, resulting in a decline in the participation rate in the rural area. The inter-season differences in the labour force participation rates in the non-municipal areas are 20%-26% for females and 12-19% for males.

Changes in the sectoral composition of employment are shown in Table 3. The increasing share of industry, commerce and services, and the decreasing share of agriculture are apparent. Agricultural employment has declined rapidly, from 82.0 percent in 1960 to 66.7 percent of the total labour force in 1986 and 50.0 percent in 1996.

Sector	1960	1970	1986	1996
Agriculture	82.0	78.3	66.7	50.0
Mining	0.2	0.5	0.2	0.2
Manufacturing	3.4	4.1	7.8	13.4
Construction	0.5	1.1	2.2	6.7
Utilities	0.1	0.2	0.5	0.4
Transport	5.6	5.2	2.3	3.0
Commerce	1.2	1.6	10.1	13.5
Services	6.5	7.9	10.3	12.8
Total	100.0	100.0	100.0	100.0

Source: 1960, 1970 from the National Statistics Office, Population Census; 1986, 1996 from Labour Force Survey.

Table 3 Sectoral Distribution of Employed Labour Force (percentage)

The productivity of the labour force partially depends upon the educational attainment of the workers. Table 4 shows that the quality of the labour force has increased during the 1971-96 period. The gains have been strongest with respect to college and secondary education, respectively. This is because of the rapid expansion of the open university and vocational schools enrolment.

Education	1971	1984	1996
Primary Education and below	95.0	87.0	76.8
Secondary Education			
Academic	3.4	7.1	13.1
Vocational	1.0	4.2	4.7
College	0.5	1.4	5.4
Others	0.1	0.3	-
Total (in thousands)	16,654	26,743	32,750

Source: National Statistical Office, Labor Force Survey, 1971, 1984 and 1996

**Table 4 Educational Attainment of Labour Force
1971, 1984 and 1996 (percentage)**

There are reasons to believe that the overall labour market tends to function quite efficiently and that wages are subject to demand and supply forces. First, there are very few government regulations in the labour market. Although there is minimum wage legislation, the compliance rate has been less than 30% during the 1990s. Small-and medium-scale enterprises, which employ most workers, can easily avoid the law because of an inefficiency of enforcement. Secondly, although there may be barriers to entering the formal employment sectors, which are comprised of government sector and large private companies, the employment share of these formal sectors is only 21.5% of total urban employment; thus it is still a relatively small market, when compared to the informal and self-employed labour markets. Thirdly, there is evidence that during the 1984-85 period when most agricultural product prices were at a record low, rural money wage rates declined slightly; as a result the rural real wage rate declined. Finally, the tabulated results from the additional questions in Round 2 of the 1984 Labour Force Survey show that those workers who face drastic declines in the demand for their seasonal labour during the dry season are quite active and successful in seeking work. About 18% of the seasonally inactive persons moved to work elsewhere during the dry season and another 18% looked for jobs outside their village but did not move.

Government Policies

The present Eighth National Economic and Social Development Plan (1997-2001) seeks to develop systems of social security in which all Thai citizens are guaranteed access to basic

social services, social and labour welfare, safety in life and property, safety in the workplace, and protection of civil rights. These systems are being developed even though the country has been faced with financial and economic crisis since 1997. The Plan proposes the following guidelines to improve efficiency in employment :

Acceleration and Extension of Labour Protection

- (1) Revise laws and regulations relating to labour protection in order to ensure greater coverage, and give due consideration to extending protection in terms of payments, conditions of employment, working conditions, benefits, welfare, workplace safety and social insurance to the informal sector workforce, for example farm employees, sub-contractors and home-based workers.
- (2) Develop an efficient inspection system to support enforcement of labour laws, and expand the roles of employers' and workers' organizations in identifying and reporting violations of labour laws with regard to minimum wages, welfare and occupational health and safety.
- (3) Take urgent steps to eliminate the illegal exploitation of child labour through stricter law enforcement and harsher penalties.
- (4) Revise the criteria for determining minimum wages to reflect existing conditions and to take into account the importance of justice for all parties concerned. Take follow-up action to ensure minimum wage regulations are being effectively enforced, with special focus on medium and small scale enterprises without labour unions. Impose harsh penalties on employers who violate the laws, and help workers currently being paid below minimum wage to obtain the correct rate from their employers.
- (5) Improve the system and mechanisms involved in setting minimum wage levels. Encourage employers to formulate pay structures which allow for annual wage adjustments to reflect employees' skills and experience, with no discrimination based on age or gender.
- (6) Conduct research in order to determine guidelines for pay scales and structures, with the possibility of also setting minimum wages for the agricultural sector and by occupation within the industrial sector.
- (7) Set suitable and fair standards for the services of agencies offering to find employment for Thais working overseas, which are to cover expenses and service charges; minimize or prevent deception by such employment agencies and the smuggling of Thai workers to foreign countries; and protect the rights of all Thais working overseas.
- (8) Advocate the establishment, with public sector support, of organizations or corporate bodies for home-based workers, so that these workers can be registered to ensure equal access to labour protection.
- (9) Consider assigning a public sector agency to oversee the empowerment and protection of home-based workers, and of establishing networks to coordinate between the agencies involved in the process.

Improvement of Workplace Safety and Working Environments

- (1) Revise laws and regulations relating to workplace safety, environmental hygiene and occupational health, to reflect technological change; eliminate inconsistency and overlap in related legislation; and improve the systems and mechanisms for workplace health and safety inspection, to improve efficiency and to ensure that violators are strictly penalized.

- (2) Revise the laws governing labour protection, particularly workplace safety, occupational hygiene and working environments, extending coverage to the agricultural and informal sectors.
- (3) Educate management, employees and new entrants to the labour force on how to prevent accidents and sickness associated with the use of modern technology, and promote strict conformity with employment regulations.
- (4) Formulate guidelines on the roles and obligations of employers, employees and relevant agencies with regard to occupational health and safety, leading to effective collaboration of all concerned. Give employers incentives to participate in the prevention of serious industrial accidents and in promoting workplace health and safety.
- (5) Encourage employees to cooperate with public sector agencies in examining health and safety systems in manufacturing plants at all stages of production.

Development of Labour Relations

- (1) Revise existing laws relating to labour relations in order to make them more responsive to socio-economic conditions, for example by creating a trilateral consultation system incorporating employers, employees and neutral arbiters, and by expanding the roles of employers' and employees' organizations in resolving labour disputes.
- (2) Advocate the establishment of bilateral and trilateral systems in labour relations, emphasizing consultation and collaboration involving employers and employees at company level.
- (3) Empower employers' and employees' organizations, giving them greater solidarity and unity, so that they can better represent their respective sectors in negotiating for the resolution of labour disputes at company level.
- (4) Educate employers and employees to give them a better knowledge and understanding of labour relations, with regard to what types of action are sanctioned by law and on methods for the peaceful resolution of labour disputes.
- (5) Encourage employers to adjust their business organizations so that they better reflect new technologies, labour market conditions and attitudes of new entrants to the labour force, for example through the creation of employees' consultative and participatory systems in the form of employees' committees, the formulation of clearly defined pay scales; and the enhancement of employees' skills and capabilities.
- (6) Encourage labour unions and employees' federations and councils to take on roles, responsibilities and activities that emphasize protection of members' benefits in parallel with participation in social development, for example through promoting education and training, educating employees about their rights and duties, and campaigning for occupational health and safety.
- (7) Encourage employers to provide training for those employees expected to become organizational chiefs in industrial management and ways of developing workers' quality of life, in order to alleviate conflicts between executives and workers.

Development of Labour Skills

For the development of labour skills, the Plan aims to build the capacity of the labour force to ensure their efficient entry into, and promotion within the production process in the following ways:

- (1) Elevate the educational attainment requirement for workers in all enterprises to at least junior secondary level; advocate the use of all types of media in building the capacity of

labour force in remote rural areas.

- (2) Encourage the development of an efficient labour market information system to be used for identifying needs in manpower production responding to market demand.
- (3) Develop approaches to training aimed at increasing productivity of the labour force, particularly those workers who intend to engage in agricultural pursuits and also those who want to shift from agriculture to a non-agricultural livelihood.
- (4) Promote training in management skills and information technology for entrepreneurs, community business leaders, managers of cooperatives and for women's groups; increase the management and information skills of self-employed workers, and provide opportunities for subcontracted work to those who cannot enter or re-enter the formal employment sector.
- (5) Promote adequate preparation of trainers in various priority fields, aimed at improving their teaching ability and providing requisite experience.
- (6) Improve the quality and broaden the application of standard tests of labour skills, assuring the quality of these tests (improving them to meet international norms), assuring their acceptability to the private sector and to other agencies concerned.
- (7) Strengthen the role of the private sector and of people's organization in educational management and skill training at all levels. This will be made possible through a revision of the government's role and the way policy is applied in support of these partnerships; the credit fund established for setting up private educational and training institutes will be made more widely known and applied more generally; laws, regulations and standard procedures will be made more flexible, to be of greater relevance and acceptability to the private sector.

During 1997, the first year of the Eighth Plan, many of the above guidelines have been implemented. The key result has been the adoption of the Labour Protection Law, revised in 1997 and to come into force on 19 August 1998. Major changes to existing Labour Protection Law are highlighted in the following section on Employment Law.

Employment Law

Sources of Employment Law

In Thailand a major part of employment law is found in the Labour Protection Law which came into force under Announcement of the National Executive Council No. 103 after its publication in the Government Gazette in March 1972. The Thai Government announced that labour protection for employees and the prescription of relations between employers and employees are important to the progress of the country. Thus they should be improved and encouraged so as to be in accordance with the economic, social and political development of the country in order that the use of labour will be more appropriate and the settlement of disputes between employers and employees will be harmonious and fair to all parties. Furthermore, provision for a workers' compensation fund has been made as a guarantee that employees may receive compensation in case of injuries or illness or death resulting from the performance of their work.

Under the Labour Protection Law, the Ministry of Labour and Social Welfare has the power to prescribe labour protection as follows :

- (1) employment of labour in general by fixing normal working hours, overtime, rest periods, weekly holidays, traditional holidays, annual vacation and sick-leave of employees;

- (2) employment of women by fixing working hours, types of work which are prohibited to women, age limit of women to be employed by employers and maternity leave;
- (3) employment of children by fixing working hours, types of work which are prohibited to children, age limit of children to be employed by employers;
- (4) minimum wage rates, payment of wages, overtime and holidays pay and leave of employees, and the establishment of a minimum wage committee to consider and prescribe the minimum wage rate;
- (5) severance pay for employees in case of termination of employment;
- (6) liability of employers for payment of compensation in case where employees suffer from injuries or sickness, or die as the result of their work or from diseases resulting from the nature or conditions of the work or of such diseases arising from work.
- (7) welfare in connection with the health, sanitation and safety of employees;
- (8) keeping of registers of employees, documents in connection with the calculation of wages, overtime and holidays pay and work regulations by the employer.

Individual Contracts of Employment

Hours of Work

According to the Labour Protection Law, an employer shall specify the normal working hours for employees as follows:

- (1) not more than forty-eight hours per week in industrial undertakings;
- (2) not more than eight hours per day in transport undertakings;
- (3) not more than forty-two hours per week in undertakings which the Ministry of Labour and Social Welfare may prescribe to be harmful to health or may cause physical harm to an employee;
- (4) not more than fifty-four hours per week in commercial undertakings or in undertakings other than those under (1), (2) and (3)

An employer shall arrange for employees to have not less than one day off per week, with an interval of not more than six days; the employer and employees may agree in advance to fix any day as the day off. In cases where the weekly day off is not fixed, the employer shall announce the weekly day off to employees not less than three days in advance and inform the labour inspector in writing within seven days from the date of the notice.

Annual Leave and Traditional Holidays

An employer shall provide for traditional holidays - such as Thai New Year Day on 13-15 April, Buddhist Days, King's and Queen's Birthdays - totalling not less than thirteen days per year including Labour Day. An employee who has worked for an uninterrupted period of one year is entitled to an annual vacation of not less than six working days which the employer shall specify in advance. The employer and employees may agree in advance to accumulate and postpone the annual vacation which will be added to that in another year.

Sick Leave

An employee is entitled to sick leave with pay of not more than thirty working days in a year. For each sick leave of three days or more, the employer may require the employee to produce a certificate of from an accredited medical practitioner. If the employee is unable to see a medical practitioner, he/she may be requested to give an explanation to the employer.

Women and Work

An employer shall not employ a woman to do any of the following work: (1) cleaning of machinery or engines which are in operation; (2) work which can only be done on scaffolding of ten metres or higher; (3) using circular saws; (4) manufacturing or transporting explosives or flammable materials; (5) underground mining; and (6) other work as the Ministry of Labour and Social Welfare may prescribe. An employer shall not employ a woman to lift, carry on the shoulder, carry on the head, pull or push weights in excess of the following rates: (1) thirty kilograms for work on level ground; (2) twenty-five kilograms for work which requires ascending stairs or moving to an elevated place; (3) six hundred kilograms for pulling or pushing items on wheels with rails; and (4) three hundred kilograms for pulling items on wheels without rails.

An employer shall not employ an unmarried woman under eighteen years of age in a night club, dance hall, dancing school, public house, massage parlour, hotel or other places as the Ministry of Labour and Social Welfare may prescribe.

An employer shall not require an employed woman to work between midnight and 6 o'clock in the morning unless the work is one of continuous nature or it is shift work or the nature and condition thereof require that it be done during such period.

Maternity Leave

A pregnant employee is entitled to ninety days maternity leave, before and after delivery, for each pregnancy. The employer shall pay wages equivalent to wages paid on working days to an employed woman who takes maternity leave for the period of such leave but for not more than forty-five days. The leave shall include holidays during the period of leave. If an employee who is pregnant has a certificate issued by an accredited medical practitioner certifying that she is unable to work in the previous position, she shall be entitled to request the employer to change her position temporarily before or after giving birth, and the employer shall consider the change of position for such employee as deemed appropriate.

Children and Work

An employer shall not employ a child under thirteen years of age as an employee, and shall only employ children who are less than fifteen years of age for work as prescribed by the Ministry of Labour and Social Welfare, and such work must not be harmful to the health and physical development of the child. In the employment of a child, the child must present the employer with an official birth certificate. In the event that the child is unable to indicate the date of birth, the parents or guardian are to certify the correct date of birth. The employer shall keep the evidence available for inspection by the labour inspector during working hours. The employer of a child shall provide a report of child employment during the year to the labour Inspectorate according to the form prescribed by the Ministry of Labour and Social Welfare. This report is to be submitted during the month of January of the following year. An employer shall specify the daily normal working hours for an employee, from thirteen to seventeen years of age inclusive, to be no more than eight hours per day.

Work Regulations

According to the Labour Protection Law, 1972 and Labour Relations Act, 1975 an employer who regularly employs ten or more persons shall provide regulations in respect of work in Thai language. The regulations must contain at least the following:

- (1) working days, normal working hours and rest period;
- (2) holidays and rules governing the taking of holidays;
- (3) rules governing overtime and holiday works;
- (4) day and place where wages, overtime and holiday pay are to be made;

- (5) leave and rules governing the taking of leave;
- (6) discipline and disciplinary measures;
- (7) submission of complaint;
- (8) termination of employment.

The employer shall deliver a copy of the regulation to the Ministry of Labour and Social Welfare within seven days from the date that ten or more persons are employed. When there is an amendment of the workplace regulations, the employer shall notify the Ministry of Labour and Social Welfare of such amendment within seven days from the date the amendment is posted.

Employee Register

An employer who regularly employs ten or more persons shall maintain a register of employees and documents concerning wage calculation in Thai and shall keep the same at the place of work ready for inspection by the labour inspector. The register of employees must contain at least the following: (1) name and surname; (2) sex; (3) nationality; (4) date of birth or age; (5) present address; (6) date of employment; (7) rate of wages and other benefits agreed to be given to the employees by the employer; and (8) date of termination of employment. The employer shall keep the register of employees for not less than two years from the date of the termination of employment of each employee. When there is a change in the particulars contained in the register of employees, the employer shall make an amendment in the register of employees within fourteen days from the date of such change.

Documents relating to the calculation of wages, overtime and holiday pay must contain at least the following: (1) working days and working hours; (2) result of work done by employee who receives wages according to the piece rate; and (3) wages, overtime and holiday pay.

New Changes

As indicated in the previous section on the Labour Market, a newly revised Labour Protection Law came into force in August 1998. Under this new Law, employees will receive greater protection in a number of respects; for example:

- extension of the minimum employment age for children is raised from 13 to 15 year of age;
- a maximum of 8 hours per normal working day, and 48 hours per normal working week;
- pregnant employees cannot be laid off, not allowed to work from 10.00pm to 06.00am;
- establishment of a Tripartite National Committee on workplace safety, environmental hygiene and occupational health;
- setting new rates of severance pay contingent on the number of years of continuous service; namely 240 days' pay (calculated using the employee's last normal daily wage) for 6 years' service but less than 10 years' service, and 300 days' pay for more than 10 years' service calculated using the above formula.

Collective Employment Law

The main provisions of collective employment law are discussed in the section on Employee Relations.

Recruitment and Selection

Methods of Recruitment and Selection

From an employer Survey conducted by Kitti Limskul from the Faculty of Economics, Chulalongkorn University in 1997, it was found that unskilled workers are primarily recruited through notices at the factory gate and referrals by their friends and relatives. In contrast, vocational and university graduates are recruited through newspaper advertisements and relationships between employers and educational institutions. In industry, more than half of the firms recruit through linkages with schools. Job search methods employed by potential employees fit well with the recruitment methods used by enterprises, indicating a generally good shared understanding of how the labour market works. Eighty percent of workers with primary and secondary education report referrals by friends and relatives, factory gate notices, and joint application with friends as the main method of job search. These percentages fall to 67% and 50% for vocational certificate and diploma holders, who rely more heavily on school placement and other formal search methods.

Larger firms with internal labour markets are more likely to fill management positions from within, reflecting better established career ladders. Conversely, small and medium size firms, and those with less-well developed career structures are more likely to recruit their managers from other firms.

Shortages and Surpluses

As Thailand continues to experience an accelerated movement of labour out of agriculture and into industrial and service employment, even the most conservative projections of GDP estimate growth in the range of 3-4 percent. Shortages of skilled manpower are already evident and are expected to extend down into the middle level in the next few years, namely to those with secondary education.

An especially acute shortage of engineers is expected to continue on well into the future, even though the supply targets of science and technology graduates have been revised upwards significantly. Shortages are currently experienced at the post-graduate level in science and technology areas. This will pose a difficult problem because such manpower is considered the key to meet the changing composition of demand in the modern industries and services.

However, at levels below bachelor degree (vocational), a study on Demand for Skilled Workers undertaken by the Thailand Development Research Institute (TDRI) in 1997 found that while there are shortages of specific skill types, there is generally an excess supply of technical vocational school-leavers. This excess may reflect quality problems at this level.

While a shortage of science and technology manpower at the higher levels is already a current problem, another serious problem will be faced with the expected imbalance between supply and demand. It is expected that in the next few years there will be a very strong demand for labour at the middle level, namely for those with secondary education. This will be the result of two factors: first, the demand for workers with more than primary education is expanding very rapidly in modern industries and services. Second, the supply of workers with secondary education is expected to increase more slowly in the future.

Recruitment of Foreign Workers

One group of foreign workers in Thailand is the highly-skilled, professional group including managers, technicians and engineers, who work in the manufacturing and service sectors as part of foreign companies doing business in Thailand or for larger Thai corporations (those with more than 200 employees) who need specific skills. This group has been helpful in filling gaps due to the technical manpower shortage problem discussed in the last subsection. As

discussed earlier, even with the strategy to increase the supply of technical manpower, gaps are expected to persist. Foreign professionals and technicians will continue to fill such gaps in the short-medium term.

To facilitate the inflow of specific manpower to meet the requirement of the country's industrialization program, Thailand has established procedures to consider requests for entry from expatriates to work in promoted investment firms. Investment promotion law administered by the Board of Investment (BOI) gives foreign investors the same rights and privileges as Thai investors. Foreign companies promoted by the BOI are also entitled to various incentives, including permission to bring in foreign nationals to undertake investment feasibility studies and bring in foreign technicians and experts to work in promoted firms, as clearly stipulated in sections 24, 25 and 26 of the Investment Promotion Act BE 2520 (1977). Generally, aliens in Thailand also have the same legal rights as Thais, unless a right is particularly reserved for nationals, or is denied to aliens under specific laws, such as the Nationality Act, 1956, The Land Code and the Alien Employment Act, 1978.

As a developing country, Thailand has specific policies and legislation concerning the immigration of human resources, so as to protect the interests of its own citizens. As it stands, there are very few occupations and provisions prohibited to aliens under the Alien Business Law, 1979 and 1993. The list of restricted occupations are mainly confined to Thai handicrafts and some traditional professions related to the arts and culture. Exceptions are also granted to aliens who have promotional privileges granted by the BOI to enable them to engage in business for a fixed period of time, subject to certain conditions.

Training and Development

Overview

In the early stages of development during the 1960s and 1970s, vocational education and training were seen primarily as a means to prepare individuals to enter the labour market as craftsmen/women, skilled workers and technicians in agriculture, commerce and industry. A supply of technically skilled workers was thought to be a necessary pre-condition for modern sector development. The principal institutional forms of delivery were the vocational high school, the labour training center and the post-secondary technical education institution. These institutions were financed and managed by public agencies, most often the Ministries of Education and Labour.

In an expanding Thai economy marked by rapid growth in modern sector manufacturing employment, the output of these institutions was readily employed, and vocational education considered to be reasonably efficient, despite high costs. As the economy developed further, however, international competition and changing patterns of comparative advantage have begun to change the patterns of demand for skills. The pace of change in the technology of products and production sharply increased the need for continuous upgrading of the existing workforce. The demand for higher technical and engineering skills has been growing sharply. Employers have become more concerned with the trainability of their workforces, and at the same time better able and more willing to invest in training.

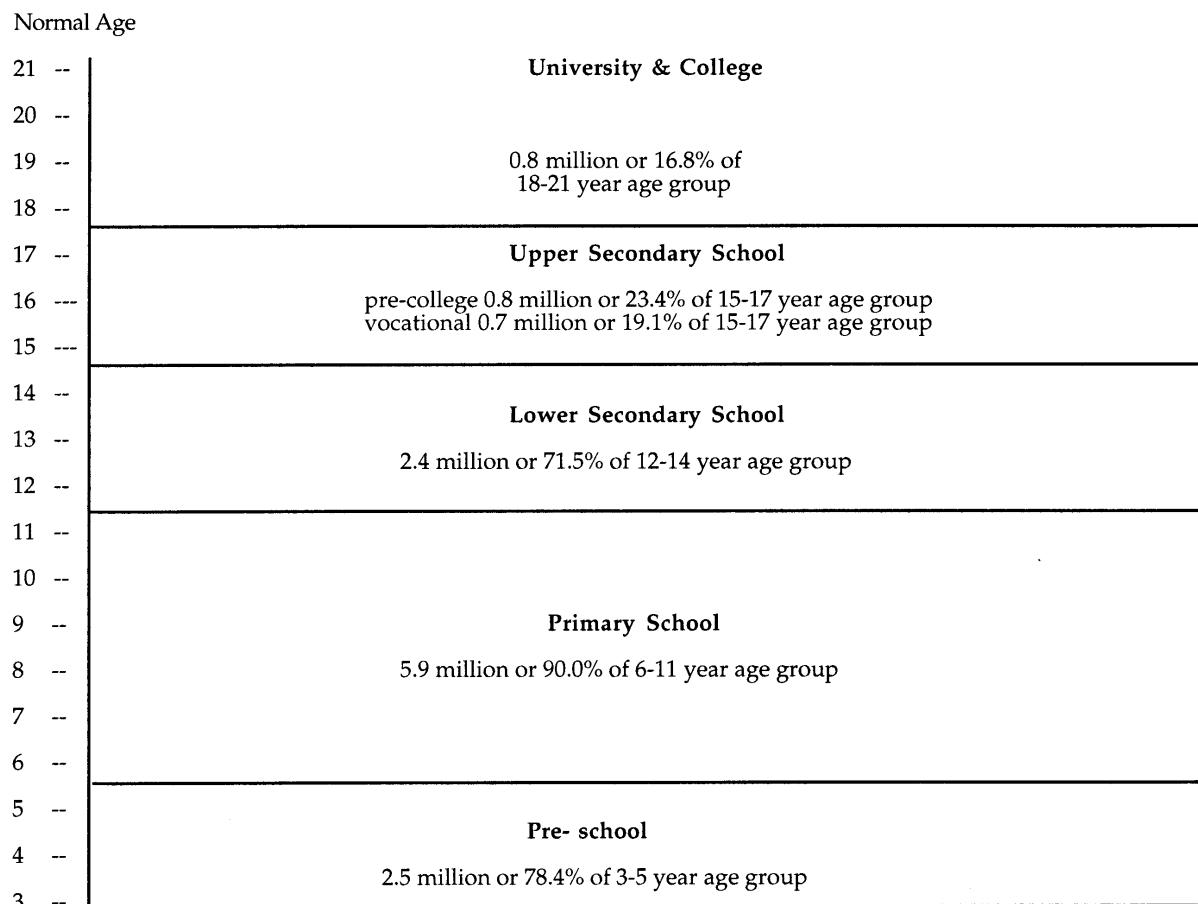
In such circumstances, public training institutions have faced the need to change what they do, and how they do it. The high costs of constant reinvestment in equipment and facilities to keep pace with changing technologies has become a significant issue in public financing. As employer needs change, the size and skill focus of the public Vocational Education and Training

(VET) system also needs to be changed, often on a very short-term basis. The difficulties of paying salaries adequate to attract and hold skilled instructors in the face of competition from industry, a feature of VET systems from their earliest beginnings, have become more acute as the increasing sophistication of skills is matched by even more demand in the private sector.

Education Systems

General Education System

The education system in Thailand is composed of six years of primary school, followed by three-year lower secondary, three-year upper secondary (which can be either vocational or pre-college) and higher education. The first six years of primary education is compulsory. The primary, secondary, and some of the higher education institutions are under the responsibility of the Ministry of Education, whereas most of the higher education institutions are under the responsibility of the Ministry of University Affairs. Non-formal education also comes under the responsibility of the Ministry of Education. Figure 2 shows the organization of the formal education system in Thailand and the number of students in each educational level in 1997.



Note: The number of non-formal education students was 5.8 million in 1997.

Figure 2 Formal Educational Levels and Enrolments (1997)

The Thai government has realized the importance of education to the country's economic and social development, as evidenced in the budget allocation where the Ministry of Education has, for many years, been ranked in the top three. However, a major problem is the disparity of education standards between urban and rural areas, where the latter has suffered from lack of qualified teachers. Educational services at all levels have also been unevenly distributed to the population of each age group. In 1997, at national level, 78.4% of the 3-5 year age group had access to pre-school education. Among those who completed the primary school, 90% enrolled in the lower secondary level. Access to secondary education largely varies according to children's socio-economic background and geographic location.

As indicated earlier, Thailand is guided by a 5-year National Economic and Social Development Plan, developed by the central planning body, the National Economic and Social Development Board. The essence of the current and Eighth Plan centers around human resources development; the other two objectives, economic development and rural development, will evolve around the strength of human resource. To this end, the educational development policies during the Eighth Plan has been established with the following objectives:

- 1 To expand an extensive and equal provision of basic education for all people; and to extend basic education to secondary school level.
- 2 To improve the quality of education and its relevance to the needs of individuals, communities and the nation, and to enable learners to achieve their full potential for self-development.
- 3 To enhance contribution of education to strengthen national potential for self-reliance, and to national economic stability and the role of Thailand in the global economy.

Since 1997, the Thai Government's education policy has sought to promote and support 12 years' continuous education and to expand the availability of both formal and vocational education. The government has also encouraged its population, particularly parents, to participate in educational management and has upgraded the quality of private schools, improved standards of vocational training, encouraged the establishment of private universities and expanded opportunities for tertiary education to the rural areas by establishing a foundation to offer special personal loans for education. In addition, the expansion of distance learning throughout the country by the establishment of information technology campuses in public universities has served as a mechanism in organizing and improving teaching and learning systems. There are so far 12 information technology campuses situated in different provinces and the number is estimated to rise up to 30 campuses during the implementation period of the Eighth National Economic and Social Development Plan (1997-2001).

Aside from reforming the education system, Thailand has arranged many models of teaching and learning to assist people in improving their knowledge, skills and capacity. The first model is the Dual Vocational Training (DVT) that has been adjusted to suit the present environment. The DVT is designed to serve skills learning by providing training in real workplaces in cooperation with educational institutions. The result has been highly successful. In 1996 alone there were 23,682 trainees in 2,263 small and medium enterprises divided into 5 categories of skills, including industrial and merchandising skills such as retail trading and secretarial training; home economics skills such as hotel management, textile industry and child care; fine and applied arts skills such as jewellery design, silk screen printing; agricultural skills such as agri-mechanics, agri-business and agri-industry. This form of education is beneficial to the Thai workforce in the long run as well as consistent with the government's fiscal belt-tightening plan since all expenses will be shared between the government and private sectors. Not only do students gain work experience but technology transfer also takes place.

The second, more conventional, model of vocational training is based on the formal educational system, but it also requires students to undertake at least 350 hours on-the-job training. The third model is to use non-formal education to provide workers with the opportunity to accumulate their knowledge, skills and experience which are conducive to their working skills and development of their professions. The last model allows for calculating skill equivalency in credits and the transfer of those credits into the formal education system for experienced workers who wish to further their studies. In this way, educational institutions will be able to take into account their job experience and provide them with educational credits based on this experience.

Vocational Education and Training System

Formal Vocational Education and Training

Vocational education and training (VET) in Thailand is provided through both formal and nonformal institutional arrangements. Formal vocational education and training is conducted at three levels: secondary, leading to a certificate equivalent to that given graduates of general secondary schools; post-secondary (generally for two years), leading to a diploma; and university level, leading to a degree. Entrance into secondary vocational education requires completion of lower secondary school. Entry to successive levels of the vocational system requires completion of the next lower course. Admission at all levels is through competitive entrance examinations developed and administered by each individual institution. A majority of the formal institutions, both public and private, offer programs at more than one level; for example, for both the certificate and the diploma, or in the case of some of the campuses of the Rajabhat Institute, at the certificate, diploma and degree levels.

The organization of formal vocational education and training in Thailand can be summarised by the following diagram:

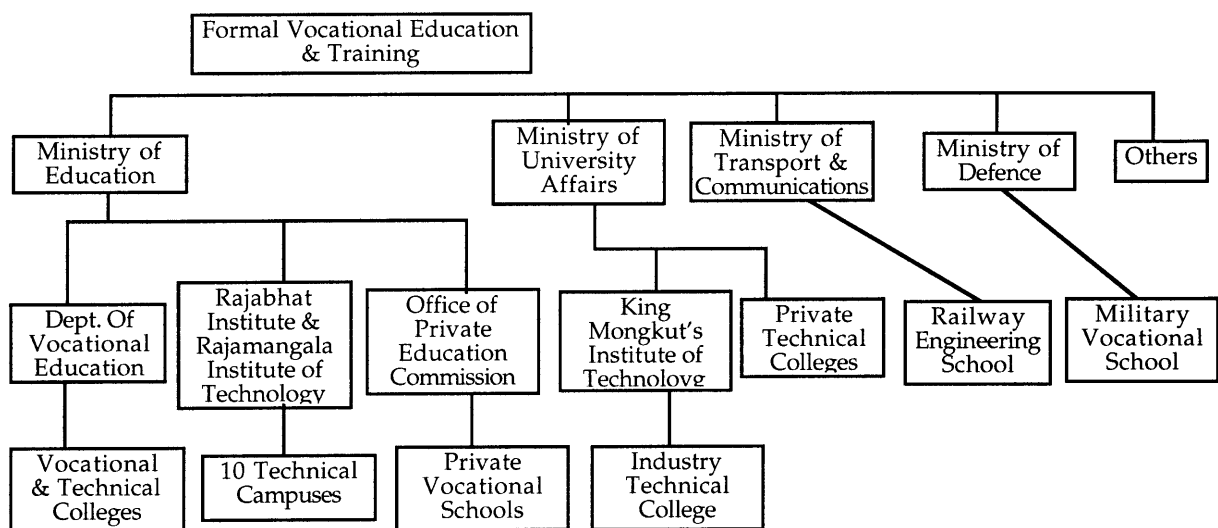


Figure 3 Formal Vocational Education and Training in Thailand

The VET system is administered by several ministries, some of which offer both formal and nonformal training. The Department of Vocational Education (DOVE), under the Ministry of Education, is the largest. DOVE administers secondary (certificate) and post-secondary (diploma) level programs in three kinds of technical vocational training colleges: technical

(industrial trades); vocational (commerce, business administration, home economics and arts and crafts); and agricultural (general agriculture). These institutions enrol about half of the total number of students enrolled in vocational schools at the secondary level.

The Rajabhat Institutes (RIs) and Rajamangala Institutes of Technology (RITs) operate as Departments of the Ministry of Education. They administer eight faculties in different disciplines, which in turn offer bachelor degree courses at different campuses located throughout the Kingdom. A separate group of teachers offers certificate and diploma courses in varying combinations on the same campuses. The four-year, bachelor degree programs have been in place at the above institutes since 1981 in response to needs for higher-level technical manpower such as engineering science and technology. This program is equivalent to a university degree; however, credits earned in RIs, RITs or DOVE diploma programs are not accepted in universities, restricting vocational students to the degree programs of the RIs, RITs and the King Mongkut's Institute of Technology (KMIT), or to the Open University, which accepts diploma credits in some programs.

RIs, RITs and DOVE use different (though similar) curricula to prepare students for the same certificate and diploma. DOVE, RIs and RITs respectively offer a two-year and a three-year post-secondary technical diploma for graduates of academic secondary schools.

The King Mongkut's Institute of Technology (KMIT) provides a third institutional stream at the North Bangkok campus for certificate, diploma and degree study, although only in industrial technology. The other two independent KMIT campuses offer diploma and degree programs only. Long assisted by the German Government, KMIT operates through three independent campuses, and is considered to be the "flagship" vocational and technical education institution in term of high quality graduates. RIs, RITs and KMIT all offer technical teacher training programs. These include one year pedagogical courses after the technical diploma, and four year courses leading to a bachelor's degree in industrial education. KMIT also offers a two-year Master of Science in technical education to prepare administrators.

Both DOVE and KMIT conduct the "dual" training system. While the approaches vary in detail, they have in common a combination of on-the-job training of employed workers with one- or two-day block release periods per week for theoretical classroom training. KMIT is working in collaboration with a large auto assembler; the DOVE projects serve a number of employers in a provincial industrial area.

Private vocational schools and colleges provide an important flow of graduates at both diploma and certificate levels in agricultural, commercial and industrial occupations. Private schools must register with the government, which sets limits on the tuition fees they can charge. Tuition fee ceilings have tended to make it difficult for private schools to offer industrial subjects, although some do so - undoubtedly cross-subsidizing from other more profitable fields of study. Private schools may follow either the DOVE or RIs and RITs curriculum. Private schools enrolled 43% of all students in the formal vocational education at the certificate level, and 45% at the diploma level in 1996.

Nonformal Vocational Education and Training

Nonformal vocational education and training is offered primarily by the Ministry of Education through DOVE and the Department of Non-formal Education (DNFE), and by the Ministry of Labour and Social Welfare through the National Institute of Skill Development and its six regional institutes (see Figure 4). Training is generally targeted at more disadvantaged workers with low educational backgrounds and those living in the remote rural areas, and lasts anywhere from 10 hours to 15 months of fulltime study.

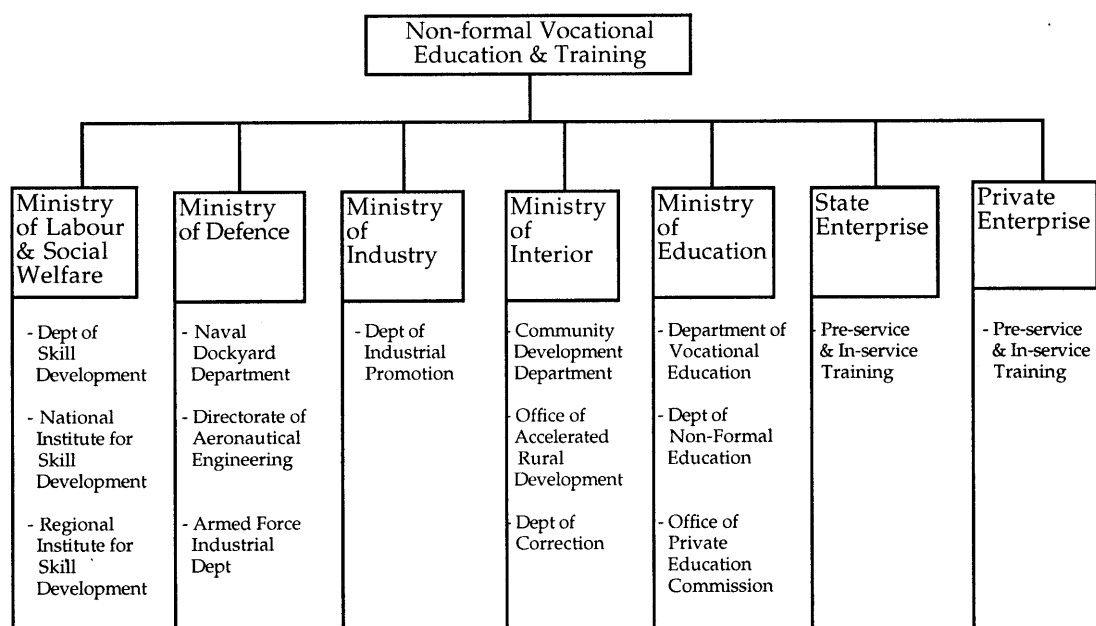


Figure 4 Non-formal Vocational Education and Training in Thailand

DOVE provides nonformal courses of varying duration in polytechnic schools and area vocational centers (AVCs). Training is given in industrial trades, graphic arts, crafts and business skills. Polytechnics are mostly located in urban areas. The AVCs also provide workshop-based practical courses for students in comprehensive secondary schools. Mobile training units are attached to each agricultural college to provide extension services to rural communities.

DNFE is responsible for providing educational services and opportunities to people aged fourteen and above who are not in school and also to those with only a primary education. It plays an important role in rural development by offering many kinds of literacy and skill development programs both classroom and non-classroom. With a focus on rural learners, the DNFE operates a network of five regional centers, 75 provincial centers and 1 Border Area center. Vocational courses of 10-300 hours are organized by the staff of these centers in industrial arts, home economics, business skills, and agriculture. The facilities of existing schools are utilized. Similar courses are delivered through mobile training units. Courses are initiated on the basis of training needs surveys, or in response to requests from a minimum of fifteen people. Full time staff are augmented by temporary instructors hired locally. Additional short courses, called "interest groups," are offered in a wide range of skill areas in response to requests.

With technical assistance from the United Nations Development Programme and the International Labour Organization (UNDP/ILO), the Department of Skill Development under the Ministry of Labour and Social Welfare has been promoting and developing vocational training since 1968. The National Institute for Skill Development (NISD) was established to formulate and implement policies, plans, standards, and skills testing for youth entering the labour force as well as to upgrade skills of those who are already employed. Seven Regional Institutes for Skill Development have been established in various regions throughout the country: two each in the Northeast and the North, one each in the West, the East and the South. The main objective is to support the development of decentralized industries in the provinces. The National Institute also supports skill training for the industrial sector in the greater Bangkok metropolitan area.

The government's promotion and development of small-scale industries is coordinated through Department of Industrial Promotion in the Ministry of Industry, which is responsible for providing assistance ranging from light engineering training to loans to small-scale industries. Training programs are offered through the Industrial Service Institutes.

Aside from differences among the formal and informal institutions in the design of their training programs to suit local needs, the overall training activities of the above mentioned institutes follow guidelines issued by the Ministry of Labour and Social Welfare and have the same objectives.

Industry Training Systems

In the early 1980s, as Thai industry began to expand, enterprises in the formal sector were already providing a great deal of training during employment. This training enabled individuals without pre-employment vocational training to acquire the skills needed for some technical occupations. In other occupations, notably electronics and drafting, the proportion of vocational graduates employed was more than 80 percent, indicating that employers found pre-employment training in these fields of value. In-service training has had a positive impact on the earnings of primary and vocational graduates. There is evidence to suggest that training after employment for vocational graduates in construction was leading to supervisory positions.

By the early 1990s, Thai enterprises in the formal sector continued to provide a great deal of training during employment. Large firms competing in the export sector rely on low-cost, low-skilled workers for comparative advantage. High turnover rates pose few problems where labour is abundant and recruitment and training costs low. Medium size firms in protected domestic industries use a higher proportion of skilled workers, and invest more through training in reducing labour turnover. This is especially true in the electronics and automobile industries.

Management Development

Since 1980, the Department of Industrial Promotion (DIP), Ministry of Industry has promoted entrepreneurship by training through the Entrepreneurship Development Training Programme (EDP), the EDP-CEFE (Competency-based Economies through Formation of Enterprise) Training with the assistance of the German Government, and the EDP for Cottage Industries. From 1980 to 1997, the EDP has been conducted in 22 provinces of the country in support of the government's policy of regional industrial development. In the year to June 30, 1997, some 1,734 new and existing entrepreneurs attended 54 EDPs. The 23-day training programme has four elements: (1) achievement motivation training, (2) modern management, (3) feasibility study preparation, and (4) business operations knowledge. The EDP consists of the regular, industry-specific and advanced EDPs. Three advanced EDPs have been organised so far comprising a training component in Thailand and a study trip component in Australia, Germany, New Zealand, and Switzerland. Besides training, the EDP process includes a pre-training investment opportunities research and a post-training follow-up service to provide continuing support to the graduates and to the alumni association in terms of advisory, referral and facilitation service.

The EDP-CEFE concept was introduced by the DIP and the German Agency for Technical Cooperation (GTZ) under a current bilateral project of the Royal Thai and German Governments called Small-Scale Industry Promotion Project (SSIP). The CEFE (Competency-based Economies through Formation of Enterprise) concept was developed by GTZ based on its worldwide experience of implementing technical cooperation projects. CEFE is a comprehensive set of training instruments designed to achieve positive interventions in the small and medium sized enterprise (SME) development process by developing and enhancing

the competencies of potential and existing entrepreneurs to improve their business performance, and by influencing key personnel of SME support institutions to foster an environment favourable to enterprise development.

The combination of these two approaches results in the EDP-CEFE training approach. As a consequence, DIP programs are more flexible in responding to the differing requirements and needs of target groups. The DIP can offer a wide range of entrepreneurship and entrepreneurial management training to micro, cottage, small and medium enterprises and now has a repertoire of training programmes of short, medium and long-term duration. These training programmes have very specific objectives such as business creation, business planning, business expansion, business restructuring, business modernization, management upgrading in the functional areas of marketing, production, finance, organisation and management, and human resource management.

The DIP is also currently conducting other projects related to entrepreneurship and enterprise development, which receive technical assistance from foreign donor agencies from the European Commission (Micro, Small and Medium Sized Company Development Project), as well as governments from Belgium (Off-Farm Job Creation, Promotion of Small and Medium Sized Enterprise project). Japan (Ceramic Development Centre Project in Lampang) and The Netherlands (Small Industry Trainers Training Effort, SITE). These are short duration training courses and are being implemented in various parts of the country.

Pay and Benefits

Overview

In line with the Labour Protection Law in Thailand, an employer shall fix the same wages, overtime and holiday pay for work of similar nature; quality and quantity, for male and female employees in line with the following; (1) In the case where wages, overtime and holiday pay are calculated on a monthly basis or any period less than one month, or calculated according to piece rates, the payment shall be made not less than once a month unless there is an agreement otherwise and such agreement is advantageous to the employees; and (2) In the case where wages, overtime and holiday pay are calculated by means other than (1), the payment shall be made at the time when the employer and employees agree. If an employer fails to pay wages, overtime or holiday pay, the employer shall pay interest to the employees during the period of non-payment at the rate of fifteen per cent per annum.

An employer shall pay wages to employees equivalent to wages paid on working days for the following holidays: (1) weekly day off, except for regular employees who receive daily or hourly wages or piece rate wages; (2) traditional holidays; and (3) annual vacation.

Minimum Wages

There is a Minimum Wage Committee totalling not less than nine and not more than fifteen persons appointed by the Minister of Labour and Social Welfare under the Labour Protection Law, 1972. The Minimum Wage Committee members include at least three representatives each from employers, employees and government and hold office in the Ministry of Labour and Social Welfare for the term of two years. The Committee has the power and duty to set the legal minimum wage for employment in Thailand. The employer must hire every employee on at least at the minimum wage rate set by the Committee. In consideration of the minimum wage rate, the Committee must study and consider all the facts relating to cost of living, standard of living, production cost, price of goods, capability of the business and the prevalent economic and social situation of each locality in Thailand.

The Minimum Wage Committee of the Ministry of Labour and Social Welfare has established the legal minimum wage rate for employment in Thailand according to increases in cost of living and locality as follows (see Table 5):

		(Baht/Day)				
Locality		1985	1990	1995	1996	1998
1	Bangkok and Five Surrounding Provinces	70	90	145	157	162
2	Phuket Province	70	90	145	157	162
3	Ranong and Phangnga Provinces	70	84	126	137	140
4	Cholburi, Saraburi, Nakhonratchasima and Chiangmai Provinces	65	79	126	137	140
5	Remaining 63 Provinces	59	74	118	128	130

Table 5 Legal Minimum Wage Rates

Sick Leave and Overtime

An employer shall pay wages to employees for sick leave equivalent to wages paid on working days throughout the period of sick leave. If an employer requires an employee to work longer than the normal working hours, the employer shall pay overtime not less than one and a half time the rate of hourly wages paid during the normal working hours for the period of the overtime. In the case where an employee is paid according to piece rates, the employer shall pay overtime not less than one and a half time the piece rate paid during the normal working hours.

Termination and Severance Pay

An employer shall pay severance pay to an employee who is terminated as follows:

- (1) an employee who has worked for an uninterrupted period of one hundred and twenty days but less than one year, including holidays, leave and days of stoppage upon order by the employer for the benefit of the employer, shall receive payment of not less than the last rate of wages for thirty days or not less than the wages for the last thirty days for an employee who is paid according to piece rates;
- (2) an employee who has worked for an uninterrupted period of one year but less than three years, including holidays, leave and days of stoppage on order by the employer for the benefit of the employer, shall receive payment of not less than the last rate of wages for ninety days, or not less than the wages for the last ninety days for an employee who is paid according to piece rates;
- (3) an employee who has worked for uninterrupted period of more than three years, including holidays, leave and days of stoppage upon order by the employer for the benefit of the employer, shall receive payment of not less than the last rate of wages for one hundred and eighty days, or not less than the wages for the last one hundred and eighty days for an employee who is paid according to piece rates.

See also the additional provisions to severance pay identified in 'New Changes' in the Employment Law Section.

Where an employer contemplates the termination of employment for reasons of reorganisation, of a production line, sales or service due to the introduction of machinery or changes in machinery or technology and causes the number of employees to be decreased, the employer shall provide the Labour Inspector written notice of the date of contemplated termination, reasons for termination and list of employees, as well as those employees to be terminated not less than sixty days before the date of contemplated termination. Where the employer fails to provide the employee to be terminated with due notice or has notified less than the period prescribed, the employer shall pay severance pay in lieu of advance notice, equivalent to the

last rate of wages for sixty days or equivalent to the wages for the last sixty days for employee who receives wages according to piece rates. For the purpose of calculating special severance pay, a fraction of period of employment for over one hundred and eighty days shall be counted one whole year of employment.

An employer shall not be required to make severance pay to an employee whose employment is terminated on any of the following grounds:

- (1) dishonesty;
- (2) intentionally committing a criminal offence against the employer;
- (3) intentional damage;
- (4) violating regulations in respect of work or rules or orders of the employer which are lawful and just, and after written warning has been given by the employer and that such written warning is valid for not more than one year from the date of acknowledgment of written warning, except in a serious case, the employer is not required to give warning;
- (5) neglecting duty without justifiable reason for three consecutive working days regardless of whether there is holiday in between or not;
- (6) serious negligence;
- (7) being imprisoned.

Workers' Compensation

Under the Labour Protection Law, when an employee suffers from work related injury, illness or death, the employer shall notify the local compensation office of the area where the employer has his office or where his work unit is located, in the form prescribed by the Director-General within fifteen days from the date the employer has the knowledge thereof. An employee who suffers from work related injury or illness shall, without delay, submit a request for compensation from the employer to the local compensation officer of the area where the employer has his office or where his work unit is located in the form prescribed by the Director General.

When an employee suffers from work related injury, illness or death, the following persons are eligible to compensation from the employer, namely:

- (1) parents;
- (2) husband or wife;
- (3) son or daughter under eighteen years of age, except upon attaining the age of eighteen years of age, if such person is still studying, that person shall continue to receive the share throughout the period of study;
- (4) son or daughter over the age of eighteen years who is suffering from disablement or mental infirmity and who have been cared for by the employee before the injury or death as the result of illness.

When an employee suffers from work related injury, illness or death, the employer shall pay the necessary medical expenses actually incurred but the amount shall not be more than twenty thousand Baht. In the event of work related death, the employer shall pay the funeral expenses equivalent to three times the average monthly wages but it shall not be less than one thousand five hundred Baht and not more than five thousand Baht.

When an employee suffers from work related injury, illness or death, the employer shall pay a monthly indemnity as follows:

- (1) fifty per cent of the average monthly wage rate where the employee is unable to work for more than seven consecutive days, with the payment to be made from the first day the employee is unable to work until and throughout the time he/she is unable to work to a maximum of one year;
- (2) at fifty per cent of the average monthly wage rate, and where the employee has lost certain functions/organs of the body, the payment shall be made according to the category of the functions/organs lost and according to the period of payment which the Ministry of Labour and Social Welfare may prescribe but not for more than five years;
- (3) at sixty per cent of the average monthly wage rate where the employee suffers from disablement. The payment shall be made according to category of disablement and according to the period of payment which the Ministry of Labour and Social Welfare may prescribe but not for more than ten years;
- (4) at sixty per cent of the average monthly wage rate for a period of five years where death has occurred to the employee.

If the Compensation Officer considers that an employee is entitled to compensation, the Compensation Officer shall order the employer to pay compensation to the employee or the person so entitled as from the date of injury or illness resulting in the inability to work, loss of an organ, disablement or death as the case may be. Such an order shall also specify the amount of compensation and the period of payment. However, if the officer is of the opinion that such employee is not entitled to compensation, the officer shall inform the applicant or persons concerned accordingly.

Where the employer or the applicant for compensation is dissatisfied with the order of the Compensation Officer, a right of appeal may be made to the Director-General of Department of Labour Protection and Welfare within thirty days from the date of receiving the order. When the Director-General has considered the appeal and issued an order, written notice of such an order shall be given to the employer and the applicant for compensation; if the order is mutually agreed, the employer shall pay the compensation within thirty days from the date of the knowledge thereof, but if the order cannot be agreed upon, the case may be brought to Court. If, within thirty days from the date of the knowledge of the order, the case is not brought to Court, the order of the Director-General shall be final.

Data from the Ministry of Labour and Social Welfare indicates a continuous increase over the years in the numbers of compensation claims and amount paid. Compensation claims increased from 2.1 million in 1992 to 7.7 million in 1997, while the amount paid also increased from 2.1 billion Baht in 1992 to 10.2 billion Baht in 1997.

Social Security

Under the Social Security Act. BE 2533 (1990), an insured person in an undertaking which employs twenty employees or more shall be entitled to receive the following benefits from the Social Security Fund: (1) injury or sickness benefits (2) maternity benefits (3) invalidity benefits (4) death benefit (5) child allowances and (6) old-age pension after the retirement age of 60 years for men and women.

Injury and Sickness Benefits

An insured person shall be entitled to non-occupational injury or sickness benefits provided that the insured person has paid contributions for not less than ninety days within the period

of fifteen months before the date of receiving medical services. Benefits for non-occupational injury or sickness consist of: (1) medical examination expense, (2) medical treatment expense, (3) lodging, meals and treatment expenses in hospital, (4) medicine and pharmaceutical expenses, (5) cost of ambulance or transportation for patient, and (6) other necessary expenses.

Maternity Benefits

An insured person shall be entitled to maternity benefit provided that the insured person has paid contributions for not less than two hundred and ten days within fifteen months before the date of receiving medical services. In the case of maternity benefit, the insured person shall be entitled to benefits for not more than two occasions of confinement. Maternity benefits consist of: (1) medical examination and child bearing expenses, (2) medical treatment expense, (3) medicine and pharmaceutical expenses, (4) confinement expense, (5) lodging, meals and treatment expenses in hospital, (6) nursing and treatment of new-born baby expenses, (7) cost of ambulance or transportation for patient and (8) other necessary expenses.

Invalidity Benefits

An insured person shall be entitled to invalidity benefits provided that the insured person has paid contributions for not less than ninety days within a period of fifteen months prior to invalidity. Invalidity benefits consist of: (1) medical examination expenses, (2) medical treatment expenses, (3) medicine and pharmaceutical expenses, (4) lodging, meals and treatment expenses in hospital, (5) cost of ambulance or transportation for patient, (6) physical, mental and occupational rehabilitation expenses and (7) other necessary expenses.

Death Benefits

Where an insured person dies as a result of non-occupational injury or sickness, and has paid contributions of not less than thirty days within a period of six months before death, the following persons shall be entitled respectively to receive death benefit as a funeral grant at the amount of one hundred times the highest rate of daily minimum wages under the Labour Protection Law: (1) The person whom the insured person has designated in writing to arrange the funeral and having arranged the funeral of the insured person. (2) spouse, father, mother or children of the insured person who proves to having arranged the funeral of the insured person, and (3) any other person who proves to having arranged the funeral of the insured person.

Child Allowances

An insured person shall be entitled to child allowances provided that the insured person has paid contributions for not less than one year; allowances shall be granted for not more than two children. Child allowances shall consist of: (1) children living expense (2) children tuition fees (3) children medical expenses and (4) other necessary expenses.

Age Pension

An insured person shall be entitled to old-age pension provided that the insured person has paid contributions for not less than fifteen years irrespective of whether the period is consecutive or not, and shall be fifty-five years of age or over. Old-age pension shall be payable according to the proportion of the amount and the period of paid contributions as provided by the rules prescribed in the Ministerial Regulations.

Employee Relations

Government Institutions

The Minister of Labour and Social Welfare has charge and control of the execution of the Labour Relations Act, 1975 and has the powers to appoint the Registrar, Conciliation Officers and Labour Disputes arbitrators and issue Ministerial Regulations. Such Ministerial Regulations come into force after their publication in the Government Gazette. The Central Registration Office has been established in the Ministry of Labour and Social Welfare, with the powers and duties to supervise the registration of employers' associations, labour unions, employers' federations and labour federations throughout the Kingdom. In Provinces other than Bangkok, the Minister has established a Provincial Registration Office to be responsible directly of the Central Registration Office.

The Labour Disputes Arbitration Office has also been established in the Ministry of Labour and Social Welfare with the powers and duties to: (1) conduct a preliminary inquiry relating to complaints and labour disputes; (2) comply with the resolution of the Labour Relations Committee; and (3) exercise other powers and duties. The Labour Disputes Arbitration Office has been established in the Ministry of Labour and Social Welfare with the powers and duties to: (1) compile a list of names and qualifications of labour disputes arbitrators to be submitted to the parties for selection; and (2) supervise and carry out technical and administrative affairs relating to arbitration of labour disputes.

Labour Relations Committee

The Office of the Labour Relations Committee has also been established in the Ministry of Labour and Social Welfare with the powers and duties to: (1) conduct a preliminary inquiry relating to complains and labour disputes; (2) comply with the resolution of the Labour Relations Committee; and (3) exercise other powers and duties. It play a particularly important role in Thai employee relations.

The Labour Relations Committee consists of a Chairman and not less than eight but not more than fourteen members. Out of this number there must be three representatives from employers and three representatives of employees. The Minister appoints the chairman and members. The Chairman and members appointed hold office for a three year term.

The Labour Relations Committee has the power and duties to consider and decide labour disputes. Where the Labour Relations Committee decides that there is an unfair practice, it has the power to order the employer to re-engage employees or pay damages or compel the violator to carry out or refrain from carrying any act as deemed appropriate. The Committee may also submit opinions concerning the parties demands, negotiate the settlement of a labour dispute, strike of lock-out as entrusted by the Minister; and issue meeting regulations and lay down rules of procedure for consideration of and decisions on labour disputes and unfair practices.

The Labour Relations Committee has the power to appoint a Sub-committee in order to find facts and submit opinion on matters assigned to it by the Labour Relations Committee on permanent or definite duration. In the performance of its duties, members of the Labour Relations Committee or a Labour Relations Sub-committee shall have the power to:

- (1) enter the office of an employer, place of work of employees or office of employers' association, labour union, employers' federation or labour federation during office hours in order to inquire into facts or examine documents as deemed necessary;

- (2) issue a letter of inquiry or summon any person to give evidence or forward relevant items or documents to supplement the consideration of the Labour Relations Committee or Labour Relations Sub-committee. The person concerned shall render facilities, reply to the letter of inquiry, present facts or forward relevant items or documents to members of the Labour Relations Committee or Labour Relations Sub-committee who are performing the duty. Members of the Labour Relations Committee or Labour Relations Sub-committee may send out letters inviting experts or qualified persons to give opinion on the relevant matters.

Employer Representative Associations

An employers' association may be established only by virtue of the Labour Relations Act, 1975. An employers' association must have the objectives of acquiring and protecting interests relating to the conditions of employment and promoting better relationship between employers and employees and among employers themselves. An employers' association must have regulations and must be registered with the Registrar. After registration, the employers' association is established as a legal entity. Persons who have the right to establish an employers' association must be employers in the same description of undertaking, sub juris and of Thai nationality. In the application for the registration of an employers' association, not less than three employers who have the right to establish the employers' association shall, as the promoters, submit a written application to the Registrar together with at least three copies of the draft regulations of the employers' association. The application must specify name, age, occupation or profession and address of each promoting employer. The regulations of an employers' association must contain at least the following :

- (1) name which must also have the accompanying word "Employers' Association";
- (2) objectives;
- (3) address of its office;
- (4) procedure for the admission of members and termination of membership;
- (5) rate of admission fee and subscription and procedure for the payment thereof;
- (6) regulations concerning the rights and duties of member;
- (7) regulations concerning the management, disbursement, custody and maintenance of money and other properties as well as the keeping and examination of accounts;
- (8) regulations concerning the procedure for a lock-out and an approval of an agreement relating to conditions of employment;
- (9) regulations concerning general meetings;
- (10) regulations concerning the number, election, term of office and retirement from office of Committee members, and the Committee meeting.

If the Registrar considers that the application or draft regulations do not comply with the above, he may order them to be amended. After the amendment, the Registrar shall accept the registration and issue the certificate of registration to the employers' association.

If the Registrar considers that the application cannot be accepted because the objectives are not in the public interest, the registration may be rejected and the applicant notified of the order together with the reasons for rejection. The applicant has the right to appeal against such an order to the Minister by submitting it in writing to the Registrar within thirty days from the

date of notifying the order. The Minister shall consider the appeal and notify the appellant of the decision within thirty days from the date of receiving the appeal. If the appellant is dissatisfied with the decision of the Minister, the appellant has the right to proceed further for a ruling from the Labour Court. The Registrar shall publish the registration of an employers' association in the Government Gazette.

The promoters of an employers' association shall, within one hundred and twenty days from the date of the registration convene the first ordinary general meeting for election of the Committee and assignment of all matters to the Committee and approval of the draft regulations which were submitted to the Registrar. Persons who may become members of an employers' association must be employers in the same description of undertaking ie. textile employers etc. A member of an employers' association has the right to inspect the register of membership, documents or accounts in order to ascertain the operation of activities of the employers' association during the office hours as prescribed by the Committee. Officials of the employers' association must render appropriate facilities for the inspection. Membership of an employers' association terminates upon death, resignation, dismissal by the general meeting or according to the regulations of the employers' association.

For the benefit of members, an employers' association shall have the following power and duties to :

- (1) demand, negotiate for settlement and acknowledge an award or enter into an agreement with a labour union or employees regarding the activities of members;
- (2) manage and carry out activities for the benefit of members, that is, within the objectives of the employers' association;
- (3) provide business information services for members;
- (4) provide advisory services for solving problems or eliminating disagreements relating to administration and working methods;
- (5) provide welfare services relating to the allocation of funds or properties for members or for the public benefit, as the general meeting considers appropriate;
- (6) collect membership fees and subscriptions at the rate prescribed in the regulations of the employers' association.

An employers' association shall establish a Committee to carry out the activities and act as representative of the employers' association in dealings with a third party. For this purpose, the Committee may entrust one or several Committee members to act on its behalf. The Committee may appoint a Sub-committee to carry out any work as entrusted. A person who is eligible for election or appointment as a member of the Committee or Sub-committee must possess the following qualifications: (1) be a member of the employers' association or representative of a juristic person who is a member of the employers' association; and (2) have Thai nationality by birth.

Before the Labour Relations Act, 1975, there were no employers' associations in Thailand. By the end of 1997, there were 145 legally registered employers' associations. The largest association is the Employers' Confederation of Thai Trade and Industry (ECONTHAI) a membership of 42 employers' associations representing 465 employers from various industrial sectors in 1997. This association has one representative in the Parliament who participates in the formulation and adoption of the country's law and development policies so as to reduce negative impacts to both domestic and international employers. Moreover, this employers' association also has a representative on every tripartite committee under the Labour Relations Act and Labour

Protection Law. Therefore, the representative of the largest employers' association is able to be involved in devising the solutions for labour disputes and the minimum wage rates of the country together with the representatives from employees' association and government agencies.

Employee Representative Associations

A labour union may be established only by virtue of the Labour Relations Act, 1975. Prior to this Act there were no labour unions in Thailand. A labour union must have the objectives of protecting interests relating to their members' conditions of employment and promoting better relations between employers and employees, and among employees themselves. A labour union must have regulations and must be registered with the Registrar in order to be deemed a legal entity. Persons who have the right to establish a labour union must be employees working for the same employer, or employees in the same description of work, irrespective of the number of employers, and of Thai nationality.

In the application to register as a labour union, not less than ten employees who have the right to establish a labour union shall, as the promoters, submit a written application to the Registrar together with at least three copies of the draft regulations of the labour union. The regulations of a labour union are similar to the Government's provisions for the employers' association. The registration of a labour union must be published in the Government Gazette. The promoters of a labour union shall within one hundred and twenty days from the date of the registration, convene the first ordinary meeting for election of the Committee and assignment of all matters to the Committee and approval of the draft regulations which were submitted to the Registrar.

Persons who may become members of a labour union shall be employees working for the same employer, or employees in the same description work as the applicant to register the labour union, and shall be fifteen years of age or more. Membership of a labour union terminates upon death, resignation, dismissal by the general meeting or according to the regulation of the labour union.

For the benefit of members, a labour union has the following power and duties to :

- (1) demand, negotiate for settlement and acknowledge an award or enter into an agreement with an employer or employer's association regarding the activities of members ;
- (2) manage and carry out activities for the benefit of members, that is within the objectives of the labour union ;
- (3) provide information services regarding employment opportunities for members ;
- (4) provide advisory services for resolving members' problems or eliminating disagreements relating to management and work;
- (5) provide welfare service relating to the allocation of funds or properties for members or for the public benefit, as the general meeting considers appropriate ;
- (6) collect membership fees and subscription at the rate prescribed in the regulations of the labour union.

A labour union shall establish a Committee to carry out the activities and act as representative of the labour union in dealings with a third party. For this purpose, the Committee may entrust one or several Committee members to act on its behalf. The Committee may appoint a Sub-committee to carry out any work as entrusted. A person who is eligible for election or appointment as a member of the Committee or Sub-committee must possess the following qualifications: (1) be a member of such labour union; (2) have Thai nationality by birth; and (3) be not less than twenty years of age.

A labour union, by the resolution of the general meeting, may carry out the following matters:

- (1) amend the regulations ;
- (2) carry out activities which may affect the mutual interest of members ;
- (3) elect the Committee members, auditor, certify balance-sheet, annual report and expenditure;
- (4) allocate funds or properties for welfare of members or for public benefit ;
- (5) dissolve the labour union;
- (6) amalgamate the labour unions ; or
- (7) establish a labour federation or become a member of a labour federation.
- (8) go out on strike when a labour dispute cannot be settled. The resolution shall be by more than one-half of the total labour union membership and the votes shall be by secret ballot.

By the end of 1997, there were 993 legally registered employee associations in Thailand with a total membership of 93,426 workers or only 0.3 per cent of the total workforce in the country. Before the adoption of Labour Relations Act in 1975, there were no labour unions in Thailand. The largest labour union is the Labour Congress of Thailand (LCT) with 46,807 members from various industrial sectors in 1997. Similar to the employers' association, the largest labour union has one representative in the parliament who can take part in the formulation and adoption of the country's law and development policies to avoid the negative impacts to the employees. Moreover, the largest labour union also has a representative on every tripartite committee under the Labour Relations Act and Labour Protection Law. Therefore, the representative of the largest labour union is also involved in seeking solutions to labour disputes and setting the minimum wage rates of the country together with the representatives from employers' association and government agencies.

Key Processes

Usually, labour disputes are settled at workplace level through collective bargaining between employees and their employers. When there is a labour dispute which cannot be settled and if the Minister of Labour and Social Welfare considers that the labour dispute which cannot be settled may affect the economy of the country or public order, then he may refer the matter to the Labour Relations Committee which shall decide it within thirty days from the date the order is received. The Minister may extend the said period to the Labour Relations Committee as he may consider appropriate. The decision of the Labour Relations Committee shall be final.

In other cases where there is a labour dispute which cannot be settled, the employer and employees may agree to appoint one or several labour disputes arbitrators nominated by employers' association and employees' association to decide the said labour dispute. Within seven days after being informed of the appointment, the labour disputes arbitrator shall give notice to the party presenting the demand and the party receiving the demand of the date for the submission of relevant information relating to the labour dispute and the date, time and place of the sitting of an arbitrator. During the arbitration proceedings, the labour disputes arbitrator must afford an opportunity for the party presenting the demand and the party receiving the demand to submit argument and produce witnesses.

At the end of the arbitration proceedings, the labour disputes arbitrator shall make an award in writing which must at least contain the following particulars: (1) date of the award; (2) issues of the labour dispute; (3) facts as found in the arbitration; (4) reasons for the award; and

(5) requirement to be carried out or refrained from carrying out by one or both parties. The award of labour disputes arbitrators shall be by majority vote and signed by the labour disputes arbitrators. Within three days from the date of making the award, the labour disputes arbitrator shall send copies of the award to the party presenting the demand and the party receiving the demand or to representatives, and shall post a copy of the award at the place where employees involved in the demand work. Within fifteen days from the date of making the award, the labour disputes arbitrator shall have the award registered with the Ministry of Labour and Social Welfare.

Where the Minister of Labour and Social Welfare considers that the lock-out or strike may adversely affect the economy of the country or cause hardship to the public or endanger the security of the country or be against public order, the Minister has the following power to :

- (1) order the employer effecting the lock-out to re-engage employees and pay wages at the rate previously received by the employees;
- (2) order employees on strike to return to work ;
- (3) arrange for persons to replace the employees who are not working because of the lock-out or strike; the employer shall allow such persons to work and the employees shall not obstruct those persons from working. The employer shall pay such persons wages at the same rate as that to the employees;
- (4) order the Labour Relations Committee to decide a labour dispute.

In 1996, data from Ministry of Labour and Social Welfare indicates that there were 657 labour disputes that occurred at the workplace or industry level involving 26,706 workers. 119,995 working days were lost due to these disputes; 90 labour disputes could not be settled. Thirty-two labour disputes occurred in foreign companies involving mostly Japanese employers. Reasons for labour disputes in the foreign companies included the reduction of workers' wage and bonus, change in production technology and misunderstanding of workers' culture by the employers. The labour disputes mostly occurred in medium and large enterprises in textile, food and shoe industries.

Current HRM Issues and Trends

Currently, large firms with more than 50 employees establish internal labour markets as a structure for developing and rewarding employee productivity. Well-developed internal labour markets provide structured career ladders, pay for performance, and training linked to the production needs of the firm. Small, family-owned firms generally do not exhibit these characteristics. As they expand, however, the needs for increased product quality and production efficiency lead firms to begin to establish their own personnel management practice. In countries such as Thailand, where small firms dominate the manufacturing sector, the pace and quality with which this transition is managed can be of considerable importance.

There is evidence from an employer survey of 300 firms conducted in 1997 by Dr Kitti Limskul from the Faculty of Economics, Chulalongkorn University that such a transition is under way. Overall firm personnel management practice was judged as falling into one of three categories : using internal labour markets; operating as family firms with little evidence of western-style personnel management ; and in transition from family to modern practice. Firms competing in export markets are more likely to have established or be in transition to modern personnel management practice than those operating in domestic markets, where family firms predominate. The presence of a foreign partner company is also a factor : all such firms have established internal labour markets or are in transition toward them. The above study strongly

suggests that participation in international markets creates both the need for improved management and the technology transfer mechanisms that help make it possible. This study also suggests that the need for western-style human resource management practice will expand as export-orientation, capital intensity, firm size and joint ventures increase.

Many medium-size firms are in transition to better practice. Both types of firms are addressing training needs, as evidenced by a greater provision of technical training in high technology firms, and attention to quality control management in most large and medium sized firms. There is evidence of cooperation between employers' associations, universities and the government in meeting the need for external in-service training.

There are, however, significant problems. Personnel practice in small, family-owned firms is weak, and little training other than coaching on-the-job is provided. Continued industrial expansion will depend on growth and expansion of small firms, and effective human resource management will play an important part in this process. The data indicate that the currently most viable mechanism for human resource management development is a joint venture with a foreign firm. This option will be open to relatively few small firms. Thus targeted efforts to strengthen personnel management practice in growing small firms will be required. The pattern of current support through seminars of short duration is not likely to be adequate to the task.

These are grounds for confidence in the ability of Thai enterprises to provide significant amounts of skills training. Nevertheless, shortages of key higher level technical skills, and low levels of employer confidence in the trainability of vocational graduates, point to the need for adjustments in the pre-employment vocational/technical training system. Additional support in the form of consultancy and management training for small firms expanding in the export market, or in an increasingly open domestic market, will be needed.

Small and medium size manufacturing and commercial enterprises have both technical and managerial skill development needs. Too small to have developed significant human resource management and training capacity, these firms need a high level of support from the Government in the form of pre-service vocational training, in-service training and productivity services, management consultancy, and access to information and support in improving the technology of production. The small size and large number of such enterprises pose particular problems in establishing linkages with training organizations. Providing training support for small and medium sized enterprises (SMEs) thus requires highly specialized expertise, and a high degree of training institutional flexibility. The National Institute for Skill Development (NISD) has developed a useful level of experience in providing pre-employment and in-service training for small enterprises, including those in areas targeted for decentralized industrial development.

Improvement in the extent and depth of NISD training support could make important contributions to SME development. Services could be expanded by transferring the Area Vocational Centers (AVCs) to the NISD to expand the network of Regional Institutes of Skill Development (RISDs). Capital investment in facilities and equipment rehabilitation might be needed, and recurrent budgets would certainly need to be higher. However, the costs could be justified in terms of employment creation through the expansion of SMEs, and in providing direct support for the higher levels of managerial and production efficiency that current industrial strategy calls for. As with the rural skills strategy, institutional effectiveness could be improved through decentralization policies that enabled RISDs to develop programs to meet the needs of SMEs in their service areas, and to generate revenues through sale of services.

Finally, it should be noted that currently there is no personnel/human resource management professional body or institute in Thailand.

Key Organization Addresses

Government Agencies

Ministry of Education
Rajadamnern Nok Avenue, Bangkok 10300

Ministry of University Affairs
Sri Ayutthya Road, Bangkok 10500

Ministry of Labour and Social Welfare
Mitmaitri Road, Dindaeng, Bangkok 10320

Department of Industrial Promotion
Ministry of Industry
Rama VI Road, Ratchathewi, Bangkok 10400

Human Resource Planning Division
National Economic and Social Development Board
Krung Kasem Road, Bangkok 10100

Office of the Civil Service Commission
Pitsanulok Road, Bangkok 10300

National Statistical Office
Lan Luang Road, Bangkok 10100

Employer Representative Associations

Employers' Confederation of Thailand (ECOT)
947/156 Bangna Road, K.M.3
Phrakhanong, Bangkok 10110
Tel. (662) 361-8850-4
Fax (662) 361-8849

Employers' Confederation of Thai Trade and Industry (ECONTHAI)
231/9 Sarasin Road,
Lumpini, Pathumwan, Bangkok 10330
Tel. & Fax (662) 651-9181

Thai Industrial Employers' Confederation (TIEC)
242 Prachachuen Road,
Ladyao, Chatujak, Bangkok
Tel. (662) 934-3476
Fax (662) 588-0736

Employers' Confederation of Consumption and Service Supply Traders (ECOS)
127/1 Ladprao 87, Bangkapi, Bangkok 10310
Tel. (662) 374-4334
Fax. (662) 318-7596

Employers' Confederation of the Nation (ECN)
2300/2 Chan Road, Yannawa, Bangkok
Tel. (662) 311-1321
Fax. (662) 882-3055

Employers' Confederation of Thai Business (ECOB)
115-117 Soi Chula 26, Rama VI Road, Bangkok
Tel. (662) 215-2260-2
Fax. (662) 215-2094

Employee Representative Associations

Labour Congress of Thailand (LCT)
420/393-394, Thippawal1, Theparak Road,
Muang, Samutprakarn
Tel. (662) 384-6789
Fax. (662) 384-0438

National Free Labour Union Congress (NFLUC)
277 Moo 3, Rajaburana, Bangkok
Tel. (662) 427-6506
Fax. (662) 428-4543

The National Congress of Thai Labour (NCTL)
364 Moo 1, Auepattananivech, Srinakarin Road
Bangpee, Samutprakarn
Tel. (662) 385-7162
Fax. (662) 385-8975

Thai Trade Union Congress (TTUC)
420/393-394, Thippawal 1, Theparak Road,
Muang, Samutprakarn
Tel. & Fax (662) 384-0438

Thailand Council of Industrial Labour (TCIL)
99 Moo4, Sukhaphibal II Road, Bungkum, Bangkok
Tel. (662) 517-0022
Fax. (662) 517-0628

National Labour Congress (NLC)
539 Moo 3, Soi Ruampattana, Sukhumvit Road,
Muang, Samutprakarn
Tel. and Fax. (662) 702-1399

The National Congress of Private Employee of Thailand (NPET)
124/731, Rewadee 1, Muang, Nonthaburi 11000
Tel. (662) 588-4373
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United States of America

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Economy Context

Geography

Land

The United States (US) is located in North America and includes Alaska to the north and the Hawaiian islands in the Pacific. It covers 9,372,610 square kilometers (3,618,765 square miles) and is the fourth largest nation in the world. It is "about half the size of Russia, about three-tenths the size of Africa, about one-half the size of South America (or slightly larger than Brazil), slightly smaller than China, and about two and one-half times the size of Western Europe" (ABC Country Book of the United States, 1997). Dependent areas of the U.S include American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, the Midway Islands, Navassa Island, the Northern Mariana Islands, Palmyra Atoll, Puerto Rico, Virgin Islands, and Wake Island (ABC Country Book of the United States, 1997). "From 18 July 1947 until 1 October 1994, the U.S has administered the Trust Territory of the Pacific Islands, but recently entered into a new political relationship with all four political units: the Northern Mariana Islands is a Commonwealth in political union with the U.S (effective 3 November 1986); Palau concluded a Compact of Free Association with the U.S (effective 1 October 1994); the Federated States of Micronesia signed a Compact of Free Association with the U.S (effective 3 November 1986); and, the Republic of the Marshall Islands signed a Compact of Free Association with the U.S (effective 21 October 1986) (ABC Country Book of the United States, 1997).

Climate

Given its vast size, the U.S encompasses many different climates. There are, in fact, 9 different climates in the contiguous 48 States: tropical savanna, humid subtropical, humid continental warm summer, humid continental cool summer, steppe, desert, western high areas, and Mediterranean and Marine West Coast. Alaska's climate ranges from subarctic to tundra, and Hawaii has an Oceanic climate. The land mass of the U.S is 26% meadows and pastures, 29% forest and woodland, 20% crop land, and the remainder can be regarded as "other" (ABC Country Book of the United States, 1997).

Population

The population of the U.S was 226.5 million in 1980; 248.7 million in 1990 and 260.3 million in 1994. White Americans* comprised 83.1 percent of the (the term "American" is often used loosely in the U.S to refer to U.S citizens) population; black Americans comprised 12.5 percent of the population; Asian and Pacific Islanders comprised 3.5 percent of the population; and American Indians, Eskimos and Aleuts comprised 0.8 percent of the population (see Minehan, 1997). (The total does not equal 100% due to rounding error.) In July 1995, people ages 0-14 comprised 22 % of the population (female 28,391,451; male 29,845,630); people ages 15-64 comprised 65 % (female 86,454,415; male 85,474,002); and people ages 65 years and older comprised 13% (female 19,949,978; male 13,698,559). The population growth rate was 1.02% in

1995, with a birth rate of 15.25 births/1,000 population and a death rate of 8.38 deaths/1,000 population. The net migration rate was 3.34 migrants per 1,000 population in 1995. Life expectancy in the U.S was 75.99 years for the total population in 1995. At that time males could expect a lifespan of about 72.8 years of life and females about 79.7 years.

Language

Since the United States was founded by the English, English is the most common language. However, Spanish is spoken in the Southwestern United States, particularly in areas adjacent to the U.S border with Mexico, and French is spoken by some groups near New Orleans, Louisiana. In April 1990 there were 230,446,000 people aged 5 years or older in the U.S. Of that group, 198,601,000 (86%) spoke English only; and 31,845,000 (14%) spoke another language (U.S Census Bureau, 1996b: 53). Approximately 17,345,000 people aged 5 years or older spoke both English and Spanish, and approximately 1,702,000 (.01%) people spoke French. German was spoken by 1,547,000 people in the same age group (U.S Census Bureau, 1996b: 53).

The Political Context

The U.S government is organized into the national, State and local levels. The national (Federal) government has three branches: (1) the legislative branch, headed by Congress; (2) the executive branch, headed by the President; and (3) the judicial branch, headed by the Supreme Court. While it is often said that the legislative branch makes the law, the executive branch implements the law, and the judicial branch interprets the law, it is not that simple. One reason is that the legislative branch appropriates money to the other 2 branches and thus exerts considerable influence on the implementation and interpretation of law. A second reason is that the executive branch issues Executive Orders having the force of law. A third reason is that the Supreme Court has the authority to overturn laws enacted by Congress and serves as final arbiter for interpreting the Constitution, the nation's highest law.

Congress has two houses: the Senate and the House of Representatives. Two Senators are elected for 6 year terms from each of the 50 States. Representatives are elected for 2-year terms and are selected from Congressional districts based on population. The House of Representatives currently has 435 members. Congress oversees the legislative branch, which consists of other agencies as well as Congress itself. Those agencies include the Architect of the Capitol, the United States Botanical Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office and the Copyright Royalty Tribunal.

The Executive Branch includes the President and Vice President, who are elected by the people on the same ballot for 4-year terms of office. The Vice President is the President's immediate successor and is also ceremonial head (*president pro tem*) of the Senate. Executive Branch agencies include the Departments of State, Treasury, Defense, Justice, Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Energy, Education, and Veterans Affairs.

The Judicial Branch is headed by the 9 justices of the U. S Supreme Court. As the highest court in the country, the Supreme Court interprets the U. S Constitution and thereby demonstrates the remarkable paradox described by Chief Justice Charles Evans Hughes when he said that "we are under a Constitution, but the Constitution is what the judges say it is". Supreme Court rulings have the force of law. The Supreme Court sits on top of a 3-tiered court structure.

There are 12 judicial circuits plus the District of Columbia, comprising the Circuit Courts of Appeal. Federal district courts are found in each of the 50 States.

The governmental structure at the State level reflects the Federal level. Each State is headed by a Governor and Lieutenant Governor elected by the citizens. State legislatures act the part of Congress at the State level. State Supreme Courts interpret each State's constitution.

Local governments are the most complex because there are so many of them. Most States are organized into counties and municipalities. Some 85,000 local government entities can be found in the U.S, according to 1994 U.S Census Bureau information. Perhaps the most prominent among them is the school board, which oversees education at the local level and thereby bears a key local responsibility.

Each level of government tends to concentrate more attention on some issues than on others. The national government, for instance, oversees all other levels of government but devotes most attention primarily to national defense, interstate commerce and national regulation. State governments concentrate their attention on education, professional licensure, and intrastate transportation. Local governments concentrate on the governance of local schools, local transportation issues and (often) restrictive property zoning designed to make buildings conform to local development plans.

Constitutional Arrangements

The Constitution of the United States is the oldest of all written constitutions among the industrialized nations and was ratified by at least nine States by 1788. It established the structure of the U.S. Federal government and stipulated 3 branches of government. Perhaps the best-known part of the U. S. Constitution is the Bill of Rights, which consists of the first 10 amendments. The Bill of Rights guarantees citizens' basic rights to freedom of speech, freedom of press, freedom of worship, protection against unreasonable governmental search and seizure, a right to a trial by jury, and the right of each State to keep and maintain its own militia. Some authorities believe that the tenth amendment is the most important, since it limits federal power by declaring that all rights not specifically granted to the U.S government by the Constitution are reserved by the States or by the people.

Political Processes

The United States is often known as a two-party system, unlike other nations having multi-party political systems. The roots of the current two-party system have existed nearly since the inception of the nation. Thomas Jefferson (1743-1826) was elected President on the Democratic Republican ticket, but by the 1820s this party split apart to become the Democratic and the Republican parties that have emerged as the dominant political parties in the U.S today. While it might seem that two large national political parties would be highly centralized, just the reverse is true because both political parties in the U.S are dominated by State-specific interests. Hence, it is sometimes said that there are not 2 but 100 political parties in the U.S, that is, a separate Democratic Party and a separate Republican Party for each of the 50 States. Each party can be conceptualized as a pyramid. Citizen-voters comprise the base. Local party officials comprise the next tier. Local party officials elect a State party committee, which comprises the third tier. Finally, members of all State party committees elect a National Committee that comprises the fourth and highest tier of the pyramid.

The two political parties in the U.S are known to have different philosophies and priorities. The Republican party is often said to favor business and religious interests, preferring to relax government regulations on business but tighten selected government restrictions on social issues. Republicans tend to be fiscal and social conservatives who want to reduce taxation, particularly at the Federal level, and distribute most of the money collected at the Federal level to States and local governments to manage. On social issues Republicans want to sharply curtail or prohibit widespread public access to abortion but relax government laws and regulations on business affecting Equal Employment Opportunity and Affirmative Action. The Democratic party, on the other hand, is generally regarded as favoring organized labor and minority groups, preferring to wield the vast enforcement power of the Federal government to regulate business. Democrats tend to be fiscal and social liberals who want to use taxation to redistribute wealth. Distrusting the self-professed impartiality of local and State governments, they prefer to see money collected through taxation distributed by the Federal government. They favor continuing the legal protection on abortion and maintaining existing Equal Employment Opportunity and Affirmative Action laws and regulations affecting businesses.

The American people have chosen to split government power in the U.S for decades. In 1992, with the election of President Bill Clinton, the Democrats enjoyed a brief and rare 2-year period in which Democrats controlled both the Executive and Legislative branches. Then, in the election of 1994, the Democrats lost their majority in Congress to the Republicans, leading to the present situation in which the Democrats control the Executive branch and the Republicans (whose party is sometimes called the GOP for "Grand Old Party") control the Legislative branch. That has led to fierce and bitter political acrimony as the two parties struggle for the unified power that has traditionally eluded them in U.S politics. Some would say the reason that power over both the Executive and Legislative branches has escaped both parties is that American voters do not completely agree with the philosophy of either party, tending to be more conservative than Democrats about government spending and more liberal than Republicans about social issues. In fact, voters are distributed along nearly a normal distribution of political preferences. According to a poll of 819 respondents for the year 1994 (the most recent year reported), 14% of respondents indicated that their affiliation was "strong Democrat," 21.6% of respondents indicated that their affiliation was "not strong Democrat," 11.2% called themselves "independent, near Democrat," 9.6% called themselves "independent, near Republican"; 17.8% called themselves "not strong Republican"; and 11.5% indicated that they were "strong Republican" (GSSDIRS, 1995).

Differences in voting preferences during the last several elections have been so pronounced among the sexes as to give rise to a *gender gap* in which men tend to favor Republican candidates and women tend to favor Democratic candidates. During the 1996 presidential campaign, Democratic candidate Bill Clinton at one point enjoyed a 56% to 33% lead among women voters over Republican challenger Bob Dole ([USA Today](#), 1996). While some political pundits attribute the gender gap to the Republican's restrictive position on abortion, polls from the 1996 election revealed that women were far more concerned over the Republicans' stated intention to slash funding to education and Medicare.

Economic Context

The U.S economy is the world's largest, though the economy of the People's Republic of China is gaining on it (ABC Country Book of China, 1997; Naisbitt, 1994). The U.S has a per capita Gross Domestic Product (GDP) of \$25,850, the largest among major industrial nations. The year 1994 witnessed a 4% gain in real output, a low inflation rate of 2.6%, and a drop in unemployment below 6%. Major economic concerns in the U.S include rapidly rising medical costs of an aging population and sizable budget and trade deficits. The national product real growth rate stood at 4.1% in 1994; revenues were \$1.258 trillion; and, exports were \$513 billion. Its leading trading partners in 1993 were Western Europe (exports partners 24.3% and import partners 18.1%), Canada (export partners 22.1% and import partners 19.3%), and Japan (export partners 10.5% and import partners 18.1%). The growth rate of the industrial sector of the U.S was estimated to be 5.4% in 1994 (ABC Country Book of the United States, 1997). Recent information about the U.S economy is summarized in Tables 1 and 2. At least one recent economic forecast predicts that real disposable income in the U.S will rise by 3.3% in 1998 and 3% in 1999, private housing starts will slip from 1.46 million in 1997 to 1.39 in 1998, and the U.S federal budget deficit of \$49 billion in 1997 will fall to \$22 billion in 1998 and rise again to \$48 billion in 1999 (Lawder, 1997).

	1995	1996	1996			1997		
			Q2	Q3	Q4	Q1	Q2	Q3
<i>Percent change at seasonally adjusted annual rate (unless otherwise noted)</i>								
Production								
Gross Domestic Product*	2.0	2.8	6.0	1.0	4.3	4.9	3.3	3.5
Purchases, by type								
Gross Domestic Product*	1.9	2.9	6.5	2.4	2.5	5.9	3.7	4.6
Personal Consumption Expenditures*	2.4	2.6	3.7	.5		5.3	.9	5.7
Non Residential Fixed Investment*	9.0	9.2	13.0	16.5	5.9	4.1	14.6	18.7
Residential Investment*	-3.8	5.9	17.9	-4.5	-4.3	3.3	7.4	2.8

Table 1 Overview of the Economy

	1995	1996	1996			1997		
			Q2	Q3	Q4	Q1	Q2	Q3
Export of Goods & Services*	11.1	8.3	9.6	1.9	25.5	9.9	18.4	5.6
Import of Goods & Services*	8.9	9.1	14.1	13.2	6.8	17.9	20.5	14.0
Government Consumption Expenditures & Gross Investment*	0	.5	7.2	-1.1	.1	-.4	3.1	1.0
Prices of:								
Gross Domestic Purchases	2.5	2.2	1.8	2.4	2.4	1.9	.8	1.2
Personal Consumption Expenditures	2.6	2.4	2.9	2.5	3.0	2.2	1.0	1.4
Gross Domestic Product	2.5	2.3	1.9	2.7	1.9	2.4	1.8	1.4
Personal income:								
New England# (quarterly rate)	1.2	2.2	1.8	.9	1.7	2.1	1.3	-
Mideast# (quarterly rate)	0.5	1.4	1.3	1.0	1.3	1.8	1.0	-
Great Lakes# (quarterly rate)	1.1	1.3	1.7	1.2	0.8	1.7	1.2	-
Plains# (quarterly rate)	1.4	1.6	1.8	1.3	1.0	1.5	1.3	-
Southeast# (quarterly rate)	1.3	1.5	1.7	1.3	1.1	2.1	1.3	-
Southwest# (quarterly rate)	1.7	1.5	1.5	1.6	1.1	2.4	1.3	-
Rocky Mountains# (quarterly rate)	2.1	1.8	1.9	1.6	1.3	2.0	1.1	-
Far West# (quarterly rate)	1.3	0.9	1.8	1.3	1.4	1.9	1.4	-
Real Disposable Personal Income in the U.S*	3.3	2.3	1.1	2.7	.7	4.6	3.1	2.9
Personal Saving Rate (level, not change)	4.8	4.3	4.1	4.5	3.9	3.7	4.2	3.6
<i>Billions of dollars, seasonally adjusted annual rate (unless otherwise noted)</i>								
Federal government finances:								
Receipts#	1464.3	1587.6	1583.8	1598.6	1641.6	1675.3	1709.3	-
Current Expenditures#	1637.6	1698.1	1695.4	1698.2	1718.8	1730.8	1746.0	1754.0
NIPA Surplus or Deficit (-)#	-174.4	-110.5	-111.6	-99.5	-77.1	-55.5	-36.8	-
State and local government finances:								
Receipts#	999.0	1043.4	1046.9	1046.7	1054.9	1070.9	1080.0	-
Current Expenditures#	895.9	938.0	932.5	944.2	954.5	966.1	975.1	987.3
NIPA Surplus or Deficit (-)#	103.1	105.3	114.4	102.6	100.4	104.7	104.9	-
Inventories:								
Change in Business Inventories*	27.3	25.0	21.3	37.9	32.9	63.7	77.6	51.5

Table 1 Overview of the Economy (Cont)

	1995	1996	1996			1997		
			Q2	Q3	Q4	Q1	Q2	Q3
Ratio, Inventories to Final Sales*	2.50	2.47	2.46	2.48	2.46	2.47	2.50	2.49
<i>Millions of dollars, seasonally adjusted</i>								
Balance of payments:								
Current Account#	-129,095	-148,148	-35,585	-42,833	-36,874	-39,972	-39,030	-
Goods & Services	-101,857	-111,040	-27,779	-32,516	-26,198	-29,300	-26,413	-

Series marked with an “” are based on “real” (that is, chained 1992 dollar estimates); series marked with a “#” are based on current dollar estimates.

Source: U.S Department of Commerce. 1997. *Overview of the Economy*. Unpublished work.

Presented at <http://www.bea.doc/beau/glance.htm>. Washington, DC: Bureau of Economic Analysis.

Table 1 Overview of the Economy (Cont)

	Oct. 96	Nov. 96	Dec. 96	Jan. 97	Feb. 97	March 97	April 97	May 97	June 97	July 97
Labor Market										
Civilian Labor Force	134,636	134,831	135,022	135,848	135,634	136,319	136,098	136,173	136,200	136,290
Unem- ployment	7,019	7,187	7,167	7,268	7,205	7,144	6,714	6,534	6,836	6,583
Unem- ployment Rate	5.2	5.3	5.3	5.4	5.3	5.2	4.9	4.8	5.0	4.8
Hours, Earnings & Productivity										
Average Weekly Hours	34.4	34.5	34.7	34.4	34.8	34.8	34.5	34.5	34.6	34.4
Average Hourly Earnings	11.91	11.98	12.03	12.05	12.10	12.14	12.14	12.19	12.23	12.24
Consumer Price Index	0.3	0.3	0.3	0.1	0.3	0.1	0.1	0.1	0.1	0.2
Producer Price Index	0.4	0.2	0.5	-0.3	-0.3	-0.2	-0.5	-0.2	-0.2	-0.1

Source: U.S Department of Commerce. 1997. *Economy at a Glance*. Unpublished document.

Presented at <http://stats.bls.gov/eag/table.html>

Table 2 Economy at a Glance

Economic Structures

Economic policy in the U.S is governed by two structures: fiscal and monetary. Fiscal policy is established by government spending and is managed by elected political leaders. Current fiscal policies (in word, if not in deed) encourage deregulation, reduced taxation, and increased private investment, reflecting the political clout of Republicans acting in concert with moderate Democrats.

Monetary policy is set by the U.S Federal Reserve System. Unlike most nations, the U.S does not have one central bank; rather, it has 12 district Federal Reserve banks and 23 branch banks that collectively comprise the Federal Reserve System. The role of the Federal Reserve is to control the money supply. The Federal Reserve is governed by a Board of Governors whose 7 members are appointed by the President to serve 14-year terms. One member of the Board of Governors is

appointed as Chairman by the President and confirmed by the U. S. Senate. Each member bank has a Board consisting of 9 members. The Federal Reserve System uses several tools by which to control the money supply. First, the System sets interest rates. Second, it regulates credit through the purchase or sales of securities that consist primarily of bonds issued by the U. S government. Third and finally, it sets the amount of reserves that must be deposited with the System by a member bank. Each tool influences the availability of money in the U. S Economy.

Economic Policy

Economic policy in the U.S is not established by one individual or group, though many citizens look to the President to set the tone and exert the leadership in economic policy. By determining government spending, Congress (which appropriates all public funds at the Federal level) ultimately controls U. S government fiscal policy; by determining monetary policy, the Federal Reserve System ultimately controls interest rates and the availability of funds in the economy.

Economic Performance

Two troubling aspects of U.S economic performance are apparent. One is the balance of trade deficit, which stood at -\$155.7 billion in 1994. A second is the staggering gross national debt outstanding (which stood at -\$3,207 billion in 1990, -\$4,351 billion in 1993 and -\$4,644 billion in 1994). Both problems have replaced inflation as top concerns of government leaders and the public. Inflation no longer seems to be a problem: consumer prices rose only 5.4% in 1990, 3% in 1993 and 2.6% in 1994. The index of productivity in the U.S rose from 110.7 in 1990 to 119.9 in 1994 (where 1982=100). The Gross Domestic Product (GDP) of the U.S rose from \$5,546 billion in 1990 to \$6,738 billion in 1994.

The cost of living in the U.S compares favorably to many nations. If the U.S is regarded as having a cost of living index equalling 100, then Australia has a cost of living index of 123, China has a cost of living index of 122, Singapore has a cost of living index of 144, Thailand has a cost of living index of 102, Hong Kong has a cost of living index of 135, Mexico has a cost of living index of 77, Canada has a cost of living index of 108, and Japan has a cost of living index of 179 (Expat Forum, no date).

Economic Infrastructure

The U. S. economic infrastructure is among the world's best, though many nations do better in specific areas. U.S superhighways were the model for many nations' transportation systems; U.S leadership in the establishment and operation of the Internet and WorldWide Web has been unsurpassed; and, the U.S higher education enjoys international renown.

The U. S. has 6,243,163 kilometers* of highways—of which 3,633,520 kilometers are paved and 84,865 kilometers are expressways (ABC Country Book of the United States, 1997). (**Note:** Despite efforts to install the international metric system in the U.S, most of the nation remains on the English system -which uses measurements such as inches, feet, miles, and pounds). The U.S also has 41,009 kilometers of navigable inland channels, not including the Great Lakes. The U.S also has 240,000 kilometers of mainland rail routes that are not government-owned and 15,032 airports (ABC Country Book of the United States, 1997). There are an estimated 126,000,000 telephones, 7,557,000 cellular telephones, 4,987 broadcast AM radio stations and 4,932 FM radio stations. Approximately 1,092 television stations serve the 193 million televisions in the U.S (ABC Country Book of the United States, 1997).

The Socio-Cultural Context

Since the North American continent was not discovered until 1492 and was not widely colonized until the 1600s and 1700s, the U.S has not had as much time as other nations to develop a unique culture and national identity. Many U. S. values, traditions and customs are imported from other nations - most notably from the British Isles and from other nations of Western Europe.

National values and traditions are perhaps best embodied in family structure, dating and marriage, diet and recreation. The traditional American family consists of a mother, father, and one or two children. That traditional arrangement, however, comprises only one-fourth of all households. One of every four children is born out of wedlock, 30 percent of all households are headed by a single mother or father, and 1 of every 2 marriages ends in divorce. Dating is popular in the U.S. Children may begin dating as early as age 13. Dating usually involves visits to movies, dances, sporting events, or eating establishments. Casual sex remains common, though fear of sexually-transmitted disease has reduced its occurrence. The American diet is replete with salt, sugar, and fat, as the ubiquitous nature of American fast-food restaurants appears to show. Favorite American dishes include hamburgers, hot dogs (frankfurters), french fries, pizzas, fried chicken and ice cream. Apple pie is sometimes called the quintessential national food as evidenced by the common saying that “[*something—insert any term*] is as American as apple pie”. American recreation is focused on baseball, basketball and grid-iron football. Tennis and ten-pin bowling are popular with some segments of the nation. Soccer is not nearly as popular in the U.S. as in many other nations and is not widely known. Many business leaders play golf and use it as a venue for conducting business or socializing with prospective customers or clients.

Major public health issues in the U.S. include the prevalence of AIDS and the HIV virus and illicit drug use. The facts about AIDS are astounding (AIDS in the U.S. 1997):

- “One of every 1,500 Americans has died of AIDS. As of the end of 1993, the epidemic had left a total of 220,871 people dead in the United States—more than triple the number of Americans killed in the Vietnam War”.
- “In the United States, an estimated 362,000 have been diagnosed with AIDS. One in every 100 American men and 1 out of every 600 American women has HIV. Between 1 and 1.5 million Americans are HIV-positive”.
- “AIDS is now the leading cause of death for American men aged 25 to 44”.

Just as alarming as the prevalence of AIDS is the incidence of illicit drug use. According to the 1996 National Household Survey on Drug Abuse, “an estimated 13 million Americans were current illicit drug users, meaning they had used an illicit drug in the month prior to the interview. This represents no change from 1995 when the estimate was 12.8 million. The number of illicit drug users was at its highest level in 1979 when there were 2.5 million” (The National Household Survey, 1996). Also according to the survey, “there were an estimated 9.7 million whites (74 percent of all users), 1.8 million blacks (14 percent of all users), and 1.1 million Hispanics (8 percent of all users) that were current illicit drug users in 1996” (The National Household Survey, 1996). Men, noncollege graduates, and employed people were most at risk: “seventy-three percent of all current illicit drug users aged 18 and older (8.1 million adults) were employed, including 6.2 million full-time workers and 1.9 million part-time workers” (The National Household Survey, 1996).

Religious Movements

Formal religion has played a declining role in the life of U.S. citizens over the last 20 years. The U.S. is primarily a Christian nation, with strong roots in Protestantism in keeping with its early ties to England. However, many religions are represented in the country. In 1989, the U.S. was 56% Protestant, 28% Roman Catholic, 10% classified as “no religion”, 4% classified as “other”, and 2% Jewish (ABC Country Book of the United States, 1997).

Philosophical Ideologies

No strong philosophical ideologies typify American life. (But see Lasch, 1979.) Strong beliefs do exist, however, about the value of individuals, individualistic thinking, the role of work in an individual's life, and the importance of hard work to achieve one's goals. Americans often believe in what is called the *Horatio Alger myth* that an individual, through hard work alone, can

rise from humble beginnings to great wealth. Journalists occasionally write about the *American Dream*, which is often equated with home ownership for the average American. (The American Dream is becoming more difficult to realize as single family housing prices spiral beyond the reach of many young, recently-married couples.)

Ethnic Groupings

The U. S is becoming a more diverse nation. From 1989 to 1993, most immigrants entered the U.S from Mexico (2,370,000), the Philippines (308,865), Vietnam (279,187) and El Salvador (238,411). According to official U.S statistics that may not seem consistent by race or ethnic origin when viewed in other parts of the world, the U.S population is 73.7% white (Caucasian), 12% black (African-American), 10.2% Hispanic (often but not always descended from Mexican or Puerto Rican ancestry), 3.3% Asian and 0.7% American Indian. By year 2050, the U.S population is expected to be 52.8% white, 13.6% black, 24.5% Hispanic, 8.2% Asian and 0.9% American Indian (BLS, 1996c). These percentages do not equal 100% due to rounding error.

Recent History

Recent U.S history has been exceedingly complex (Pearcy, Dickson & Purdon, 1996), reflecting the enormous challenges confronting the nation externally and the great diversity characterizing the nation internally (see Table 3 for a summary of key events in U.S history since World War II.) Three key issues have perhaps been most significant in shaping the U. S. economy in social, cultural, political, and economic terms since the end of World War II. They are: (1) the Cold War; (2) the Vietnam War; and (3) social movements, such as the Civil Rights and Womens' Rights movements.

Year	Event
1945	<ul style="list-style-type: none"> • With the surrender of Germany and Japan, World War II ends • The Cold War begins with the Yalta and Potsdam Conferences
1947	The Truman Doctrine formalizes the U.S pledge to fight the spread of communism worldwide; the Marshall Plan is implemented to rebuild Europe after World War II.
1948	Harry S. Truman is elected President on the Democratic ticket.
1950-1953	The U.S is engaged in the Korean conflict.
1950-1954	The U.S is gripped with anti-communist hysteria during the McCarthy era.
1952	Dwight Eisenhower is elected President on the Republican ticket.
1954	The Supreme Court hands down a ruling in <i>Brown v. Board of Education</i> , which brings new attention to Civil Rights issues.
1955	Blacks boycott buses in Montgomery, AL.
1959	Fidel Castro successfully leads a revolution in Cuba, creating anti-communist hysteria in the U.S.
1960	John F. Kennedy is elected President on the Democratic ticket.
1962	The U.S and U.S.S.R. play nuclear brinksmanship in the Cuban Missile crisis.
1963	President John F. Kennedy is assassinated; Washington, DC is the focus of a Civil Rights March; Betty Friedan publishes <i>The feminine mystique</i> and thereby brings attention to Womens' Rights.
1964	Lyndon Johnson is elected President on the Democratic ticket.
1964-1965	Civil Rights Acts enacted into law by Congress.
1965	The U.S builds up its military presence in Vietnam.
1966	The National Organization for Women (NOW), a key group for Womens' Rights, is formed.

Table 3 Key Events in U.S History from World War II

Year	Event
1972-1974	<ul style="list-style-type: none"> • Richard Nixon is elected President for a second term, again pledging to extricate the U.S from the Vietnam War • The U.S is gripped by the Watergate scandal • Nixon resigns in disgrace • Gerald Ford (Republican) becomes President • Gerald Ford pardons Nixon
1973-1974	The U.S is in the grip of the Arab oil embargo.
1973	The U.S reaches a Peace Agreement with Vietnam.
1975	South Vietnam falls to (or is unified with) North Vietnam.
1976	Jimmy Carter is elected President on the Democratic ticket.
1979-1981	The U.S is in the throes of the Iranian hostage crisis.
1980	Ronald Reagan, a Republican, is elected President and the Iranian hostages are immediately returned.
1987	The U.S Congress investigates government wrongdoing in the Iran-Contra scandal.
1988	George Bush is elected President on the Republican ticket.
1989	The Soviet Union exits East bloc nations and the Berlin Wall falls.
1989-1990	The U.S takes military action in Panama.
1990-1991	The U.S and allies take military action against Iraq for its invasion of Kuwait.
1992	Bill Clinton is elected President on the Democratic ticket.
1994	Following congressional elections, both houses of Congress become Republican-controlled for the first time in decades.
1995	Political wrangling between the President and the Congress prompts a U.S government shutdown.
1996	Bill Clinton is elected to a second term as President and Republicans maintain control of Congress.
1997	Congress begins hearings on the campaign funding practices of the Democratic Party during the 1996 election.

Table 3 Key Events in U.S History from World War II (Cont)

The Cold War

The Cold War, a phrase coined by American financier Bernard Baruch, has often been used to describe the erstwhile growing tensions between the U.S and the Soviet Union. No open war was ever fought between the two nations, but for decades the Cold War dominated American politics and thinking. The Cold War ended in 1985 when Soviet leader Mikhail Gorbachev ushered in sweeping changes in Soviet policies that dramatically reduced tensions between the two nations. The impact of the Cold War was incalculable. While other nations focused their government spending on domestic issues or on efforts to improve international competitiveness, the U.S and the Soviets devoted sizable percentages of their respective Gross National Products to building weapons in anticipation of war. While the long-term impact of the Cold War in reducing U.S competitiveness has been profound, the research and development expenditures linked to perfecting weapons for the Cold War did have beneficial side effects in strengthening U.S international competitiveness.

The Vietnam War

The Vietnam War was a watershed in modern U.S history (Herring, 1996). Following World War II, Vietnam was partitioned at the 17th parallel. France played a key role early in the conflict

between North and South Vietnam, since Vietnam had previously been an important part of French Indochina. After years of bloody conflict, French involvement ceased in 1954. In an often forgotten fact of U.S history, the U.S began to play an active role in Vietnam as early as 1954 when U.S military advisers were sent to train the South Vietnamese army. U.S involvement was justified on the grounds that the fall of South Vietnam would represent a victory for the spread of communism, so the Vietnam War (like the Korean War before it) can properly be considered in the context of the Cold War. U.S involvement in the conflict became more active following October 1961, and some 16,000 military advisers and \$400 million in military aid flowed into South Vietnam over the next 2 years. In August 1964 the destroyer *USS Maddox* was attacked by North Vietnamese patrol boats, which prompted the U.S to commit more troops to the conflict. Over the next decade, however, U.S forces were gradually outwitted by a determined enemy that used guerilla warfare tactics with devastating effectiveness. The Vietnam War was the most divisive of all U. S wars. Many U.S citizens vehemently opposed it, participating in widespread anti-war activities. Other people, however, were just as strongly committed to supporting U.S policy and the troops fighting the war. The Vietnam War was significant because it was the only war in U.S history that the U.S lost, despite enjoying the advantage of vastly superior weapons, supplies and troops. The loss of the war has been traced to many factors: a reluctance by U.S political leaders to commit large resources to military action early in the conflict; the expectation by U.S commanders that the enemy would fight a conventional rather than a guerilla war; and, mounting domestic opposition.

The impact of the Vietnam War has been profound. After the war, U.S leaders found the American people to be highly skeptical of armed conflicts abroad, more willing to challenge government authority, and increasingly cynical about the motives of American politicians and American politics. The military draft was abolished, since the practice of conscription had become a lightning rod for anti-war protest as a symbol of forced military servitude that conflicted sharply with longstanding American cultural values placed on individual freedom from governmental intrusion. American taxpayers also began to question the economic and social value of maintaining a high profile U.S military presence around the world.

Military leaders also learned important lessons about strategy during the Vietnam War. Since that time, they have taken care to clarify the mission of a military intervention-which was not done well in Vietnam. The war also led to an increased focus on training in guerilla and anti-guerilla warfare, which (with some modifications) has proven useful as a foundation for fighting terrorism both domestically and internationally. Finally, military leaders learned from the war to commit overwhelming forces to military campaigns rather than rely on incremental, and usually ineffective, military escalation.

Social Movements

Two important social movements have influenced conditions in the U.S profoundly since World War II. They are: (1) the Civil Rights movement; and (2) the Womens' Rights movement. These movements have drawn strength and, over many decades, have built their momentum from the American sense of fair play and egalitarianism.

The Civil Rights movement had its roots deep in the foundation of the nation. When the U.S gained its independence from the English crown, many blacks were slaves, and the abolition of slavery was debated as early as the first Constitutional Convention. The U.S Civil War of the 1860s was fought in part to free the slaves, though their social plight was not effectively resolved at the end of the Civil War. Blacks at that time were still commonly subjected to racial discrimination.

The economic boom that began with the outbreak of World War II was not as widely shared by blacks as by whites. In fact, racial tensions prompted President Franklin Roosevelt to issue Executive Order 8802 in 1941 to prohibit racial discrimination in defense industries and

government. Following World War II, black Americans became increasingly unwilling to tolerate discrimination. Some people date the beginning of the Civil Rights movement in 1954, when the U.S Supreme Court issued a landmark ruling (*Brown v. Board of Education*) prohibiting racial segregation in schools.

Racial tensions continued to mount, however. A 1955-1956 bus boycott in Montgomery, Alabama, led by the Reverend Martin Luther King, focused attention on the practice of forcing blacks to sit at the back of public buses (Schulke, 1995). A 1960 student demonstration in Greensboro, North Carolina, focused attention on the practice of forcing blacks to sit at separate lunch counters in drug stores. Public support for reducing racial segregation became pronounced, however, when black voters in Selma, Alabama marched peacefully for their rights and were greeted by police armed with tear gas.

The Civil Rights Movement resulted in the passage of many important laws at the Federal level to protect people from racial discrimination (these laws are described later in this profile). Increasingly, other forms of discrimination were prohibited as well. The rights won by blacks have thus provided an important model and example for women, disabled Americans, gays and many other groups in their fight for equal rights and freedom from discrimination.

In recent years, the gains made by previous generations of Civil Rights leaders appear to be in danger of being reversed. Efforts to redress past wrongs resulting from racial discrimination prompted informal "goals" and "set-asides" to ensure racial diversity in college admissions and in other spheres of American life. Conservatives charged that these became little more than racial quotas that resulted in *reverse discrimination*, the practice of preferring legally-protected groups (such as blacks and women) to white males. One 1996 development was the passage by California voters of Proposition 209, which prohibited racial "set-asides" and sought to end Affirmative Action in that State. Proposition 209 was upheld by the U.S Supreme Court in 1997 and became effective in California. However, under the Supremacy clause of the U.S Constitution that gives Federal law priority over any State law when they conflict, all Federal anti-discrimination laws remain in full force.

At about the same time that the Civil Rights Movement was making gains in prohibiting racial discrimination, the Womens' Rights Movement emerged as a topic of widespread public attention and interest (see Cott, 1987; Faludi, 1992; Friedan, 1997). Efforts to improve the status of women long predate the history of slavery in America and were described by philosophers and playwrights as far back as the ancient Greeks. While these efforts were pronounced in the U.S during the Womens' Suffragette movement of the 1920s in which women secured the right to vote, the Womens' Rights movement shared many goals with and benefited from the example set by the Civil Rights movement. At the same time that activism against the Vietnam War was reaching its peak, women staged widespread demonstrations to gain equality with men. Many laws designed to eliminate racial discrimination were also designed to eliminate sex discrimination.

The Womens' Rights movement, like the Civil Rights movement, has slowly realized its goal of ensuring legal protection against discrimination. Recently leaders of womens' groups have focused their attention on seeking equal treatment for women in the workplace. Many organizations established Equal Employment Opportunity (EEO) policies to comply with laws and prohibit discrimination on the basis of race or sex. Affirmative Action policies were crafted to go beyond prohibiting racial or sexual discrimination to achieving qualitative and quantitative parity in workplace representation. Additionally, steps were taken to eliminate *glass ceilings* (invisible discriminatory practices) that have prevented women from being promoted to the highest levels of their organizations. In the 1990s, the Womens' Rights movement has directed its attention toward fighting sexual harassment in the workplace. Sexual harassment in the U.S has two definitions. First, it can refer to the practice of subjecting people to unwanted sexual

attention. Second, and less obviously, it can refer to more subtle characteristics such as the practices of making sexual jokes, teasing or making derogatory comments on the basis of sex that can result in a hostile work environment for men or women. The passage of California's Proposition 209 also affects the gains made by women. By eliminating set-asides in one key State, it may endanger the gains made by women because it sets a pattern that may be followed by voters in other States.

Labor Market

Composition of the U.S Labor Force

According to the U.S Census Bureau, the U.S civilian labor force of persons age 16 and over numbered 124.8 million in 1990, 128 million in 1993 and 131.1 million in 1994 (U.S Census Bureau, 1996a). In 1990 the unemployment rate was 5.5% (BLS, 1997f), in 1993 it was 6.8% , and in 1994 it was 6.1%. Table 4 summarizes important information about the civilian labor force in the U.S.

Group	Number (in thousands)				Numerical Change		Percent Change	
	1982	1993	1994	2005	1982-93	1994-2005	1982-93	1994-2005
Total, 16 years and over	110,204	128,040	131,056	147,106	17,836	16,050	12.2	18.5
Men, 16 years and over	62,540	69,633	70,817	76,842	7,183	6,025	11.5	8.5
Women, 16 years and over	47,755	58,407	60,239	70,263	10,652	10,024	22.3	16.6
16 to 24	24,608	20,383	21,612	23,984	-4,225	2,372	-17.2	11.0
25 to 54	70,506	92,271	93,898	101,017	21,765	7,119	30.9	7.6
55 and over	15,092	15,386	15,547	22,105	294	6,558	1.9	42.2
White, 16 years and over	96,143	109,359	111,082	122,867	13,216	11,785	13.7	10.6
Black, 16 years and over	11,331	13,943	14,502	16,619	2,612	2,116	23.1	14.6
Asian and other, 16 years and over	2,729	4,742	5,474	7,632	2,013	2,158	73.8	39.4
Hispanic, 16 years and over	6,734	10,377	11,975	16,330	3,643	4,355	54.1	36.4
Other than Hispanic, 16 years and over	103,470	117,663	119,081	130,775	14,193	11,694	13.7	9.8
White, non-Hispanic	89,630	99,499	100,462	108,345	9,869	7,883	11.0	7.8

GSource: Bureau of Labor Statistics (BLS). 1994. *U.S Civilian Labor Force, 1982, 1993, and 1994 and Projected 2005*. Office of Employment Projections. Unpublished work. Presented at <http://stats.bls.gov/emptab7.htm>. Washington, DC: U.S Department of Labor.

Table 4 U.S Civilian Labor Force 1982, 1993 & 1994 & Projected 2005

The U.S Bureau of Labor Statistics predicts that, between 1994 and 2005 (BLS, 1996c; BLS, 1995a), employment is projected to increase by 17.7 million or 14 percent. This is slower than the 24 percent increase attained during the 11-year period from 1983 - 1994. The number of self-employed workers is expected to increase by 950,000, to 11.6 million in 2005, while the number of unpaid family workers such as "housewives" and "househusbands" will decline. Women, as a result of a faster rate of growth in workplace participation than men, are projected to represent a slightly greater portion of the labor force in 2005 than in 1994 - increasing from 46 to 48 percent.

The number of men in the labor force is projected to grow, but at a slower rate than in the past, in part reflecting declining employment in good-paying production jobs in manufacturing and a continued shift in demand for workers from the goods-producing sector to the service-producing sector. Men with less education and training may find it increasingly difficult to obtain jobs consistent with their experience.

Occupation	Employment Change, 1994 - 2005			
	1994	2005	Numerical	Percent
Cashiers	3,005	3,567	562	19
Janitors & Cleaners, including maids & housekeeping cleaners	3,043	3,602	559	18
Salespersons, retail	3,842	4,374	532	14
Waiters & Waitresses	1,847	2,326	479	26
Registered Nurses	1,906	2,379	473	25
General Managers & top executives	3,046	3,512	466	15
System analysts	483	928	445	92
Home health aides	420	848	428	102
Guards	867	1,282	415	48
Nursing aides, orderlies & attendants	1,265	1,652	387	31
School teachers, secondary	1,340	1,726	386	29
Marketing & Sales worker supervisors	2,293	2,673	380	17
Teacher aides & educational associates	932	1,296	364	39
Receptionists & information clerks	1,019	1,337	318	31
Truckdrivers, light & heavy	2,565	2,837	271	11
Secretaries, except legal & medical	2,842	3,109	267	9
Clerical supervisors & managers	1,340	1,600	261	19
Child care workers	757	1,005	248	33
Maintenance repairers, general utility	1,273	1,505	231	18
Teachers, elementary	1,419	1,639	220	16
Personal and home care aides	179	391	212	119
Teachers, special education	388	593	206	53
Licensed practical nurses	702	899	197	28
Food service & lodging managers	579	771	192	33
Food preparation workers	1,109	1,378	187	16
Social workers	557	744	187	34
Lawyers	658	839	183	28
Financial managers	768	950	182	24
Computer engineers	195	372	177	90
Hand packers & packagers	942	1,102	160	17

Source: Bureau of Labor Statistics (BLS). 1995f. Occupations with the Largest Job Growth, 1994-2005. Unpublished work. Presented at <http://stats.bls.gov/emptab2.htm>. Washington, DC: U.S Department of Labor.

**Table 5 Occupations with the Largest Job Growth, 1994 - 2005
(in thousands)**

The occupations with the largest anticipated growth between 1994 and 2005 in the U.S are listed in Table 5 (BLS, 1995b & 1995f); the fastest-growing U.S industries are listed in Table 6 (see BLS, 1995d).

Industry	Employment Change, 1994-2005			
	1994	2005	Numerical	Annual Rate
Health Services	1,032	1,900	868	5.7
Residential care	602	1,100	498	5.6
Computer & data processing services	950	1,610	660	4.9
Individual & miscellaneous social services	779	1,314	535	4.9
Miscellaneous business services	1,741	2,932	1,191	4.9
Personnel supply services	2,254	3,564	1,310	4.3
Child day care services	502	800	298	4.3
Services to buildings	854	1,350	496	4.2
Miscellaneous equipment rental & leasing	216	325	109	3.8
Management & public relations	716	1,049	333	3.5
Nursing & personal care facilities	1,649	2,400	751	3.5
Amusement & recreation services	1,005	1,434	429	3.3
Job training and related services	298	425	127	3.3
Museums, botanical, zoological gardens	79	112	33	3.2
Water & sanitation	213	300	87	3.2
Automobile parking, repair, & services	796	1,118	322	3.1
Personal services	225	314	89	3.1
Miscellaneous transportation services	195	270	75	3.0
Offices of health practitioners	2,545	3,500	955	2.9
Legal services	927	1,270	343	2.9

Source: Bureau of Labor Statistics (BLS). 1995d. Fastest Growing Industries (in thousands). Unpublished work. Presented at <http://stats.bls.gov/emtab-4.htm>. Washington, DC: U.S. Department of Labor.

Table 6 Fastest Growing Industries (in thousands)

The Status of Contingent Workers

Observers of the U.S labor force have pointed to the growth of *contingent workers*, understood to mean individuals who work full- or part-time for an employer and/or “on call” but do not consider themselves to have an implicit or explicit long-term contractual relationship with one employer. Contingent workers are also not typified by a certain level as they once were when associated with “day laborers”, “unskilled workers”, or “blue-collar laborers”. Today’s contingent worker can be a professional, a manager, or a technical worker—or even a Chief Executive Officer hired by the hour, day, week or month.

The U.S. Department of Labor's Bureau of Labor Statistics completed a first-ever survey on contingent workers in August 1995 (BLS, 1995e). The survey's initial results revealed "that, in February 1995, between 2.7 and 6.0 million workers a range of 2.2 to 4.9 percent of total employment—were in contingent jobs" (BLS, 1995e). Additionally, the survey results showed that "8.3 million workers (6.7 percent of the total employed) said they were independent contractors, 2.0 million (1.7 percent) worked 'on call,' 1.2 million (1.0 percent) worked for temporary help agencies, and 652,000 (0.5 percent) worked for contract firms that provided the worker's services to one customer at that customer's worksite" (BLS, 1995e).

Work-Related Immigration to the U.S

Despite increasingly restrictive immigration policies, the U.S. has experienced nearly a 40 percent increase in work-related immigration since 1996. "The number of persons who immigrated for job-related reasons increased from slightly more than 85,000 in 1995 to nearly 117,500 in 1996" (Leonard, 1997: 10).

A continuing influx of immigrants into the United States has several implications for employers. First, employers will continue to be a major focus of government efforts to regulate immigration. Since increased earnings is a primary reason for immigration, the U.S. government will continue to view employers as an excellent point of contact for monitoring, regulating and restricting immigration. Second, employers are likely to find the continuing debate about English-only rules to intensify. An *English-only rule* is a work policy prohibiting workers from speaking in languages other than English while in the workplace. Yet increasing pressures to meet global competitive challenges will make multilingualism a prized skill among future U.S. workers.

Government Policies

The U.S. does not have an integrated industrial policy, as many European nations do. That means no coherence exists among employment programs, environmental and safety programs and other Federal, State, and local laws, rules, and regulations. Employers find themselves perplexed by different (and sometimes conflicting) governmental requirements, and these requirements often differ widely, among and even within States and municipalities. Likewise, individuals seeking government assistance in locating employment find themselves shuffled among a confusing number of different programs.

Recent government attention has focused around moving people from welfare (public assistance) to work in response to The Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This law "transformed a 61-year-old federal entitlement based on giving cash benefits to poor families with dependent children and created instead a system that provides states a fixed amount of money and the freedom to design their own welfare initiatives" (Jossi, 1997: 46). About 15 percent of U.S. citizens fall below the poverty line (defined as an income of \$15,600 annually for a family of four in 1995), and about 11 percent of U.S. citizens have incomes less than 50 percent of the poverty line. The aim of welfare reform is to move people off the welfare rolls and onto payrolls. Human resource management (HRM) practitioners in the U.S. have mixed views about how much and how well their companies can help welfare recipients, who often lack important skills, make the transition to the workplace (Workforce, 1997: 17).

Education has been another focal point of interest for government policy. Schools in the U.S. are supported at the local level through property taxes. The practical implication of that policy, which is intended to ensure local governance of schools, is that elementary and secondary schools in some areas have substantially higher budgets for education than others do. That leads to obvious funding inequities across locales, a problem that has long confounded public-spirited reformers.

<i>Description: This Exhibit presents projected change in employment by education and training category, 1994-2005, moderate alternative project (numbers in thousands)</i>								
Education Category	1994		2005		Change, 1994-2005		Job Openings Due to Growth and Net Replacement, 1994-2005	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total	127,014	100.0	144,708	100.0	17,693	100.0	49,631	100.0
First professional degree	1,702	1.3	2,076	1.4	374	22.0	657	1.3
Doctor's degree	976	.8	1,156	.8	180	18.4	467	.9
Master's degree	1,500	1.2	1,927	1.3	427	28.5	658	1.3
Work experience, plus a bachelor's or higher degree	8,191	6.5	9,494	6.6	1,303	15.9	3,062	6.2
Bachelor's degree	14,007	11.0	17,771	12.3	3,764	26.9	6,684	13.5
Associate degree	3,956	3.1	4,919	3.4	963	24.3	1,594	3.2
Post-secondary vocational training	7,102	5.6	7,845	5.4	743	10.5	2,378	4.8
Work experience	9,994	7.9	11,325	7.8	1,331	13.3	3,554	7.2
Long-term on-the-job training	13,672	10.8	14,904	10.3	1,229	9.0	4,754	9.6
Moderate-term on-the-job training	16,219	12.8	17,083	11.8	864	5.3	5,670	11.4
Short-term on-the-job training	49,695	39.1	56,208	38.8	6,513	13.1	20,152	40.6

Source: Bureau of Labor Statistics (BLS), 1995c. Change in Employment by Education and Training Category, 1994-2005. Unpublished work. Presented at <http://stats.bls.gov/emplab08.htm>. Washington, DC: U.S Department of Labor

Table 7 Change in Employment by Education and Training Category 1994 - 2005

Changes in educational attainment have been evident in the U.S for some time (BLS, 1995c & BLS, 1997g) (see Table 7.) At the same time, however, employers repeatedly complain of a continuing, and growing mismatch between the skills provided by the schools and the skills needed for competitive success in an increasingly global marketplace. This problem has recently prompted a government program called School-to-Work, which is intended to ease the transition for people from the schoolhouse to the workplace and break down communication barriers between educators and business people by increasing the amount of practical, workplace-based experience gained by schoolchildren.

Employment Law

Sources of Employment Law

A complex web of employment law exists at the Federal government level in the U.S. Key national labor laws are summarized in Table 8. Under the Supremacy clause of the U.S. Constitution, Federal laws take precedence over local laws unless no Federal law exists or Federal law specifically stipulates that local laws may be substituted for Federal law. In addition to national labor laws, each State, county and municipality may enact and enforce special laws, rules, regulations or ordinances affecting employment in a local jurisdiction.

Name of Law & Date of Enactment	Legal Citation	Brief Description of Key Provisions
Davis-Bacon Act (1931)	<i>40 U.S.C. & sect; & sect; 276 et seq.</i>	The Davis-Bacon Act applies to federal construction and repair contracts over \$2,000. The Act requires contractors to pay their employees a specified minimum wage determined by the Secretary of Labor to be prevailing for similar work in that geographic area. Over 60 other federal laws make compliance with Davis-Bacon provisions a pre-condition for state and local contracts when a portion of the funding for those contracts comes from the federal government. The Act is enforced by the Wage and Hour division of the Department of Labor.
The National Labor Relations Act (Wagner Act and Taft-Hartley Act of 1947)	<i>29 U.S.C. & sect; & sect: 151</i>	The National Labor Relations Act protects the right of employees to choose whether to be represented by a union. The Act protects against coercion by employers or unions in making this choice and establishes the ground rules for union representation elections. The Act establishes collective bargaining between employers and union. The Act is enforced by the National Labor Relations Board.
Fair Labor Standards Act (1938)	<i>29 U.S.C. & sect; & sect; 201 et seq</i>	The Fair Labor Standards Act provides minimum wage and overtime requirements. Under the FLSA all non-exempt employees are entitled to cash overtime for all hours worked over 40 in a workweek. The Act is enforced by the Wage and Hour Division of the Department of Labor and private lawsuits.

Table 8 U.S. Labor Laws

Name of Law & Date of Enactment	Legal Citation	Brief Description of Key Provisions
Labor-Management Reporting & Disclosure Act (Landrum-Griffin Act) (1959)	<i>29 U.S.C. &sect;&sect;; 401 et seq</i>	The Labor-Management Reporting and Disclosure Act or the Landrum-Griffin Act, establishes a set of rights for employees who are members of unions. They include the right to vote, attend meetings, meet and assemble with other members, and freely express views and opinions. The Act also requires all labor unions to adopt a constitution and by-laws, and contains certain reporting requirements for labor organizations, their officers, and employees. This Act is enforced by the Office of Labor Management Standards of the Department of Labor.
Contract Work Hours Safety Standards Act (1962)	<i>40 U.S.C. &sect;&sect;; 327 et seq</i>	This Act sets a standard 40 hour workweek for employees of federal contractors and regulates work in excess of the standard week including the requirement to pay overtime. The Act is enforced by the Wage and Hour Division of the Department of Labor.
Equal Pay Act (1963)	<i>29 U.S.C. &sect;&sect;; 201 et seq</i>	The Equal Pay Act prohibits discrimination in pay and benefits on the basis of sex for jobs in the same establishment that require equal skill, effort, and responsibility and which are performed under similar working conditions. The Act is enforced by the Equal Employment Opportunity Commission.
Title VII of the Civil Rights Act (1964)	<i>42 U.S.C. &sect;&sect;; 2000 et seq.</i>	Title VII makes it unlawful for an employer, with 15 or more employees, to discriminate against individuals with respect to hiring, compensation, terms, conditions, and privileges of employment on the basis of race, color, religion, national origin or sex. Title VII is enforced by the Equal Employment Opportunity Commission.
Executive Order 11246 (1965)	<i>42 U.S.C.A. &sect;; 2000e</i>	Executive Order 11246 prohibits job discrimination by employers holding Federal contracts or subcontracts on the basis of race, color, sex, national origin or religion and requires affirmative action to ensure equality of opportunity in all aspects of employment. The Order is enforced by the Office of Federal Compliance Contract Programs of the Department of Labor.
Service Contract Act (1965)	<i>41 U.S.C. &sect;&sect;; 351 et seq.</i>	This Act is analogous to the Davis-Bacon Act in the area of service contracts performed by private companies doing work for the federal government. The Act requires contractors that provide services to the federal government to provide their employees a specified minimum wage and fringe benefits plan determined by the Secretary of Labor to be prevailing in the locality. The Act is enforced by the Wage and Hour Division of the Department of Labor.
Age Discrimination in Employment Act (1967)	<i>29 U.S.C. &sect;&sect;; 621 et seq.</i>	The Age Discrimination in Employment Act, or ADEA, makes it unlawful for an employer with 20 or more employees to discriminate against individuals that are 40 years or older, with respect to hiring, compensation, terms, conditions, and privileges of employment on the basis of age. The Act is enforced by the Equal Employment Opportunity Commission.
Federal Coal Mine Health and Safety Act (1969)	<i>30 U.S.C. &sect;; 801 et seq.</i>	This Act empowers the Secretaries of Labor and Health and Human Services to promulgate health and safety standards for the mining industry. The Act is enforced by the Mine Safety and Health Administration of the Department of Labor.

Table 8 U.S Labor Laws (Cont)

Name of Law & Date of Enactment	Legal Citation	Brief Description of Key Provisions
Occupational Safety & Health Act (1970)	<i>29 U.S.C. &sect; 553, 651 et seq.</i>	The Occupational Safety and Health Act, OSHA, requires all employers to provide a work place that is free from recognized hazards that cause, or are likely to cause, death or serious physical harm to employees. The Act also establishes the Occupational Safety and Health Administration which is responsible for promulgating workplace safety standards and regulations for various industries. The Act is enforced by the Occupational Safety and Health Administration.
Rehabilitation Act (1973)	<i>29 U.S.C. &sect; &sect; 701 et seq.</i>	The Rehabilitation Act prohibits employers that receive federal grants, loans or contracts from discriminating in their employment practices against individuals with disabilities. The Act is enforced by the Department of Labor.
Employee Retirement Income Security Act (1974)	<i>29 U.S.C. &sect; &sect; 301, 1001 et seq.</i>	The Employment Retirement Income Security Act, or ERISA, governs the operation of pensions and retirement benefits provided by private sector employers to their employees. The Act does not require that employers provide such benefits, but regulates the conduct of employers that do provide such plans. The Act is enforced by the Pension and Welfare Benefits Administration of the Department of Labor.
Vietnam Era Veterans' Readjustment Assistance Act (1974)	<i>38 U.S.C. &sect; 4301</i>	VEVRAA makes it unlawful for employers to discriminate against veterans of the Armed Forces in their employment practices. It also provides veterans with certain reemployment, seniority, health benefit, and pension rights with respect to prior employment. The Act is enforced by the Office of Veterans Employment and Training of the Department of Labor.
Black Lung Benefits Reform Act (1977)	<i>30 U.S.C. &sect; &sect; 901 et seq.</i>	This Act provides benefits to coal miners who are totally disabled due to pneumoconiosis and to the surviving dependents of miners whose death was a result of this disease. The Act is enforced by the Office of Workers' Compensation Programs of the Department of Labor.
Labor-Management Cooperation Act (1978)	<i>29 U.S.C.A. &sect; &sect; 141 note, 173, 175a.</i>	The Labor-Management Cooperation Act encourages the establishment and operation of joint labor management activities designed to improve labor relations, job security, and organizational effectiveness. The Act authorizes the Federal Mediation and Conciliation Service to provide assistance, contracts, and grants to joint labor management committees that promote these purposes.
Pregnancy Discrimination Act (1978)	<i>42 U.S.C. &sect; &sect; 2000 et seq.</i>	The PDA, a 1978 amendment to Title VII of the 1964 Civil Rights Act, makes it unlawful for an employer to discriminate on the basis of pregnancy or childbirth. The Act is enforced by the Equal Employment Opportunity Commission.
Multi-Employer Pension Plan Amendments Act (1980)	<i>29 U.S.C. &sect; &sect; 1001a et seq.</i>	This Act regulates the operation of multi-employer pension plans and provides protection and guarantees for the participants and beneficiaries of distressed plans. The Act is enforced by the Pension and Welfare Benefits Administration of the Department of Labor.

Table 8 U.S Labor Laws (Cont)

Name of Law & Date of Enactment	Legal Citation	Brief Description of Key Provisions
Job Training Partnership Act (1982)	<i>29 U.S.C. &sect;&sect;; 1501 et seq.</i>	This Act creates Private Industry Councils composed of business owners and executives as well as representatives of organized labor to assist state and local governments in the development and oversight of job training programs. The Act is enforced by the Employment and Training Administration of the Department of Labor.
Migrant & Seasonal Agricultural Protection Act (1983)	<i>29 U.S.C. &sect;&sect;; 1801 et seq.</i>	This Act governs the terms and conditions of employment for migrant and seasonal agricultural workers and regulates the employment practices of agricultural employers, agricultural associations, and farm labor contractors. The Act is enforced by the Wage and Hour Division of the Department of Labor and private lawsuits.
Immigration Reform & Control Act (1986)	<i>29 U.S.C. &sect;&sect;; 1802 et seq.</i>	The Immigration Reform and Control Act, or IRCA, requires employers to verify that applicants for employment are authorized to work in the United States. The Act provides civil and criminal penalties for knowingly employing unauthorized aliens and also prohibits discrimination based on national origin or citizenship if the alien is authorized to work. The Act is enforced by the Department of Justice and the Immigration and Naturalization Service.
Economic Dislocation & Worker Adjustment Assistance Act (1988)	<i>29 U.S.C. &sect;&sect;; 1651-53</i>	This Act provides federal funds to the states for basic readjustment and retraining of workers that have been terminated because of layoffs or plant closures and who are unlikely to return to their previous occupations. The Act is managed by the Employment Standards Administration of the Department of Labor.
Employee Polygraph Protection Act (1988)	<i>29 U.S.C. &sect;&sect;; 2001 et seq.</i>	This Act makes it unlawful for an employer to require, request, suggest, or cause an employee or applicant to submit to a lie detector test. In addition, it prohibits the employer from threatening or taking any adverse employment action against an employee or applicant who refuses to take a lie detector test. The Act is enforced by a private right of action in the federal district courts.
Worker Adjustment & Retraining Notification Act (1988)	<i>29 U.S.C. &sect;&sect;; 2101 et seq.</i>	The Worker Adjustment and Retraining Notification Act, or WARN, requires that employers with 100 or more employees to give 60 days advance notice to employees of impending plant closings or layoffs involving 50 or more employees. The Act is enforced by private law suits.
Whistleblower Protection Statutes (1989)	<i>10 U.S.C. &sect;; 2409; 12 U.S.C. &sect;; 1831j; 31 U.S.C. &sect;; 5328; 41 U.S.C. &sect;; 265.</i>	The Whistleblower Protection statutes protect employees of financial institutions and government contractors from discriminatory and retaliatory employment actions as a result of reporting violations of the law to federal authorities. The Act is enforced by the Wage and Hour Division of the Department of Labor.
Americans with Disabilities Act (1990)	<i>42 U.S.C. &sect;&sect;; 12101 et seq.</i>	The Americans with Disabilities Act, or ADA, makes it unlawful for an employer, with 15 or more employees, to discriminate against qualified individuals with disabilities with respect to hiring, compensation, terms, conditions, and privileges of employment. The Act is enforced by the Equal Employment Opportunity Commission.

Table 8 U.S Labor Laws (Cont)

Name of Law & Date of Enactment	Legal Citation	Brief Description of Key Provisions
Older Workers Benefit Protection Act (1990)	29 U.S.C. §§; 623 <i>et seq.</i>	This amendment to the Age Discrimination in Employment Act makes it unlawful for an employer to discriminate with respect to employee benefits on the basis of age. It also regulates early retirement incentive programs. The Act is enforced by the Equal Employment Opportunity Commission.
Civil Rights Act (1991)	42 U.S.C. §§; 1981 <i>et seq.</i>	The Civil Rights Act of 1991 amended the 1964 act, and the Americans with Disabilities Act (ADA) to allow compensatory and punitive damages, but places caps on the amounts that can be awarded. The Act also provides for jury trials in suits brought under these laws.
Family and Medical Leave Act (1993)	29 U.S.C. §§; 2601 <i>et seq.</i>	The Family and Medical Leave Act requires that employers, with 50 or more employees, provide up to 12 weeks of unpaid leave, within any 12 month period, to employees for the care of a newborn or adopted child, for the care of a seriously ill family member, or for treatment and care of the employee's own serious medical condition. The Act is enforced by the Wage and Hour Division of the Department of Labor.
Congressional Accountability Act (1995)	2 U.S.C. §§; 1301 <i>et seq.</i>	When many of the above laws were enacted, Congress was expressly exempted from compliance. The Congressional Accountability Act extends coverage of eleven laws to Congress in its capacity as an employer.

Table 8 U.S Labor Laws (Cont)

Individual Contracts of Employment

Individual contracts of employment in the U.S are governed, for the most part, by *employment-at-will*. Under this legal principle, employers have the right to terminate employees at any time for good reasons, bad reasons or no reasons. Employees likewise have the right to terminate their employment at any time for good reasons, bad reasons or no reasons. Employment-at-will is subject to only a few legal exceptions. *Wrongful discharge*—defined as a capricious or arbitrary employee termination—is said to occur if employers violate public policy by terminating employees for their refusal to break the law, for instance, or if employers terminate workers after having appeared to guarantee job security. Terminations stemming from unlawful discrimination are also exceptions to employment-at-will. Estimates of wrongful discharge in the U.S indicate that between 50,000 and 200,000 workers are unjustly terminated each year of the estimated 2 million workers discharged (BLS, 1996d).

The Regulation of Occupational Health and Safety

Occupational health and safety is regulated by the Occupational Safety and Health Administration (OSHA), the Environmental Protection Agency (EPA) and by individual States and municipalities. Many environmental laws exist at the Federal and State government levels, and employers are well-advised to observe them scrupulously due to the severe fines and penalties that may be incurred by businesses that ignore them. Table 9 provides a partial checklist for employee safety training requirements in California, a State having among the most stringent occupational health and safety requirements in the U.S (Common industrial health & safety requirements, 1996). The Table demonstrates just how complicated and far-reaching the regulations affecting environmental and safety issues can be.

What follows is an alphabetized “starter set” of training recommendations and requirements that may be desirable for an industrial facility in California. In addition to topics that are applicable across a spectrum of industries, the list includes some training topics that are specific to particular industries (eg. Timber, electrical power generation, etc). Some of the citations are from federal QIS regulations; others are from State of California and regional regulations. DISCLAIMER: the topics are provided for information only and should not be construed in any way as professional advice about specific programs for your facilities.

Title	Description
3,3'-Dichlorobenzidine hdlg.	Safe handling for 3,3'-Dichlorobenzidine
4-Nitrobiphenyl Handling	Safe handling for 4-Nitrobiphenyl
Accident prevention signs/tags	Accident prevention signs and tags
Accident report form	Use of the accident report form
Air permit logbooks	Completion of Air District Emissions Logbooks
Alpha-Naphthylamine Handling	Safe handling for alpha-Naphthylamine
Asbestos hazards overview	Asbestos hazards at work (overview)
Blood-borne pathogens	Safe handling of blood-borne pathogens
Carcinogen program	Carcinogenic substances in the workplace
Chemical hygiene plan	Chemical hazards in the workplace
Compaction equipment	Operation of the compaction equipment
Confined space entry	Safe entry into confined spaces
CPR	Cardiopulmonary resuscitation training
Cutting/welding safety	Training on fire prevention and suppression procedures for welders and cutters
Electrical power distribution	Electrical power distribution safety
Emergency action plan notification	Emergency action plan-notification
Emergency action plan	Emergency action plan for training
Emergency resp. 24-hr	HAZMAT training for first responders (24 hour course)
Emergency resp. 40-hr	HAZMAT training for hazardous waste site operators
Ergonomic hazard control	Ergonomic hazard control in the workplace
Explosive blasting agents	Safe handling of explosives and blasting agents
Fire brigade training	Fire brigade training program
Fire brigade training structural	Fire brigade training program (Structural firefighters)
Fire extinguisher, portable	Use of portable fire extinguishers
Fire prevention plan	Fire prevention plan training
First aid (standard)	Standard first aid
Fixed extinguishing system	Fixed fire extinguishing system operation and maintenance

Table 9 Common Industrial Health & Safety Training Requirements in the U.S

Title	Description
Flammables/combustibles stge.	Storage of flammable and combustible materials
Forklife operator	Safe operation of forklifts
Haz. waste supv., supp. trng.	Supplemental health & safety training for supervisors (8 hours)
Haz waste worker, 24-hr.	Health and safety training for hazardous waste site workers (24 hours)
Haz waste worker, 40-hr.	Health and safety traing for hazardous waste site workers (40 hour course)
Hazcom std: labeling	Hazard communication standard: Labeling requirements
Hazcom std: MSDS	OSHA Hazard communication standard: MSDS
Hazcom std: overview	OSHA Hazard communication standard: Overview
Hazcom std: PPE	Hazard communication standard: Personal protective equipment
Hearing conservation pgm	Hearing conservation program
Injury/illness prev. prgm	Injury and illness prevention program
Ionizing radiation	Ionizing radiation safety
Laser safety	Safe handling of lasers
Lock/tagout, afctd. employee	The control of hazardous energy (lockout/tagout) for affected employees
Lock/tagout, auth. employee	The control of hazardous energy (lockout/tagout) for authorized employees
Lock/tagout, other employee	The control of hazardous energy (lockout/tagout) for other employees
Logging operations	Safety in logging operations
Mechanical power presses	Operation of powered presses
Methyl cloromethyl ether trng	Safe handling for methyl chloromethyl ether
Powered platform operation	Operation training for powered platforms
Process safety management	Process safety management of highly hazardous chemicals
Prop 65 Materials	Identification and safe handling of hazardous chemicals
Pulmonary fitness	Certification of pulmonary fitness
Respiratory fit test	Fit test for negative pressure respirator
Respiratory prot program	Safe usage and handling of respirators
Rim wheel servicing	Servicing for multi-piece and single-piece rim wheels
Stg. handling LP gases	Safe handling of pressurized gas containers

Source: Common Industrial Health & Safety Training Requirements. (1996).

Obtained from <http://www.ladue.com/trng.html>

Table 9 Common Industrial Health & Safety Training Requirements in the U.S (Cont)

The Minimum Wage and Common Hours of Work

The Fair Labor Standards Act (FLSA), which is summarized in Table 9, establishes a minimum wage in the U.S and forbids employment of minors under age 16 in any work for interstate commerce (except in “nonhazardous occupations”). It further prohibits employment of minors ages 16 to 18 in hazardous occupations such mining and logging. The U.S minimum wage rose to \$5.15 on September 1, 1997, up from \$4.75 in October 1996. Approximately 7 million

U.S workers are affected by increases in the minimum wage. "At the new rate," writes Sunoo (1997: 13), "yearly earnings for a full-time worker at minimum wage will be approximately \$10,700. In contrast, the government said the poverty level for 1995 the latest year for which figures are available was about \$15,600 for a family of four."

Hours of work in the U.S are on the increase, based on the results of a recent survey (McShulkis, 1997: 31). According to George Bell, manager of the Workplace Performance team at Steelcase, Inc., "the five-day, 40-hour work week is gone" (McShulkis, 1997: 29). Indeed, "nearly 3 out of 4 people (73 percent) who work in offices of 100 employees or more work on the weekend, either at home or in the office" (McShulkis, 1997: 28-29). The results of one recent survey show that "forty-two percent work six to 10 hours on the weekend, 8 percent work 11 to 15 hours, 10 percent work 16 to 20 hours, and 5 percent work 21 or more hours. In addition, more than half the respondents work more than 40 hours during the week and a third take work home at least one night a week" (McShulkis, 1997: 29).

According to the Bureau of Labor Statistics (BLS, 1997k), average seasonally-adjusted weekly work hours in 1996 ranged from a low of 33.9 hours in durable goods manufacturing—the only industry for which data were officially published—to 34.7 hours. In 1997, average seasonally-adjusted weekly work hours ranged from a low of 34.4 hours (in January) to 34.5 hours (in May, the last month for which data were available).

Laws Prohibiting Employment Discrimination and Their Enforcement

Employment discrimination in the U.S is strictly prohibited under many Federal and State laws (see Table 8 for a summary). Workers are protected from discrimination on the basis of race, color, sex, religion, age, national origin, handicap, Vietnam era veteran status, and special disabled veteran status. Workers are also protected by law from sexual harassment. Many are also covered by State laws protecting them from discrimination based on their sexual orientation as well.

Enforcement of Federal laws is handled primarily by the Equal Employment Opportunity Commission (EEOC). The EEOC is composed of 5 commissioners and a general counsel who are appointed by the President and confirmed by the U.S Senate. Most employers of 100 or more people are required by law to file an EEO-1 report annually to indicate the composition of the employer's workforce by race and sex. Job applicants or employees who believe they have been the victims of unlawful discrimination may file a charge with the EEOC or its State government agency counterparts.

The EEOC plays the role of mediator in processing discrimination complaints. When a charge is filed, the EEOC sends a copy of the charge to the employer or, in the case of specific States with enforcement laws, defers investigation to the appropriate State agency. If the State is unable to pursue the investigation, the EEOC investigates the charge. Three actions are possible: dismissal of the charge against the employer; finding of a reasonable charge of discrimination against the employer; or, a settlement (such as employee reinstatement or reemployment). If the EEOC dismisses the charge, the individual may still file suit against the employer in U.S district court. If a settlement occurs, no further action is taken. If the EEOC finds reasonable cause to believe that discrimination has occurred, then further efforts may be made to seek conciliation. If the conciliation effort is successful, no further action occurs. If the conciliation effort is unsuccessful, the EEOC may file suit against the employer on the individual's behalf. Key steps in filing a charge of employment discrimination in the U.S are depicted in Figure 1.

Collective Employment Law

Numerous laws protect employees' rights to collective bargaining and to union representation in the U.S Key legislation associated with labor unions is summarized in Table 8 (see Labor Policy Association, 1997). Workers begin a campaign to organize a union when they become

dissatisfied with management, often due to arbitrary management practices. The workers then contact union officials as a first step. As a second step, an organizing campaign begins. As a third step, employees form an in-house organizing committee to provide leadership in gaining enough employee signatures at the place of employment to hold a union election.

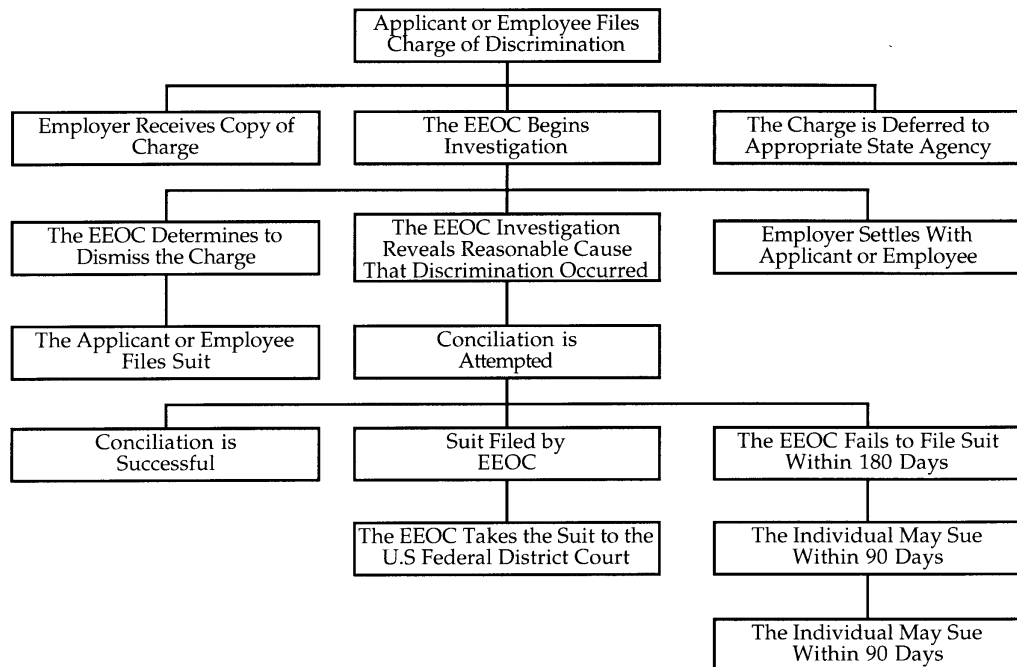


Figure 1 The Steps in Filing an Employment Discrimination Complaint

As a fourth step, if sufficient employee signatures are collected, a secret-ballot election will be held. As a fifth and final step, if the union wins the election, then employees may become local union members. The steps in union organizing are depicted in the flowchart appearing in Figure 3 (Fossum, 1979; Sherman, Bohlander & Chruden, 1996).

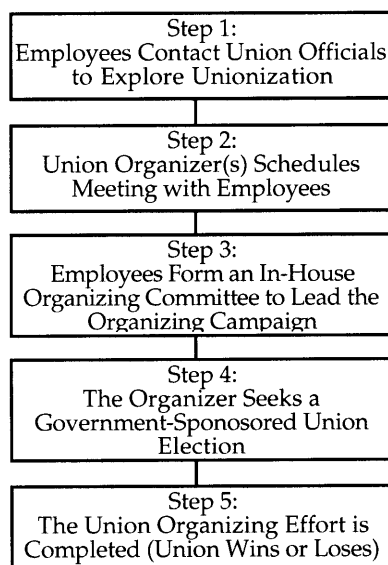


Figure 2 Steps in Organizing a Union in the U.S

Enforcement of the Collective Laws

The Wagner Act of 1935 (National Labor Relations Act) established the National Labor Relations Board (NLRB) to oversee labor relations in the U.S. The NLRB's primary missions are to hold secret-ballot elections in union organizing campaigns, review charges of unfair labor practices, and review charges of unfair union practices. An *unfair labor practice* is outlawed and involves actions taken by an employer to interfere with workers' legally-protected right to form or join labor unions. An *unfair union practice* is also outlawed and involves actions taken by a union to interfere with such issues as workers' legally-protected rights to freedom from discrimination and the selection of people to bargain for them.

Recruitment and Selection

Employee recruitment may be carried out internally (inside the organization) or externally (from outside the organization).

Internal Recruitment

Job posting is perhaps the most popular way of advertising and recruiting inside organizations. In a job posting system, vacancy notices are posted on bulletin boards so that employees are alerted to open positions and ways of applying for them. Job posting is often said to improve employee morale, reduce perceptions of favoritism in promotions and lateral moves, and reduce voluntary turnover.

Succession planning is another way to recruit internally (Rothwell, 1994). In a succession planning program, which often begins with a focus on finding replacements for key executive positions, the organization identifies key work requirements or competencies required at higher levels. Individuals are then assessed against those requirements and against their current work requirements. As a final step, an Individual Development Plan (IDP) is negotiated between individual and organization to close the gap between the individual's present skills or competencies and those necessary for advancement vertically (up the chain of command) or horizontally (along a continuum of skills).

External Recruitment

Many approaches are used for external recruitment. A cutting-edge approach is to post vacancy notices on the WorldWide Web. At present, some 1 million resumes, 1.2 million job listings, 3,512 recruiting sites, and 5,800 firms conduct recruiting on-line. Annual increases in Web-based recruitment are expected to average 150% (Staffing Industry Report, 1997).

Companies rely on informal and formal recruitment methods. An informal recruitment method centers on current employees, who spread the word of job vacancies to friends, relatives and acquaintances. Informal recruitment methods have proven to be highly effective in attracting people who fit well with the organization's corporate culture. For that reason these method can lead to lower-than-expected turnover rates. Informal recruitment methods may, however, have a tendency to create possible *inbreeding*—that is, attracting applicants who think, act and look like the people who are already employed in the organization. That tends to perpetuate an existing corporate culture. Worse yet, and depending on the organization's current workforce, such practices may tend to create problems in attracting too few women, minorities and other protected-class people to employment if they are not already well-represented in the employer's workforce.

Formal recruitment methods are carried out by the organization. They are planned to attract qualified candidates for present or future vacancies. Nine such methods are most common. Employers may:

- Place print advertisements in newspapers or magazines or oral advertisements on the radio or on television.
- Place job vacancy notices with the U.S Employment Service and other State or municipal employment agencies.
- Rely on private employment agencies that typically charge an applicant or employer a percentage of the job holder's first-year salary as a fee upon placement.
- Commission specialized search firms to seek and screen applicants.
- Post job vacancy notices with the career placement offices or notify the faculty of educational institutions.
- Seek to attract unsolicited applications by placing "help wanted" signs outside their establishments.
- Post job vacancy announcements with professional associations pertaining to the occupation for which they have an opening.
- Involve labor unions in the recruitment process.
- Draw on a growing number of temporary help agencies to solicit applicants from among those who already work for the employer on a contingent or part-time basis.

Methods of recruitment are thus varied in the U.S. However, employers are well-advised to keep records of their applicants so that they know what percentage of protected labor groups, such as minorities and women, apply for each position. Such statistics are important to ensure that the employer is meeting Equal Employment Opportunity requirements and may become a factor if a lawsuit alleging discriminatory hiring practices is ever filed against the employer.

Recruitment Law

Table 8 summarizes key labor laws in the U.S, including those affecting recruitment and selection. Generally speaking, employers are prohibited from unlawful discrimination in recruiting and hiring practices. Particularly important is the principle of *adverse impact*. Employers must, of course, avoid intentional discrimination. But they must also avoid unintentional discrimination resulting from the use of otherwise neutral recruitment and selection methods that lead to selecting fewer blacks, women or other protected labor groups (by proportion) than white males. Employers in the U. S. are well-advised to follow the requirements set forth in the Uniform Guidelines on Employee Selection Procedures (EEOC, 1978), a detailed government guide that describes fair employment practices governing recruitment, selection and other employment-related actions and decisions.

Labor Shortages and Responses

Labor shortages exist widely in the U.S. Particularly hard hit are small businesses. Approximately 24% of 966 small business owners responding to a 1996 survey reported problems in recruiting qualified workers, repeating a similar percentage reporting the same problem in a 1995 survey (Mehta, 1996). The survey respondents indicated that their inability to find appropriate talent on a continuing basis poses a major problem for business survival or expansion. Rural areas also report difficulties in finding workers for skilled trades, such as welders, machinists and pipe fitters. Immigrant labor is occasionally used to meet the demand, which can cause difficulties in rural areas, where discrimination against immigrants can be more pronounced or more indirect than in urban areas.

Both employers and government have attempted responses to labor shortages. In many cases

employers have met the challenge by simply paying higher wages. Other employers are trying more innovative approaches. Examples of such approaches include offering "signing bonuses" (cash at time of hire) or profitsharing to newly-hired employees (Mehta, 1996). Government has mounted a dizzying array of efforts to address labor shortages, create jobs and match job seekers to employers. One writer has cataloged over 15,000 different job development programs, all existing at the same time, sponsored by governmental bodies in the U.S (Leskow, 1997). Often these programs suffer from poor coordination, which (in turn) leads to complaints about their ineffectiveness. As just one example, the State of Pennsylvania sponsors 87 different programs concurrently that are geared to creating jobs and matching up employers and prospective employees.

The Federal government has also mounted many efforts to spur economic development and address labor shortages. One important program is exemplified by small business investment companies (SBIC), which are meant to unleash the tremendous job creation potential that is known to exist in small business. Now found in 283 locations around the U.S, SBICs provide equity capital, long-term loans, debt-equity investments and management assistance to small businesses. Some 80,000 businesses in the U.S have used (or are now using) SBIC assistance. Examples of such firms include Apple, Federal Express and Staples. Information about this program can be obtained by writing to the Investment Division, U. S Small Business Administration, 409 Third Street SW, Washington, DC 20416 (for more information on government economic development programs, see Leskow,1996).

Another important program is exemplified by One-Stop Career Centers (OSCC). They are being established in 33 states to help job seekers write resumes and search for job openings. America's Job Bank currently lists some 750,000 job openings on the Internet by region and job skill area. Job seekers can even attend computer classes through the centers. Information about the OSCC program can be obtained from the One-Stop Team, Employment and Training Administration, U. S. Department of Labor, Room N4700, 200 Constitution Avenue NW, Washington DC 20210.

Employment Practices in Recruiting Foreign Nationals and Immigrants

Employers face daunting challenges in recruiting and hiring foreign nationals in the U.S. Immigrants are seen by some citizens as robbing Americans of jobs or becoming potential welfare recipients who will drain scarce tax dollars. Immigrants have been the targets of recent populist backlashes like California's Proposition 187, which seeks to prevent undocumented immigrants from receiving basic social services.

Until 1994 the debate over immigration in the U.S tended to focus on what were called illegal aliens. Existing immigration policy in the U.S is a reaction to the Immigration Act of 1924, which slashed the number of immigration visas and apportioned them based on national origin. Since the quotas for each nationality were based on its proportion of the U.S population, the system favored northern Europeans and discriminated against Asians. In the 1960s national quotas were finally abolished on equity grounds. Equal opportunity and family reunification became top priorities.

Congress passed the Immigration Reform and Control Act (IRCA) in 1986 to reduce real or perceived economic incentives realized by employers for hiring illegal immigrants and to punish employers for hiring undocumented immigrants. In addition to authorizing employer sanctions, IRCA also granted amnesty to undocumented immigrants who had been residing continuously in the U.S for several years. Despite the restrictions placed on the employment of immigrants by IRCA, the U.S Immigration and Naturalization Service (INS) authorized 911,000 legal immigrants in 1996, including 595,000 for family reunification, 118,000 for their job skills, and 198,000 for humanitarian reasons and diversity (Leonard, 1997). This represents a rise of almost 30% from the 1995 figure of 716,000. When illegal immigrants receiving amnesty

are included, the 1996 total approaches one million. In recent years, the largest group of legal immigrants have come from Asia (37%), followed by Mexico, the Caribbean and Central America (32%), and Europe (18%).

Review of Common Selection Practices

The most common selection practices in the U.S are (Aon Consulting, 1997):

- *Reference checks:* Employers check references supplied by job applicants, either during the selection process (prehire) or following the offer (posthire).
- *Structured interviews:* In structured interviews, all applicants are asked the same questions in the same sequence. The interview questions themselves are usually related directly to work requirements. Certain questions should not be asked in interviews, including any nonemployment-related questions having to do with sex, age, race, religion, ethnic background, marital status or family planning issues, because they may suggest that the employer is making the employment decision on grounds unrelated to work requirements and may thus be practicing illegal discrimination.
- *Background checks:* Employers may run background checks on job applicants to examine their credit history. Applicants are usually notified that such a check will be conducted and are given a written legal release indicating that they have been informed.
- *Drug tests:* Many employers are required by law to administer drug testing to applicants and/or employees.
- *Structured applications:* Job applicants are asked to complete structured applications centering around work-related requirements. These applications may involve specific, and weighted, questions. They are intended to gather useful information for the employer to use in making an employment decision.
- *Skills tests:* Applicants are asked to take one or more tests to assess their skill levels in areas related to the job for which they have applied. These may be paper-and-pencil tests focusing on English skills or mathematics skills, or they may be manual dexterity tests to assess how well an applicant can work with his or her hands.
- *Realistic job previews:* In realistic job previews, applicants are placed in a situation like that which he or she would face on the job. Their performance under job-simulated conditions are then assessed by trained observers.
- *Personality tests:* Applicants receive personality tests to determine their honesty, their basic values—or to assess their personality characteristics as they may be relevant to the job for which the individual has applied.

Selection methods are dramatically improved when two or more methods are combined. As it is, however, about 95% of U.S employers rely on reference checks alone, while employment interviews are conducted by more than 70% of U.S employers (Aon Consulting, 1997).

Training and Development

In the U.S education is legally-mandated to age 16. Unlike children in Canada, U.S children usually attend 9 years of primary or elementary school (from kindergarten through grade 8) and secondary school from grades 9 through 12. The U.S has one of the most highly developed education systems in the world, typified by both private (non-government-supported) and public (government-supported) colleges and universities. Access to higher education depends on scholastic achievement and on the financial ability to pay for a university education by the student or the student's parents'. Employer-provided training is not broadly regulated or mandated by government, though employers are legally required to provide specific safety and environmental training (see Bassi, Gallagher & Schroer, 1996).

Education Systems

For purposes of simplicity, assume that there are 3 levels of education in the U.S: (1) elementary or primary; (2) secondary; and (3) higher education. Elementary schools in the U.S focus on four primary subjects: language arts (reading, writing, spelling, and related language skills), mathematics, science, and social science (usually history, geography, and relevant material from the social and behavioral sciences). Secondary schools in the U.S are usually required by State government mandate to offer courses in English, science, mathematics, foreign languages, and history. Large high schools, particularly those in suburban areas that have an excellent local property tax base and are located near New York, Los Angeles, Chicago or other large cities, may offer more than 100 elective (optional) courses in such fields as art, music, business, and technical subjects.

The number of students enrolled in formal education (except preprimary education) per 100 persons in the population 5 - 29 years old provides an indication of the extent to which youths are enrolled in the education system; the percentage distribution of enrollment reflects how they are distributed across education levels. A high overall participation rate may reflect a high value placed on education, an economy dependent on a highly trained workforce, the availability of education institutions, or a relatively high percentage of the population 5 - 29 years old who are in the younger age groups that have virtually 100 percent enrollment. A high percentage of students enrolled at a particular level may reflect a relatively large cohort of the age typically attending that level or a high enrollment rate among the young people in the cohort.

In 1992, the enrollment of 5 - 29 year-olds in the G-7 nations (the 7 major industrial nations) ranged from almost 50 per 100 persons in that age range in Germany to more than 58 per 100 in France. The U.S enrollment ratio was in the middle, at 54 per 100 5- to 29-year-olds. In all of the G-7 countries, approximately 60-67 percent of enrollment was in primary and lower secondary education, with the exception of Italy, where only 52 percent of all enrolled students were at the primary or lower secondary level. The share of enrolled 5 - 29 year-olds attending higher education ranged from 8 percent in the United Kingdom to 17 percent in Canada. The percentage of total enrollment in higher education in the United States (16 percent) neared that of Canada. Table 10 presents public and private enrollment per 100 persons in the population 5-29 years of age, and the percentage distribution of education enrollment, by level for the year 1992 (OECD, 1995c).

United States	Percentage Distribution (Total = 100.0)			
Enrollment per 100 Persons (all levels)	Primary & Lower Secondary	Upper Secondary	Higher Education	Unclassified
54.2	66.2	17.5	16.1	0.0

Source: Organization for Economic Co-operation and Development (OECD). 1995c. Public and Private Enrollment/1 per 100 Persons in the Population 5-29 Years of Age, by Country, and The Percentage Distribution of Education Enrollment, by Level and Country for the Year 1992. Unpublished work. Presented at: <http://nces.ed.gov/pubs/eiip/eiipid05.html>.

Table 10 Public & Private Enrollment Per 100 Persons in the Population 5 - 29 Years of Age, by Country, and the Percentage Distribution of Education Enrollment, by Level & Country for the Year 1992

Secondary school students in the U.S may opt to attend vocational schools as part of their high school requirements. The Carl D. Perkins Act of 1990 focused on strengthening the academic and technical skills of vocational students by integrating vocational and academic curricula, requiring the development of statewide vocational performance standards and measures, supporting varied work experience programs, and encouraging articulation of secondary and postsecondary institutions.

In the United States, about 74 percent of 17 year-olds were enrolled in high school or higher education in 1992. The enrollment rate gradually declined with age; the corresponding enrollment rate for 24 year-olds was about 8 percent. With few exceptions, this pattern of decline with age in enrolment rates existed for almost every G-7 country. Table 11 presents the percentage enrolled in upper secondary or higher education by age in the U.S in 1992 (OECD, 1995a).

United States	Age							
	17	18	19	20	21	22	23	24
Percentage	74.0	54.0	42.4	32.9	28.3	19.6	12.6	8.4

Source: Organization for Economic Co-operation and Development (OECD). 1995a. Percentage Enrolled in Upper Secondary or Higher Education by Age in the U.S in 1992. Unpublished work. Presented at: <http://nces.ed.gov/pubs/eiip/eiipid05.html>.

Table 11 Percentage Enrolled in Upper Secondary or Higher Education by Age in the U.S in 1992

The U.S is also typified by a large number of private elementary and secondary schools. Private schools are often operated by religious organizations and receive no government funding. Another development is that growing numbers of parents, voicing distress with public education in the U.S, have chosen to undertake the challenge of home schooling.

A continuing debate has been raging in the U.S about the skill levels of schoolchildren. More specifically, policymakers and employers wonder whether children are being prepared appropriately to meet employer requirements, changing technology and international competition. According to a summary report based on statistical analysis of years of data from The National Assessment of Educational Progress prepared by the U.S Department of Education (1994), the facts indicate:

- "At all three ages, **science** performance declined significantly in the 1970s but improved significantly during the 1980s. Compared to 1969-70, average achievement in 1992 was higher at age 9, essentially the same at age 13, and lower at age 17."
- "Average **mathematics** proficiency improved between 1973 and 1992 at ages 9 and 13. The data at age 17 parallel the science trends, with declines in performance between 1973 and 1982 followed by recovery. However, performance in 1992 at age 17 had returned to about the initial 1973 level."
- "**Reading** performance at age 9 improved significantly between 1971 and 1980, and then declined significantly between 1980 and 1992, returning essentially to the original level. At age 13, little change occurred from assessment to assessment, but average performance was higher in 1992 than in 1971. Seventeen-year-olds made significant gains between 1971 and 1984, although virtually no change has been observed since then. Still, average reading achievement at age 17 was higher in 1992 than in 1971."
- "Between 1984 and 1992, **writing** performance of 11th-graders showed little change. Also, writing performance has remained relatively stable at grade 4, despite a significant decrease in 1990 followed by a recovery in 1992. At grade 8 there was a significant improvement between 1984 and 1992."

Hence, trends seem to point toward some, though mixed, improvements in educational performance at the primary and secondary levels.

Educators believe that education can and should contribute to economic development. As Chloe Haynes (1987) noted: "Technological enterprises and the expanding service sector are transforming America's postindustrial economy to one of information-based production. Businesses are now calling upon schools to contribute to the economic development of the information age. To compete in the global marketplace, high technological businesses selectively recruit new workers. These assertive enterprises locate in areas that offer progressive schools and a trained work force". Ample evidence exists to show that education and training contribute to economic development. For this reason, so-called Workforce Education and Development is garnering growing interest in the U.S According to one economist, "between 1929 and 1982, education prior to work was responsible for 26 percent of the expansion in the nation's productive capacity. Learning on the job contributed over half, about 55 percent, of all improvements in the nation's productive capacity. Machine capital contributed a respectable but disappointing 20 percent" (Carnevale & Gainer, no date: 3).

Attendance at colleges and universities is pursued by growing numbers of students in the U.S Students select a major and pursue it throughout their 4 years of undergraduate studies. Graduate studies are offered in most disciplines. In recent years, many college students have begun to rate universities on how well they prepare students for employment. The percentage of students in different age groups (18-21, 22-25, and 26-29) who are enrolled in any type of university or 4-year college (including undergraduate and graduate education) reflects the availability of university education and the extent to which that education provides necessary training for different occupations. A high rate of university enrollment in a country suggests that university education is highly valued and widely available. Enrollment rates may be low in another country, if admission to universities is restricted or if university education is not vital to employment and success in a large number of occupations.

In the G-7 countries for which data were available, the United States, Canada, and France had the highest college and university enrollment rates for 18- to 21-year-olds in 1992. Furthermore, the rates in the United States and Canada were higher than all other countries with data available. Even though the former West Germany had the lowest full-time enrollment rate for 18- to 21-year-olds among this set of G-7 countries, it had the highest rate for 22- to 25-year-olds and 26- to 29-year-olds. The percentage of young adults in the U.S enrolled in public and private university higher education in 1992, presented by age group, is shown in Table 12 (OECD, 1995b).

United States	Age Groups		
	18-21	22-25	26-29
	25%	12.1%	5.4%

Source: Organization for Economic Co-operation and Development (OECD). 1995b. The Percentage of Young Adults Enrolled in Public and Private University Higher Education by Age Group in the U.S in 1992. Unpublished work. Presented at: <http://nces.ed.gov/pubs/eiip/eiipid05.html>.

Table 12 The Percentage of Young Adults Enrolled in Public and Private University High Education by Age Groups in the U.S in 1992

Industry Training Systems and Job/Employment Training

According to the U.S. Department of Labor's Bureau of Labor Statistics, employees of establishments employing 50 or more workers received an average of 44.5 hours of training in the period between May-October 1995 (BLS, 1997e; BLS, 1996a; BLS, 1996b). Of these total training hours, 70 percent (31.1 hours), were spent receiving informal training, while 13.4 hours were in formal training. The survey also showed that, in the May-October 1995 period, an estimated \$647 per employee was spent on wage and salary costs of training, with about 65 percent of the amount spent on informal training (see Table 13 for a summary.)

While working for their current employers, 84 percent of employees received some kind of formal training and 96 percent received some kind of informal training. (*Formal training* is planned and often occurs off-the-job; *informal training* is unplanned and often occurs on-the-job.) Computer training, both formal and informal, was the most common employer-sponsored job-skills training. Thirty-eight percent of employees received formal computer training and 54 percent received informal computer training while working for their current employer. Professional and technical-skills training, management training, and sales and customer-relations training also were common types of training: between 27 and 31 percent of employees received these types of formal training while working for their current employers.

In terms of informal training, computer training was followed by production- and construction-related training, management training, sales and customer-relations training, and clerical and administrative support skills training. Between 30 and 34 percent of employees received each of these types of informal training while working for their current employer.

For training classified in the general-skills category, occupational safety training was the most common with 58 percent of employees receiving formal training in this area while working for their current employer. Communications, employee-development, and quality training was the next most common at 40 percent. Basic-skills training, focused on elementary reading, writing, arithmetic, and English language skills, was much less common. Only 7 percent of employees received formal training and 3 percent received informal training in basic skills while working for their current employer.

The youngest and oldest workers were less likely to receive employer-sponsored formal training than were workers ages 25 to 54. Workers 24 years of age or younger and workers 55 years or older received about half as many hours of total training as prime-aged workers. Men received an estimated 48 hours of training during the six-month survey period compared with 42 hours for women. Generally, white workers tended to receive more hours of training (48.5 hours) over the six-month period than either black (27.7 hours) or Hispanic workers (32.7 hours). Employees with a high-school education or less were not as likely to receive formal training as their more educated counterparts. About 60 percent of those with a high-school diploma or less received formal training as compared to 90 percent of those with a bachelor's degree or higher. Employees with fewer than two years of work time with the current employer received an average of 65 hours of training; workers with more than two years but fewer than five years with the employer received an average of 24 hours, and those with 5-10 years of time with the employer received 47 hours.

Characteristic	Classes or Workshops		Courses Paid for by Employer Taken at Institutions	Attended Lectures, Conferences or Seminars on Work Time
	Conducted by Company Personnel	Conducted by Outside Trainer		
All employees	75.7	48.3	17.1	36.3
By Age				
24 years and younger	81.1	23.4	11.4	24.6
25 to 34 years	79	44.1	15.9	30.7
35 to 44 years	70.9	58.6	19.6	41.7
45 to 54 years	74.5	52.7	20.4	43.9
55 years and over	78.5	38.9	7.3	27
By Sex				
Men	70.3	50	11.2	30.1
Women	80.7	46.7	22.6	42
By Race and Origin				
White	74.8	50.4	18.5	41.1
Black	76	38.2	7.1	13.6
Hispanic Origin	85.9	41.6	12.2	17.5
By Educational Attainment				
High School Graduates or less	80.9	34	8.1	19.9
Some College	78.1	49	21.5	43.9
Bachelor's Degree or Higher	66.7	63.9	21.8	45.5

Note: Employees working in establishments of size 50 or more employees who received formal training within the last 12 months.

Description: This table presents the percent of trained employees participating in any of the following formal training activities within the last 12 months by selected demographic characteristics.

Source: Bureau of Labor Statistics, 1997e. Table 10. Percent of Trained Employees Participating in Any of the Following Formal Training Activities Within the Last 12 Months by Selected Demographic Characteristics. Unpublished work.

Presented at: <http://stats.bls.gov/news.release/sept.t10.htm>. Washington, DC: U.S Department of Labor.

Table 13 Percent of Trained Employees Participating in Training Activities

Full-time workers, defined as those employed 35 or more hours per week, were more likely to receive formal training than were part-time workers (72 percent versus 56 percent). Service workers were less likely than those in other occupations to receive formal training. Professional and technical workers received the highest number of hours of both formal and informal training in May-October 1995. For formal training alone, there was a considerable gap between the number of hours of training received by professional and technical workers (22 hours) and the

number received by employees in most other occupations, particularly managers (4 hours) and service workers (6 hours). Those in the bottom quartile of the earnings distribution were less likely to receive formal training and received fewer hours of formal training than higher earners.

Employees in small establishments (employing 50-99 people) were less likely than those in larger establishments to receive formal training. Some 62 percent of those in small establishments received formal training compared to 73 percent of those in establishments with 100-499 employees and 71 percent in establishments with 500 or more employees. Hours of formal training per employee increased with the employer's size, ranging from 8 hours for small establishments and 17 hours for large ones (500 or more employees). The amount of training received by employees ranged from a low of 34 hours per employee in wholesale trade to a high of 51 hours per employee in durable manufacturing.

Among those employees who received formal training while working for their current employer, about 14 percent indicated that they received a promotion when the training was satisfactorily completed or soon thereafter, and 19 percent received a higher rate of pay or bonus. Less than one percent of trained employees indicated that they received no benefits from their formal training. Formal training is most often delivered by classes or workshops conducted by company training personnel. This activity was followed by "classes or workshops conducted by outside trainers" and "attending lectures, conferences or seminars" at 48 and 36 percent, respectively. Only 17 percent of those who received formal training indicated that they had taken courses at educational institutions.

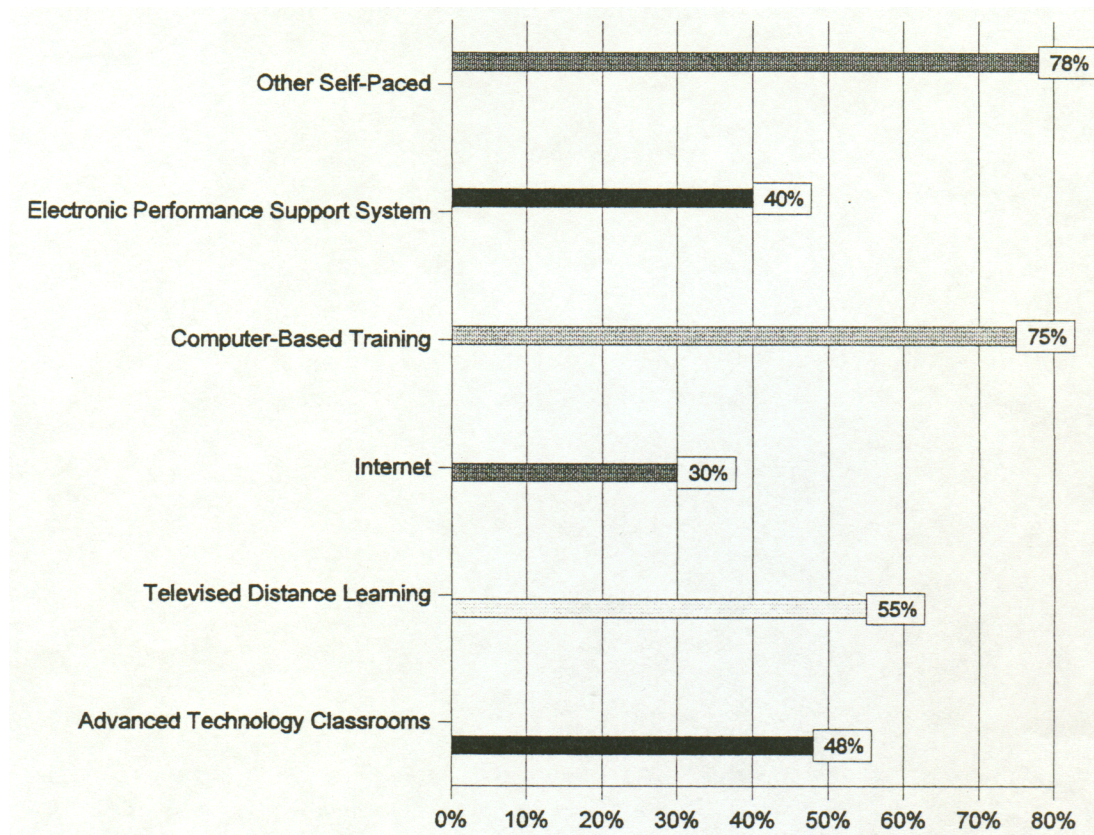
An estimated total of \$37 billion was spent on the indirect wage and salary costs of training during May-October 1995. Establishments with 100-499 employees accounted for the largest share of the total (\$16.7 billion), compared with \$14.6 billion for establishments with 500 or more employees and \$5.7 billion for those with 50-99 employees. The service industry spent the most on training, \$12.5 billion, primarily reflecting its large share of employment.

Training delivery methods, that is, ways of presenting training to employees, are becoming increasingly focused on the application of high-technology approaches, as the statistics in Figure 3 illustrate (see ASTD, 1996). As is too often the case, the number of study participants was not revealed by the sponsor. However, respondents to the survey were from large companies, all part of the American Society for Training and Development's group called the Benchmarking Forum.

Management Development

Management development (MD) is a term that can have more than one meaning. It may refer to developmental activities directed at middle managers, or it may refer more broadly to training and development efforts geared to supervisors, middle managers, executives and even to nonsupervisory employees who are being prepared for advancement into supervision (Rothwell & Kazanas, 1993). As a term, development has a broader meaning than training: most development occurs on the job and may include such activities as job rotations, work assignments given for purposes of helping the individual understand the organization better, or participation in university-sponsored programs.

Continuing attention has tended to focus on MD because the ability of managers affects all other employees and the organization as a whole. In a 1997 survey of 1559 companies, 70% of the responding organizations provided training for supervisors, 73% provided training for middle managers, 70% provided training for senior managers, and 76% provided training for executives (Training, 1997: 50).



Source: American Society for Training and Development (ASTD). 1996. Percent of Companies Using Alternative Delivery Systems. Unpublished work. Presented at <http://www.astd.org>. Alexandria, Virginia: The American Society for Training and Development.

Figure 3 Percentage of U.S. Companies using Alternative Training Delivery Systems 1995

Supervisors averaged 34 hours of training each; middle managers averaged 31 hours of training each; senior managers and executives averaged 29 hours of training each (Training, 1997: 50). Training projected that an estimated \$14.5 billion annually is spent on management development in the U.S, as compared to \$7.1 billion for salespeople, \$15 billion for professionals, and \$20.8 billion for all other job categories.

According to one view, an in-house MD program can be guided by a six-step model (Rothwell & Kazanas, 1993). The first step is to clarify the program's purpose, goals and objectives. The second step is to identify MD needs by identifying the management and/or leadership competencies associated with success in the organization's unique corporate culture. The third step is to establish a curriculum (plan) of training and development experiences by job category or group, such as presupervisory, supervisory, premanagerial, managerial, preexecutive and executive. The fourth step is to administer the MD program, ensuring that people participate and that results are achieved.

The fifth step is to select formal (planned), informal (unplanned) and special methods to achieve the desired program goals and objectives. Formal programs include succession planning initiatives, career planning programs, internal group training, external group training, external educational experiences, job rotation programs, and position assignment programs. Informal programs include on-the-job management training, on-the-job management coaching,

mentoring efforts, self-development activities, and self-study efforts. Special methods include adventure learning and action learning. The sixth and final step in a MD program is to evaluate results, cycling them back into the first step to create a continuous learning loop.

Efforts to develop leadership have recently become more common in the U.S. Unlike management development, leadership development is not necessarily tied to job level or job title. One well-known program, sponsored by Motorola, is Cadre 2000 Plus (Motorola, no date). It is intended to build a cadre of global managers and leaders. The program involves intensive classroom training paired with multiple work rotations over an extended time to different company sectors (divisions). A similar program exists to build human resource talent for Motorola worldwide.

Pay and Benefits

Overview of Pay and Benefits

Pay and benefits are primarily established by individual employers and are not widely established either by government regulation or by collective bargaining agreements. Government-requirements are minimal and include a national minimum wage, equal pay for equal work, social security tax, and unemployment insurance. Most pay practices and benefits are established by private employers to remain competitive after examining labor market conditions.

The Legal Framework of Pay and Benefits

U.S laws governing pay and benefits are summarized in Table 8.

Pay Determination Practices

Large nonunionized private-sector employers with more than 500 workers usually examine prevailing wage and salary rates by job evaluation, a formal method that assigns economic value to the work people do. *Job evaluation* is defined as “the systematic process of determining the relative worth of jobs in order to establish which jobs should be paid more than others within the organization” (Sherman, Bohlander & Snell, 1996: 356). Large nonunionized private-sector employers conduct tailored salary surveys or purchase the results of such surveys conducted by specialized compensation consulting firms. Nonunionized employers are relatively free to set their own philosophies about compensation and benefits as long as they comply with existing U.S labor laws and are thus able to pay above, at or below prevailing rates. While no evidence exists to substantiate it, common business practice in the U.S is to offer pay and benefits that are neither above nor below competitive rates.

Smaller employers pay what they must to hire the talent they need. Pay determination practices may be more informal than in large companies. For instance, small business owners may ask an applicant what he or she wants to earn, and individual wage negotiation begins at that point. Refer to the Employee Relations Section for unionized pay determination.

Methods of Payment

Methods of payment are not commonly reported by the U.S government. That means the data are not available to show in what ways and how often people get paid for their work. Anecdotal evidence suggests that employers prefer to pay less often rather than more often, since payroll preparation can be time-consuming and employees’ pay has financial value to the business if the money is left to accumulate interest in the bank. On the other hand, employees would rather be paid more often rather than less often, since that reduces an individual’s chance of running short

of money. Anecdotal evidence also suggests that employers are increasingly using electronic transfer of funds (ETF) for payroll to hold down the labor costs and security problems associated with printing and distributing payroll checks.

Minimum Rates of Pay

As noted in the Employment Law section, the Fair Labor Standards Act (FLSA) establishes a minimum wage in the U.S. The U.S minimum wage for all workers rose to \$5.15 per hour on September 1, 1997, up from \$4.75 in October 1996 (Sunoo, 1997).

Variations in Pay

The average annual pay of all workers covered by State and Federal Unemployment Insurance (UI) programs was \$28,945 in 1996, a 3.9 percent increase over the 1995 national average, according to the U.S Department's Bureau of Labor Statistics (BLS, 1997d). The annual pay of private industry workers, who comprise 84.2 percent of the nation's employment, rose 4.2 percent in 1996, while pay for government workers rose by just 3.1 percent (BLS, 1997d). Pay growth in the private sector during 1996 outpaced that of government workers for the second straight year (BLS, 1997d). In 1995, the increase in pay for private sector employees was 3.6 percent and for government workers, 2.6 (BLS, 1997d).

Annual pay data are compiled from reports submitted by all employers subject to state and federal unemployment insurance laws, covering 118.0 million full- and part- time workers. Average annual pay is computed by dividing total annual payrolls of employees covered by unemployment insurance programs by the average monthly number of these employees.

The District of Columbia led the nation in average annual pay level in 1996, \$44,458 (BLS, 1997d). The District of Columbia has reported the highest average pay level since 1987. Among the states in 1996, New York had the highest average annual pay level (\$36,831), followed by Connecticut (\$36,579), New Jersey (\$35,928), and Massachusetts (\$33,940). The 1996 pay levels of these five highest-ranking jurisdictions ranged from 17 to 54 percent more than the U.S average of \$28,945. Since 1987, the same 10 states and the District of Columbia have held the top 11 pay level positions, although there have been shifts in individual rankings (BLS, 1997d).

South Dakota's average annual pay was the lowest among the states during 1996, \$20,724, followed by Montana (\$21,146), North Dakota (\$21,242), Mississippi (\$21,822), and Arkansas (\$22,294). These states have posted the five lowest average annual pay figures every year since 1988, although individual rankings have shifted; South Dakota, however, has held the position of lowest average annual pay since 1977. The 1996 average annual pay levels of the bottom five ranked states were 23 to 28 percent less than the U.S average of \$28,945 (BLS, 1997d). One reason for the differences in pay levels is that the bottom five ranked states are primarily rural, dominated by an agricultural economy that is not as diversified as higher-ranked states.

After an 8-year period without any state or jurisdiction experiencing a decline in average annual pay, one state, Alaska, reported a decline in pay during 1996 (BLS, 1997d). Alaska's 0.7 percent decline was largely attributable to a 3.3 percent decrease in pay within the government sector. Hawaii had the smallest increase (1.4 percent), followed by Idaho and Wyoming (2.3 percent each) and West Virginia (2.5 percent).

Average annual pay levels for all U.S workers varied widely by industry in 1996 (BLS, 1997d). The mining industry, which accounts for less than 1 percent of all private sector employment, had the highest average annual pay, \$47,612. The next highest pay level, \$41,728, was in finance, insurance, and real estate and was 12 percent lower than the average pay in the mining industry. The lowest average annual pay, \$15,215, was in the retail trade industry, which employs many

part-time workers. The average annual pay level for the government sector, which includes local, state, and federal government establishments, was \$30,878 (BLS, 1997d).

Chief Executive Officers (CEOs) are often pointed out to be the best paid of U.S. workers. According to the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO, no date):

- “The pay disparity between CEOs and U.S. workers is increasing to alarming levels. In 1965, CEOs made 44 times the average factory worker’s salary. Today, CEOs make 209 times the average factory worker’s pay.”
- “While hundreds of thousands of workers were laid off in 1996, the CEOs of the 30 companies with the largest announced layoffs saw their salaries, bonuses, and long-term compensation actually increase by 67.3%.”
- “If factory workers had received comparable pay raises between 1980 and 1995, they would now be paid \$90,000 a year. Minimum wage workers would be paid \$39,000.”

Overtime

The Fair Labor Standards Act (FLSA) of 1938 (summarized in Table 8) establishes a 40-hour work week in the U.S. and provides for pay at time-and-a-half for hours exceeding that. The Act is enforced by the Wage and Hour Division of the Department of Labor and by private lawsuits. The Contract Work Hours Safety Standards Act (1962) sets a standard 40-hour workweek for employees of federal contractors and regulates work in excess of the standard week including the requirement to pay overtime. The Act is also enforced by the Wage and Hour Division of the U.S. Department of Labor. Current data for 1996-1997 reveal that average overtime hours, seasonally adjusted, for all U.S. durable goods manufacturers ranged from 4.2 and 4.6 hours weekly in 1996 and from 4.7 to 4.9 hours weekly through May 1997 (BLS, 1997j) (no data were readily available for other industries).

Equal Pay

The Equal Pay Act of 1963 (summarized in Table 8) prohibits discrimination in pay and benefits on the basis of sex for jobs in the same establishment that require equal skill, effort, and responsibility and that are performed under similar working conditions. The Act is enforced by the Equal Employment Opportunity Commission.

Performance-Based Pay

Employers are experimenting with performance-based pay and other innovations in compensation and reward systems, though such approaches are so new that no data are readily available to demonstrate how often employers are using them. Rewarding performance (work results or productivity) rather than seniority (length of time on the job or with the employer) has become the goal as organizations amid transformational change seek reward structures that support the increased responsibility and productivity expected of workers.

One innovative pay practice is *broadbanding*, sometimes simply called *banding*. It usually means that the number of salary ranges within a traditional salary structure are collapsed into a few broad bands. A broadband is a single, large salary range spanning the pay opportunity formerly covered by several separate salary ranges. Organizations doing this often reduce the number of their salary ranges by one half to two thirds. Such a pay structure permits freedom to reward performance without the restrictions imposed by more restrictive pay structures.

Another innovative pay practice is *Skill Based Pay* (SBP), a compensation method that is intended to reward workers with pay rate increases as they demonstrate new work skills of value to their organizations (SHRM, 1994b). SBP, standing in stark contrast to traditional pay systems that pay

people based on the work they do or their level of responsibility, offers an alternative means for managing individual performance, advancing the competency of employees and enhancing the flexibility with which personnel can be used within and between one or more units of the organization. SBP also supports such organizational initiatives as continuous improvement, team-based management, and employee empowerment.

Income Taxation

Federal income taxation is very complex in the U.S, despite recent calls by political leaders for tax simplification. Employers are well-advised to retain an accountant to work through the labyrinthine requirements that are currently described in some 14,700 pages of the Internal Revenue Code (the U.S tax code) and Regulations and an additional 200,000 pages of decisions and interpretations. Most States and some municipalities in the U.S also impose income taxation.

Table 14 summarizes the current (1996-1997) Federal taxation rates in the U.S. The first part of the Exhibit focuses on income taxation; the remainder of the Exhibit focuses on other forms of national taxation imposed on U. S workers. Each State often has its own taxation rules as well, and the complexity of those can be sampled by reviewing the same WorldWide Web site from which the data found in Table 14 are drawn.

Federal Income Tax (FIT)			
Single Individuals - 1996			
Income	Pay	+% of	Amount >
<\$24,000	\$0.00	15%	\$0
<\$58,150	\$3,600	28%	\$24,000
<\$121,300	\$13,162.00	31%	\$58,150
<\$263,750	\$32,738.50	36%	\$121,300
>\$263,750	\$84,020.50	39.6%	\$263,750
Single Individuals - 1997			
N/A			
Married Individuals Filing Jointly and Surviving Spouses - 1996			
Income	Pay	+% of	Amount >
<\$40,000	\$0.00	15%	\$0
<\$96,900	\$6,015.00	28%	\$40,100
<\$147,700	\$21,919.00	31%	\$96,900
<\$263,750	\$37,667.00	36%	\$147,700
>\$263,750	\$79,445.00	39.6%	\$263,750
Married Individuals Filing Jointly and Surviving Spouses - 1997			
N/A			
Married Individuals Filing Separately - 1996			
Income	Pay	+% of	Amount >
<\$20,050	\$0.00	15%	\$0
<\$48,450	\$3,007.50	28%	\$20,050
<\$73,850	\$10,959.50	31%	\$48,450
<\$131,875	\$18,833.00	36%	\$73,850
>\$131,875	\$39,722.00	39.6%	\$131,875
Married Individuals Filing Separately - 1997			
N/A			
Heads of Household - 1996			
Income	Pay	+% of	Amount >
<\$32,150	\$0.00	15%	\$0
<\$83,050	\$4,822.50	28%	\$32,150
<\$134,500	\$19,074.50	31%	\$83,050

Table 14 Federal Tax Rates

Federal Income Tax (FIT)			
<\$263,750	\$35,024.00	36%	\$134,500
>\$263,750	\$81,554.00	39.6%	\$263,750
Heads of Household - 1997			
N/A			
Federal Insurance Contributions Act (FICA) - Medicare			
Employee	1.45% on all wages		
Employer	1.45% on all wages		
Self employed	2.9% on net earnings		
Federal Insurance Contributions Act (FICA) - Old Age, Survivors, and Disability Insurance			
Employee	6.2% on first \$65,400 of wages		
Employer	6.2% on first \$65,400 of wages		
Self employed	12.4% on first \$65,400 of net earnings		

Employers who either employ one or more individuals in each of twenty different weeks in a calendar year or pay wages of \$1,500 or more during any calendar quarter in the current or preceding calendar year pay 6.2%. Employers are entitled to a credit against their FUTA liability for contributions to state funds. The credit is limited to 90% of a deemed 6% federal tax rate (5.4%). The net effective FUTA rate for most employers is therefore 0.8% on first \$7,000 of wages paid to each employee in a calendar year.

Source: American Society for Payroll Management, 1997. Federal Tax Rates. Unpublished document.
Presented at: [http://www.payroll.taxes.com/Payroll Taxes/000000497.htm](http://www.payroll.taxes.com/Payroll%20Taxes/000000497.htm)

Table 14 Federal Tax Rates (Cont)

To emphasize the amount of time workers in the U.S devote to paying taxes, the Tax Foundation has come up with what is called *Tax Freedom Day*. Not a national holiday, that “is the day when average Americans stop working to pay government’s bills and start working to pay their own. They spend 128 days, 35 percent of the year, to pay their taxes, or an hour and fifty minutes of each eight-hour day to pay the IRS (state taxes add another 57 minutes)” (National Center for Policy Analysis, no date).

Social Security Provisions and Benefits

The Social Security Act of 1935 and related laws establish programs designed to provide for the material needs of individuals and families, protect aged and disabled persons against the expenses of illnesses that could otherwise exhaust their savings, keep families together, and give children the opportunity to grow up in health and security (Social Security Administration, no date). These programs include:

- Retirement insurance
- Survivors’ insurance
- Disability insurance
- Hospital and medical insurance for the aged, the disabled, and those with end-stage renal disease
- Black lung benefits
- Supplemental security income
- Unemployment insurance

- Public assistance and welfare services, which include such programs as:
 - Aid to needy families with children
 - Medical assistance
 - Maternal and child health services
 - Child support enforcement
 - Family and child welfare services
 - Food stamps, and
 - Energy assistance

Pensions and Superannuation Schemes

The Employee Retirement Income Security Act (ERISA) of 1974 was passed to protect the interests of participants and their beneficiaries in employee benefit plans by establishing standards of conduct, responsibility and obligations for fiduciaries of employee benefit plans (SHRM, 1994a). While not forcing employers to create employee benefit plans, it does set standards and provide for appropriate remedies, sanctions, and ready access to the federal courts for such plans when they exist. This important law prohibits employers from discriminating against plan participants or beneficiaries for exercising their rights, authorizes enforcement through the U.S. Departments of Labor and Treasury, the Pension Benefit Guaranty Corporation and Office of Labor Management and Welfare Pension Reports. Plan participants and beneficiaries are also authorized to bring civil action to enforce their rights to documents or benefits under the law.

ERISA applies to all employer-provided benefit plans if the employer is engaged in interstate commerce. ERISA also applies to union-provided plans if the union represents employees in interstate commerce and to joint employer-union plans. Covered plans include, but are not limited to: medical, surgical, or hospital benefits; sickness and disability benefits; apprenticeship or other training programs; day care centers; and pension plans. The law stipulates that all plans must be in writing. Exempted from ERISA coverage are government and church pension plans and plans maintained to comply with workers' compensation, unemployment and disability insurance laws.

Retirement plan participation by employees in medium and large private establishments (those with 100 workers or more) has remained fairly constant, but there has been a shift in the types of plans providing coverage, according to a 1995 survey conducted by the U.S. Department of Labor's Bureau of Labor Statistics (BLS, 1997a). Data from the Employee Benefits Survey show that, in 1995, 80 percent of full-time employees in medium and large private establishments participated in one or more retirement income plans, up from the 78 percent reported in 1993 (BLS, 1997a). In 1995, 52 percent of all full-time workers participated in *defined benefit plans*, which use predetermined formulas to calculate retirement benefits, down from 56 percent in 1993 (BLS, 1997a). On the other hand, 55 percent of all full-time workers participated in *defined contribution plans*, which specify the employer's contribution but not the eventual benefit, up from 49 percent in 1993 (BLS, 1997a).

Starting in the mid-eighties, employers increasingly added 401(k) tax-deferred provisions to their defined contribution plans or established new plans with 401(k) provisions. In the U.S., a 401(k) plan takes its name from the section of the Internal Revenue Code in which it is described. "Also known as the salary-reduction plan, the 401(k) plan allows employees to save through payroll deduction—and possibly to have their contributions matched by the

employer. Employees' current taxable income is reduced by the amount of the contribution, and income taxes on these funds and their earnings are deferred until retirement" (Sherman, Bohlander & Snell, 1996: 444). In 1995, 54 percent of full-time workers were in plans with 401(k) provisions, double the 26 percent recorded in 1985 (BLS, 1997a).

About 2 out of 5 (42 percent) full-time employees in small establishments participated in employer-provided retirement plans (BLS, 1997a), a slightly lower proportion than 2 years earlier (45 percent). This reflected declining participation in defined benefit plans (22 versus 15 percent) over the period, coupled with stable participation in defined contribution plans (34 percent in 1994). Defined benefit plans characteristically specify a formula for determining an employee annuity at retirement. Alternately, defined contribution plans specify the employer's contributions, but do not predetermine the actual retirement dollar benefit. Defined contribution plans include savings and thrift plans (covering 17 percent of employees), deferred profit sharing plans (13 percent), money purchase pensions (5 percent), as well as employee stock ownership and simplified employee pension plans (1 percent each).

Leave and Public Holidays

In 1995, benefits often provided to full-time employees in medium and large private establishments included vacations and holidays. Far less prevalent were paid family leave, flexible workplace programs, and supplemental unemployment benefits. Table 15 presents a summary of the U.S Department of Labor's Bureau of Labor Statistics on the leave practices of large employers.

Paid Time Off		
Employee Benefit Program	Professional, Clerical & Technical (all employees by percentage)	Blue Collar Workers
Holidays	89%	88%
Vacations	96%	94%
Personal Leave	22%	15%
Funeral Leave	80%	75%
Jury Duty Leave	85%	79%
Sick Leave	58%	39%
Family Leave	2%	1%

Note: These statistics reflect actual usage. No holidays, vacations, personal leaves, funeral leaves, jury duty leave, or sick leave is required by law in the United States. Family Leave is governed by the Family Medical Leave Act, and workers eligible for such leave must meet U.S government requirements to qualify for unpaid Family Leave unless their employers grant it voluntarily.

Source: Bureau of Labor Statistics (BLS). 1997a. Employee Benefits in Medium and Large Private Establishments, 1995. Unpublished work.

Presented at: <http://stats.bls.gov/pub/special.requests/ocwc/ebs/ebnr0003.txt>. Washington, DC: U.S Department of Labor.

Table 15 Percent of Full-Time Employees Participating in Selected Employee Benefit Programs, Medium & Large Private Establishments 1995*

Few laws mandate time off in the U.S. There is no such thing as a legally-required holiday or required vacation. Individual employers choose to offer holidays or vacations for their workers as an employee benefit, though time off is balanced against work requirements. The following list covers federal holidays, which affect only offices of the U.S government:

- New Year's Day (January 1)
- Martin Luther King Day (3rd Monday in January)
- Washington's Birthday (3rd Monday in February)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Labor Day (1st Monday in September)
- Columbus Day (2nd Monday in October)
- Veterans' Day (November 11)
- Thanksgiving Day (4th Thursday in November)
- Christmas Day (December 25)*.

When a federal holiday falls on a Saturday, it is usually observed on the preceding Friday; when a federal holiday falls on a Sunday, it is usually observed on the Monday immediately following it. In the U.S, professional and managerial personnel average 20 days off with pay but have no public holidays that are required by law as time off (Sherman, Bohlander & Snell, 1996: 440). In contrast, Canadians are granted 10 public holidays by law and 20 days off with pay (Sherman, Bohlander & Snell, 1996: 440), and Japanese professionals and management employees are granted 19 days of public holidays by law and 20 days off with pay (Sherman, Bohlander & Snell, 1996: 440).

Workers' Compensation

Workers' compensation laws, rules and regulations establish a system of comprehensive medical coverage and income benefits for employees who suffer work-related injuries. Workers' compensation is a statutory program that addressed concerns raised in the early 20th century that workers had no bargaining power to protect themselves and the financial security of their families from workplace injuries. State legislatures enacted compulsory schemes to provide employees with medical coverage and income benefits without regard to fault while employers, in exchange, received immunity from tort litigation. Key to understanding workers' compensation laws in the U.S is that they provide a legislative way to ensure that workers have their sole redress for work-related injury through the workers' compensation system. However, virtually every state in the U.S has recognized some exception to this *exclusive remedy doctrine*. If employees can prove they fall within an exception, such as *bad faith* or *intentional injury*, they can avoid the workers' compensation system and bring legal action.

States establish workers' compensation laws and tax employers and employees to provide a pool of money for disabled workers. Attention in the U.S has recently focused on abuses of workers' compensation and on high tax rates, which vary (dramatically) across States. According to remarks by former Assistant Secretary of Labor Joseph Dear, "the total benefits paid out under workers' compensation in the U.S have soared from \$17.6 billion in 1983 to \$50.2 billion in 1993. This data reflects payments to employees, not costs to employers. Some estimates are that costs to employers are about 30% greater" (Dear, 1995).

Maternity/Paternity Leave: Law and Benefits

The Family and Medical Leave Act (FLMA) of 1993 (29 U.S Code, Section 2601 et seq; 29 CFR 825) provides a means for employees to balance their work and family life by taking reasonable unpaid leave for certain reasons (U.S Department of Labor, no date). "Reasonable" has been

interpreted to mean about 12 weeks. The Act is intended to promote both the stability and economic security of families, and the national interests in preserving family integrity. The FMLA is applicable to any employer that is engaged in commerce or in any industry or activity affecting commerce and that employs 50 or more people each working day during at least 20 calendar weeks or more in the current or preceding calendar year. All public agencies (state and local government) and local education agencies (schools) are covered. These employers do not need to meet the 50 employee test. Most federal employees are covered by Title II of FMLA and are subject to regulations issued by the U.S Office of Personnel Management.

In order to be eligible for FMLA leave under the law, an employee must be employed by a covered employer and work at a place within 75 road miles of which that employer employs at least 50 employees; must have worked at least 12 months (which do not have to be consecutive) for the employer; and, must have worked at least 1250 hours during the 12 months immediately preceding the date of commencement of FMLA leave. FMLA is administered by the Employment Standards Administration's Wage and Hour Division. A number of States have family leave statutes. Nothing in the FMLA supersedes a provision of State law that is more beneficial to the employee, and employers must comply with the more beneficial provision. Under the Supremacy clause of the U.S Constitution, Federal law supersedes State or local law. However, under the mandates of FLMA, the Federal law specifically spells out that State and local laws have precedence for employee leaves whenever the State or local law is more beneficial to workers. That is not typical of U.S law. Its only other widely-known occurrence in employee relations exists with regard to Equal Employment Opportunity (EEO) enforcement, where Federal law indicates that State governments have right of jurisdiction in those States that have established their own enforcement agencies for fair employment practices. Under some circumstances, an employee with a disability may also have rights under the Americans with Disabilities Act of 1990, which protects the disabled from discrimination in employment.

Other Statutory or Voluntary Benefits

Neither medical nor disability insurance (other than Social Security or Workers' Compensation) is required in the U.S. However, employers voluntarily provide many employee benefits. They do so to remain competitive in U.S labor markets, and to demonstrate the principles of good corporate citizenship by providing for workers' health, retirement and other issues for the general welfare.

Health Insurance

The U.S government does not operate a universal government-sponsored healthcare system for citizens. Consequently, paying for medical treatment is an individual responsibility. Historically, however, U.S employers have offered health insurance as an employee benefit. Medical care coverage among full-time employees declined from 82 percent in 1993 to 77 percent in 1995 among large to medium-size employers (BLS, 1997a). Fee-for-service plans, once the predominant way of providing medical care benefits, covered 37 percent of full-time employees participating in a medical care plan compared with one-half in 1993. Enrollment in alternative health care delivery plans, including health maintenance organizations (HMOs) and preferred provider organizations (PPOs), increased from 50 percent in 1993 to 63 percent in 1995 (see Table 16 for a summary of medical and other benefit plans provided by large to medium-sized employers to their employees). In the U.S, *HMOs* "are organizations of physicians and other health care professionals that provide a wide range of services to subscribers and their dependents on a prepaid basis" (Sherman, Bohlander & Snell, 1996: 438). A *PPO* "is a hospital or group of physicians who establish an organization that guarantees lower costs to the employee" (Sherman, Bohlander & Snell, 1996: 438). Both HMOs and PPOs were established to manage, and contain, spiralling healthcare costs for individuals and employers.

Professional, Clerical, Technical, and Sales-Related Employees	
Benefit	All Employees
Short-term disability	53%
Long-term disability insurance	42%
Medical Care	77%
Dental Care	57%
Life Insurance	87%
All retirement	80%
Blue Collar Workers	
Benefit	All Employees
Short-term disability	57%
Long-term disability insurance	26%
Medical Care	75%
Dental Care	51%
Life Insurance	83%
All retirement	73%

Source: Bureau of Labor Statistics (BLS). 1997a. Employee Benefits in Medium and Large Private Establishments, 1995. Unpublished work.
Presented at: <http://stats.bls.gov/pub/special.requests/ocwc/ebs/ebnr0003.txt>. Washington, DC: U.S Department of Labor.

Table 16 Percent of Full-Time Employees in the U.S Participating in Selected Employee Benefit Programs: Medium and Large Private Establishments, 1995

Other Benefits

Among employer-provided benefits in large to medium-sized employers, job-related educational assistance was the most frequently offered. Although this benefit was available to 65 percent of all full-time workers in 1995 (BLS, 1997a), non-job-related educational assistance also was available to 18 percent of all full-time workers. Two employer-subsidized health improvement benefits, employee assistance programs and wellness programs, were offered to 58 percent and 34 percent, respectively, of all full-time workers. Employee assistance programs generally provide counseling and referral services for acute conditions, such as alcohol and drug abuse and emotional and financial problems, that affect job performance. Wellness programs, which include physical fitness, smoking cessation, stress management, and weight loss seminars and programs, emphasize prevention of problems that can lead to poor health. Few workers (less than 5 percent each) were eligible for supplemental unemployment benefits and flexible workplace programs (BLS, 1997a).

Employee Relations

This section summarizes employee relations practice in the U.S. It reviews employer representative associations, employee representative associations, the structural features of employee relations, key processes, the substantive focus of employee relations in the economy, and employee relations performance indicators.

Employer Representative Associations

Employer representative associations play such a limited role that they are not even mentioned in the standard college textbook for human resource management in the U.S (Sherman, Bohlander & Snell, 1996). Unlike European practice, multi-employer collective bargaining is

atypical in the U.S and is common only in the construction industry, where small contractors band together occasionally to bargain with unions. Single-union agreements are by far the most common business practice, though some *pattern bargaining* occurs in which a union or an employer sets a pattern in collective bargaining that is followed with similar employers or unions in one industry. But, it is important to understand that, in the U.S, employer representative associations rarely meet with unions or employee representative associations to undertake collective bargaining for an industry or geographical area, a practice that would be questionable, if not prohibited, under the antitrust laws of the U.S.

Perhaps the chief role played by employer representative associations is in serving as lobbying vehicles for Congress, State legislatures and other political bodies about issues of importance to their members. Many such organizations exist in the U.S and often form Political Action Committees (PACs). Over 2500 corporate PACs, 1200 labor-oriented PACs and 500 trade and membership PACs existed in 1980 (U.S Census Bureau, 1994). Perhaps best known among employer representative associations is the National Manufacturers' Association (NAM). NAM is well-known because it has taken proactive steps to assume leadership in lobbying Congress on behalf of issues affecting the industrial sector. Its size is also impressive: with more than 14,000 member companies, including about 10,000 small manufacturers, its members produce about 85% of U.S manufactured goods.

Employer associations have also begun to emerge in a second area, that is, in servicing the outsourcing of human resource talent. A few organizations are experimenting with *employee leasing* (whereby a workforce is "sold" to a third party that then assumes a role as intermediary with an employer) and with *outsourcing* (whereby many or all employees of an organization are treated as contractors rather than full-time workers). Such practices are not common, are so innovative that data about their prevalence are not available, but they have attracted some attention in recent years as employers seek to hold down skyrocketing employee benefit costs.

Employee Representative Associations

Employee representative associations, other than unions (see next subsection) play such a limited a role that they garner only a one-sentence description in the standard college textbook on human resource management in the U.S (Sherman, Bohlander & Snell, 1996). Administrators of such associations do not regard themselves primarily as union leaders functioning as employee agents for collective bargaining. Instead, employee representative associations are the professional, and often lobbying voices for their members. Their chief role is thus political. Like employer representative associations, they often take active roles in lobbying Congress, State legislatures and other political bodies about issues of importance to their members. Many employee representative associations exist in the U.S. Among the best known are the National Education Association, the American Nurses' Association, and the Air Line Pilots Association. These groups occasionally engage in collective bargaining for their members, but that is not the primary reason they exist and the collective bargaining role is often given scant mention or focus in association literature.

Labor Unions

Labor unions are of two types in the U.S: (1) craft unions; and (2) industrial unions. Craft unions represent skilled craft workers, such as carpenters. Industrial unions represent unskilled or semi-skilled industrial laborers, such as autoworkers or steelworkers. Writers on labor relations in the U.S often structure their writing about unions on 3 levels: (1) the American Federation of Labor and the Congress of Industrial Organizations (AFL-CIO); (2) National and international unions; and (3) Local unions affiliated with a national union.

The American Federation of Labor and the Congress of Industrial Organizations (AFL-CIO).

The AFL-CIO was formed in 1955 when the American Federation of Labor, which primarily represented craft unions, merged with the Congress of Industrial Organizations, which primarily represented industrial unions (Fossum, 1979). The result was an organization that bears some similarities to a legislature but that represents about 14 million members (75% of union membership in the U.S). The AFL-CIO lobbies legislative bodies on behalf of unions, coordinates organizing efforts, educates the public about unions, and works to resolve disputes among member unions as they occur.

National and International Unions

Understanding national and international unions is key to understanding employee relations in the U.S. National and international unions differ only in that international unions may organize across national boundaries and may thus represent unions in Canada, for instance. National and international unions provide the basis for chartering local unions through their constitutions. They also provide training, legal assistance, political leadership and discipline for union leaders. Finally, they may require member unions to include specific, standard labor contract provisions in all agreements. National and international unions bear some similarities to the corporate headquarters of a large company, a comparison made for descriptive purposes only that unions would be loathe to make, while local unions are more akin to the regional sites of a large company.

Each national or international union in the U.S is headed by a President. Vice Presidents and a Secretary-Treasurer report to the President, as do departments organized around such issues as legal services, political activity, training, collective bargaining and organizing. Regional directors may exist between local unions and the national or international union.

Local Unions

Local unions are affiliated with a national or international union but exist as bargaining agents with one employer or with a single location of one employer. The elected officers of the local negotiate a collective bargaining agreement with an employer, and that is usually the most important role they play. Officers of a local union include a President, Vice President, Secretary-Treasurer, Business Representative and Committee Chairpersons. Union stewards, who are elected by union members but serve without union pay, represent members to company supervisors. Like supervisors, union stewards are placed in a key, but often awkward, role at the front lines of most management-labor disputes.

Legal Restrictions on Unions in the U.S

Employers in the U.S are not alone in bearing responsibility to comply with laws, rules and regulations governing what they may and may not do. Unions also bear such responsibility. Under the Taft-Hartley Act, also known as the Labor-Management Relations Act of 1947, unions are forbidden to restrain or coerce employees in exercising their rights or in selecting parties to bargain on their behalf. Unions are also forbidden from discriminating against any employee, refusing to bargain with an employer, participating in jurisdictional disputes, attempting to force employer recognition when another union already represents employees, charging excessive union fees or requiring employers to pay for services not performed ("featherbedding").

Key Processes

Union processes may be organized around key phases in the labor negotiations process. The first step is the organizing campaign, which was described earlier (refer to the section on

Employment law). The discussion here will focus on: (1) the collective bargaining process; (2) conciliation; (3) administration; and, (4) dispute resolution.

The Collective Bargaining Process

Section 8(d) of the Taft-Hartley Act succinctly states the key requirements for the collective bargaining process in the U.S: “For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession”. A key requirement of this passage is that both union and employer must “confer in good faith”.

This passage also stipulates *mandatory issues* that must be discussed during the collective bargaining process. These include “wages”, “hours” and “other terms and conditions of employment.” While wages and hours are easy enough to understand, the phrase “other terms” refers to issues that directly influence the work of employees, such as plant closings or mass layoffs.

An employer’s representatives and a union’s representatives may also discuss any other issue of local importance except for those that they are specifically prohibited by law. These are called *permissive issues*, which may be raised by either union or management but need not evoke a response from the other side. *Prohibited discussions* have to do with issues already stipulated by law, such as the outlawed practice of demanding that the company purchase only union-made goods.

Conciliation

Conciliation is the process of yielding to reach agreement. It is key to successful contract negotiation, since it is rare that either management or labor will win all it desires. In recent years, unions in the U.S have been willing to trade wage increases for increased work security. This practice is called *concessionary bargaining*.

Administration

Once agreement is reached on a contract, the collective bargaining process enters the *contract administration phase*. That term refers to the process of interpreting what the contractual language means as daily events unfold in the workplace. During this phase, supervisors are the first line of defense for the employer and union stewards are the first line of defense for the union. They meet about conflicts first before involving others. If they cannot reach agreement, issues are referred up the chain of command within the company and within the union. If no agreement can be reached under those conditions, employees may file grievances and follow formal processes established in the contract for resolving them.

Dispute Resolution

During the collective bargaining process, disputes are first addressed by company and union officials. If they reach an impasse in their negotiations, however, a federal mediator may be called in. A mediator investigates the sources of the disagreements and attempts to find ways to resolve them or to encourage compromise. During the contract administration process, disputes may be resolved through a contractually-described grievance process. As part of that process they may be referred to private arbitration. Such arbitration may be advisory or binding. In *advisory arbitration*, neither union nor management is bound to follow the arbitrator’s decision. In *binding arbitration*, both union and management are bound to follow the arbitrator’s decision.

Substantive Focus

The substantive focus of most collective bargaining agreements centers around mandatory issues. In recent years, as work teams have become popular in U.S companies, much attention has focused around the legality of such teams and has been directed to this central question: how much do teams constitute the equivalent of a “sham” (management-sponsored) union? A 1991 ruling by the National Labor Relations Board (NLRB) in what is commonly known as the Electromation case found that Employee Involvement (EI) teams are illegal in non-unionized companies under Section 8(a)(2) of the National Labor Relations Act of 1935. As one response, efforts have been mounted in Congress to pass The Teamwork for Employers and Managers Act to modify existing law. Generally speaking, U.S labor unions have not presented a consistent front in favoring or opposing productivity-stimulating initiatives by employers such as total quality or work process improvement efforts.

Employee Relations Performance Indicators

Several issues warrant consideration when discussing employee relations performance indicators. They include: (1) steadily declining union membership in the U.S; (2) employment and income growth; (3) industrial work stoppage (strike) statistics; and (4) accident and absence statistics.

Steadily Declining Union Membership.

Union membership has been steadily declining in the U.S since 1970 (BLS, 1997h; BLS, 1995g) (see Table 17). Several reasons account for this decline. First, the workforce has become more focused on white-collar work, which has never been a traditional ground for unionizing activity in the U.S (see BLS, 1994). Second, women have been entering the workforce in greater numbers, and women have traditionally not been as prone to unionize as men. Third, many employers would like to believe that they have become more adept at handling the problems that lead employees to want unions, such as arbitrary management practices.

Year	Union Members (Thousands)	Total Labor Force (Thousands)	Percent of Total Labor Force That Are Union Members
1930	3,401	50,080	6.8
1931	3,310	50,680	6.5
1932	3,050	51,250	6.0
1933	2,689	51,840	5.2
1934	3,088	52,490	5.9
1935	3,584	53,140	6.7
1936	3,989	53,740	7.4
1937	7,001	54,320	12.9
1938	8,034	54,950	14.6
1939	8,763	55,600	15.8
1940	8,717	56,180	15.5
1941	10,201	57,530	17.7
1942	10,380	60,380	17.2
1943	13,213	64,560	20.5

Table 17 Union Members in the United States 1930-1980

Year	Union Members (Thousands)	Total Labor Force (Thousands)	Percent of Total Labor Force That Are Union Members
1944	14,146	66,040	21.4
1945	14,322	65,300	21.9
1946	14,395	60,970	23.6
1947	14,787	61,758	23.9
1948	14,319	62,080	23.1
1949	14,282	62,903	22.7
1950	14,267	63,858	22.3
1951	15,946	65,117	24.5
1952	15,892	65,730	24.2
1953	16,948	68,077	25.5
1954	17,022	66,560	25.4
1955	16,802	68,077	24.7
1956	17,490	69,409	25.2
1957	17,369	69,729	24.9
1958	17,029	70,275	24.2
1959	17,117	70,921	24.1
1960	17,049	72,142	23.6
1961	16,303	73,031	22.3
1962	16,586	73,442	22.6
1963	16,524	74,571	22.2
1964	16,841	75,830	22.2
1965	17,299	77,178	22.4
1966	17,940	78,893	22.7
1967	18,367	80,793	22.7
1968	18,916	82,272	23.0
1969	19,036	84,240	22.6
1970	19,381	85,903	22.6
1971	19,211	86,929	22.1
1972	19,435	88,991	21.8
1973	19,851	91,040	21.8

Table 17 Union Members in the United States 1930-1980 (Cont)

Year	Union Members (Thousands)	Total Labor Force (Thousands)	Percent of Total Labor Force That Are Union Members
1974	20,199	93,240	21.7
1975	19,611	94,793	20.7
1976	19,634	96,917	20.3
1977	19,695	99,534	19.8
1978	20,246	102,537	19.7
1979	20,056	107,050	18.7
1980	19,843	109,042	18.2

Notes:

¹ Union members are the annual average number of dues paying members reported by labor unions. Data exclude members of professional and public employee associations. These data are not available after 1980.

² Labor force statistics from the Current Population Survey of the Bureau of Labor Statistics.

³ Nonagricultural Employment from the Current Employment Statistics program of the Bureau of Labor Statistics.

Source: Bureau of Labor Statistics (BLS). 1997h. *Union Affiliation of Employed Wage and Salary Workers by Selected Characteristics*. Unpublished work. Presented at <http://stats.bls.gov/pub/news.release/union2.t01.htm>. Washington, DC: U.S Department of Labor.

Table 17 Union Members in the United States 1930-1980 (Cont)

Employment and Income Growth

On September 26, 1996, the U.S Bureau of the Census announced that real median family income increased in 1995 by 1.8 percent (U.S Census Bureau, 1996a). Unfortunately, many Americans find these apparent gains in income elusive (Wilson, 1996). Since 1991, the growth in family income has stagnated, falling far below increases recorded during any four-year period of economic growth since 1960. In traditional families with only the male working outside the home, incomes have continued to decline. Only increases in the labor force participation of women, income from other sources, and the number of full-time workers also working at a second job have helped to keep the level of family income from falling across the board. Not since World War II has the American economy come out of a recession, grown for four consecutive years, and been unable to produce a significant increase in family income. No matter how the numbers are analyzed, by region, age, marriage, or education, the typical American family has seen real income stagnate or decline compared with the economic recoveries of the 1960s, 1970s, and 1980s. This dismal economic performance, despite lower unemployment, explains why American workers continue to believe they are working harder and yet are not getting ahead. By most measures, family income, employment, wages, or economic growth, the 1991-1995 economic recovery has been by far the slowest since the end of World War II. After reaching a peak of \$42,049 in 1989, real median family income declined by 7.2 percent from 1989 to 1993. The initial decline can be attributed to the 1990-1991 recession, but family income continued to fall as the recovery got underway in 1992 and 1993. Despite increases in 1994 and 1995, real median family income is just 1.0 percent more than it was in 1991, and remains 3.4 percent below 1989 (Wilson, 1996).

The income gap between the poorest and richest U.S households is also widening: "One of the most telling indications of the gap's growth is the discovery that the average income for the richest twenty percent of households has grown 44% since 1968, from \$75,754 to \$105,945 in 1994. But the poorest twenty percent of households have experienced a 7% growth average yearly income, from \$7,702 in 1968 to \$7,762 in 1994" (Dolan, no date). Indeed, "the United

States, which has always boasted about being an egalitarian society, is now more economically stratified than even the old class-divided societies of Europe. The richest 1% of the U.S population, as of this year, holds 42% of the national wealth....In 1992, the wealthiest 20% of Americans received 11 times more after-tax income than the bottom 20%" (The CCPA Monitor, 1995).

Work Stoppage Statistics

The number of major work stoppages rose in 1996, after dropping to a record low in 1995, the U.S Department of Labor's Bureau of Labor Statistics has reported (BLS, 1997i). Work stoppages include strikes sanctioned by unions, strikes not sanctioned by unions, and *lockouts* in which management prevents work by unionized or nonunionized employees. The number of workers idled by stoppages also increased. Both of these work stoppage measures still were low by historical standards. The days of idleness resulting from major work stoppages declined over the year. Thirty-seven major work stoppages began during 1996, idling 273,000 workers and resulting in about 4.9 million days of idleness (about 2 out of every 10,000 available work days). Comparable figures for 1995 were 31 stoppages, 192,000 workers idled, and 5.8 million days of idleness. The series, which dates back to 1947, covers strikes and lockouts involving 1,000 workers or more and lasting at least one shift (BLS, 1997i).

Of the 37 major work stoppages beginning in 1996, 31 were in the private sector, including 15 in manufacturing and three each in construction and health services (BLS, 1997i). In the public sector, the six disputes involved local government employees in education, mainly teachers. Among the industries with the most days of idleness during the year due to work stoppages were transportation equipment manufacturing (2.1 million days), real estate services (630,000 days), printing and publishing (630,000 days), food stores (391,000 days), and primary metals manufacturing (298,000 days).

Absence and Accident Statistics

In the U.S job absence rates currently average between 1.5 to 2.1 percent of the workforce monthly (BNA, 1997). Small organizations often experience less absenteeism than larger organizations. Employee turnover has been running higher than might be expected (see BLS, 1997b; but also see BLS, 1997c & BLS, 1997f). According to the National Safety Council (National Safety Council, 1996), accident rates in the U.S during 1996 fell by 0.5%. Workplace deaths numbered 4,800, while disabling injuries numbered 3,900,000. The total accident rate in the workplace equalled 1.8 persons per 100,000.

Current HRM Issues and Trends

A 1996 research study in the U.S pinpointed six major trends that will exert the most profound impact on the U.S workforce and workplace over the next 10 years (Rothwell, 1996c; Schechter, Rothwell & McLane, 1996). This section lists and defines the trends, describes their causes, reviews their likely consequences and suggests appropriate employer action plans or strategies to manage them. The methodology and data for this section was derived from a 1996 study, "A 21st Century Vision of Strategic Human Resource Issues", sponsored by CCH INCORPORATED, the Society for Human Resource Management (SHRM) and the Research Committee of SHRM.

Technology is the first trend. One participant in the 1996 research study defined it to mean "solid state circuits, miniaturization, robotics, communication, software, new ways to do things

via computers, latest state-of-the-art processes, computer hardware, software skills needed to have a competitive edge, applications of computers, computer-based information, and so on" (Rothwell, 1996c). Study participants expressed the belief that technology is driven by an insatiable hunger for information and will be most keenly felt in the "need to cope with expectations to perform anytime/anywhere" (Rothwell, 1996c). To meet the challenges posed by this trend, the study participants suggested that it will be necessary to increase planned learning and focus on the outcomes desired from technology. While many people become enamored of gadgets, the aim should be to focus on what results are desired, and then find the appropriate supporting technology.

Globalization is the second trend. One participant of the research study defined it to mean "commerce without borders, interdependence of business operations internationally and the necessity to use human knowledge to gain a competitive edge" (Rothwell, 1996c). Study participants believed that globalization is being driven by technology, which permits a free flow of work to occur on-line at any time and at any location. The likely consequences of globalization will include an increased emphasis on diversity, open thinking about different values and a willingness to embrace change. To meet the challenges posed by this trend, study participants suggested that it will be increasingly necessary to educate workers about the business, and to develop heightened sensitivity to thinking about commerce without borders.

Cost containment, otherwise called a *cost control orientation*, is the third trend. Participants in the research study defined it as "keeping business costs at the lowest possible level in order to be competitive; lower product cost and higher productivity" (Rothwell, 1996c). A cost control orientation is caused by an insatiable desire for new technology and a need to build strategic partnerships. Its effects will be felt in focusing increasingly on desired outcomes, that is, on the results desired from activities. At the same time, managers must work to hold costs down while achieving the desired results.

Speed in market change is the fourth trend. Participants in the research study defined the term to mean "volatility of markets" (Rothwell, 1996c). It refers to the increased speed with which consumers, suppliers and other organizational stakeholders are demanding changes. It includes the dynamic mood swings striking finicky consumers, whose whims must be satisfied if an organization is to remain competitively successful. Speed in market change is caused primarily by growing competition and by globalization. Its effects will be felt in "a need for more strategic partnering" (Rothwell, 1996c). To manage the trend and its effects, study participants felt that decision-makers will need to build more flexible organizations and develop more efficient and effective ways to make and implement decisions.

The importance of knowledge capital is the fifth trend. Not to be confused with human capital theory, *knowledge capital* refers to "competencies and skills that are learned with experience and are not necessarily easily taught" (Rothwell, 1996c). Knowledge capital is the financial and nonfinancial value of the collective experience of an organization's workforce. The increasing importance of knowledge capital is caused by a "need to accommodate change" (Rothwell, 1996c). The consequences of this trend will be a "need to emphasize a distinction between technical and management competency" (Rothwell, 1996c). This trend will require organizations to develop new, innovative ways to develop knowledge capital.

Change is the sixth and final trend. Most obvious of all, change was defined by study participants to mean a shift from the status quo to something else. In practical terms it means differences in "how I operate today compared to a year, five years, 10 years, 20 years or 50 years ago" (Rothwell, 1996c). It is associated with, in the words of one study participant,

“massive transitions, upheavals, constant awareness that I can’t make assumptions because everything is moving too fast” (Rothwell, 1996c). Change is caused by a desperation to survive in competitive environments. Its consequences “will be a requirement for continuous learning, increased stress, redefinition of careers, and opportunity for new products and services—in that order” (Rothwell, 1996c).

Other sources of information about trends affecting Human Resource Management and Human Resource Development are described in detail elsewhere (see, for instance, ASTD, 1997).

Influence of the Trends on Small and Medium-Sized Enterprises

Small and medium-sized businesses face daunting challenges in the year ahead. At least one government official, R. Wendell Moore, an official of the Small Business Administration, noted that businesses employing fewer than 500 employees represented slightly over one-half of all private sector jobs in the U.S. and that “from 1988 to 1990, during a period of economic contraction, small businesses created some 3,107,000 net new jobs, while firms with over 500 employees lost some 501,000 employees, and from 1988 through 1991, *small companies`added all net new jobs in the United States`*” (Moore, 1992). While more popular with the general public than “big business” (major corporations) according to a 1985 Roper poll of 2,000 adults (USA Today, 1985: 8), small business faces six key HRM challenges in the years ahead.

The first HRM challenge is finding and keeping talent. Small business is often the training ground for big business. While many people favor the personal touch afforded by working in the exciting atmosphere of a small business where a few people handle many diverse tasks, others favor getting training that can then be parlayed into the higher wages paid by big business. A second HRM challenge is paying wages commensurate with big business. Small businesses find it difficult to compete with the salaries paid by larger companies. That leads to higher-than-average turnover. Worse yet, the loss of one key worker in a small firm can have a more dramatic effect than the loss of one key worker in a large firm. A third HRM challenge facing small and medium-sized businesses in the U.S is providing employees with the benefits commensurate with big business. Many small and medium-sized firms have been priced out of the health insurance market due to skyrocketing health insurance rates. While some solutions have been suggested to address this problem, including national healthcare reform in the U.S, none has been acted on. A fourth HRM challenge facing small and medium-sized business in the U.S is finding and using new technology. Since there are fewer people in smaller firms, they have more difficulty finding, and taking advantage of, the productivity enhancements afforded by technological advancements. Nor do they have the ability to train workers routinely and systematically, as their larger counterparts do, on how to apply new technology to best advantage. A fifth HRM challenge facing small and medium-sized business in the U.S is finding ways to manage an aging workforce (Workplace Visions, 1996). Indeed, “fifteen years from now, the first of the Baby Boomers will turn 65. By 2025, after most of the Baby Boomers have surpassed the 65 year mark, 62.2 million Americans will be classified as senior citizens, up from 33.6 million in 1995 and a projected 40 million in 2005” (Workplace Visions, 1996). Aging Baby Boomers will increasingly become an issue in the workplace, and small and medium-sized businesses may be forced to look to that special population as a source of talent in years ahead. A sixth and final HRM challenge facing small and medium-sized business in the U.S is the task of complying with onerous U.S government regulations. In a 1994 study performed by Thomas D. Hopkins for the U.S Small Business Administration (Hopkins, 1995), the researcher conducted a nationwide telephone survey of 360 business firms drawn from the service, trade and manufacturing sectors of the U.S economy. These sectors were selected because they represented more than 80 percent of private employment in 1990. Focused on specific federal actions regulating how businesses treat their employees and customers, the study found that (Moore, 1992):

- On a per-employee basis, firms in the survey spent an average of roughly \$17,000 per year (excluding capital costs) on regulatory compliance; the very smallest firms (1-4 employees) spent possibly as much as \$32,000 per employee.
- Nearly two-thirds of the survey respondents expressed the view that they faced more than minor regulatory burdens; a quarter of them described their burdens as “substantial.”
- Firms employing 50 or fewer employees reported the largest shares of revenues used to pay for their main regulatory burdens. Firms with 20-49 employees appeared to be hardest hit, spending nearly 20 cents of every revenue dollar on regulatory compliance (excluding capital costs).

The researchers concluded that the cost of the clerical burden for meeting government paperwork requirements is disproportionately large for small firms and that two regulatory areas, federal tax compliance and payroll, dominated as chief sources of concern.

Observations on the Development of the HRM Profession in the U.S

The Human Resource Management (HRM) field is changing dramatically in the U.S. Employers no longer expect HRM practitioners to restrict themselves to functioning as “compliance officers” to ensure organizational adherence to governmental laws, rules and regulations (Kaufman, 1994; Minehan, 1997). They expect more: they want HRM professionals to function as human performance consultants and human performance enhancement specialists (Rothwell, 1996a & 1996b). According to the Society for Human Resource Management (SHRM), the leading association of HRM professionals in the U.S, the following facts are known about HRM professionals in the U.S (*Workplace visions*, 1997):

- *Total Number of HRM Professionals:* HRM professionals increased 22% (from 440,000 to 538,000) between 1984 and 1996, while all managerial and professional occupations grew by 46% (from 24,858,000 to 36,497,000) during the same period.
- *Total Number of HR Professionals By Sex:* Females comprise 62.5% of all HRM professionals in 1996, while males comprise 37.5%. In contrast, females comprised only 53.8% of all HRM professionals in 1984, while males at that time comprised 46.2%.
- *Total Number of HR Professionals by Race and Hispanic Origin:* Blacks comprise 13.2% of the HRM profession in the U.S, while Hispanics comprise 5.4%. In 1984, however, blacks represented only 10% of the HRM profession and Hispanics represented 3.6%. Gains in diversity are apparent.
- *HR Professionals By Age Group:* In 1996, HRM professionals could be broken down by the following age categories: (1) 20-24 (16.9%); (2) 25-34 (26%); (3) 35-44 (29.7%); (4) 45 to 54 years (26.2%); (5) 55 to 64 years (18.9%); and 65 years and over (11.9%).
- *HRM Professionals By Employment Sector:* The private sector accounts for 74.2% of all HRM professionals in 1996. The remainder work in the public sector or are self-employed.
- *Median Weekly Earnings of Full-Time HR Professionals:* Earnings for full-time HRM professionals are declining in the U.S. Median weekly earnings (in constant 1983 dollars) peaked in 1987 at \$601 and have declined steadily to \$455 in 1995, the most recent year for which such figures are available. Similarly, weekly earnings for personnel, training and labor relations specialists were \$414.00 in 1983, peaked at \$445.00 in 1987 and fell in 1995 to \$399.00. Differences in salary are also apparent by sex. In 1989, the most recent year for which comparative figures exist, women earned \$418 weekly while men earned \$730.00.
- *Unemployment Rate:* The unemployment rate for personnel and labor relations managers stood at just 1.5% in 1996, a distinct improvement over the 3.4% unemployment rate in 1984 or the 5.4% unemployment rate in 1992.

HRM professionals in the U.S are at the forefront of the many challenges facing their organizations today. At the same time, many organizations are decentralizing HR activities, vesting more responsibility for regulatory compliance on line managers, and outsourcing HR activities, moving traditional but reactive (transactional) HR activities such as payroll processing and recordkeeping to external vendors while keeping more important proactive tasks and performance improvement activities to be performed by internal HRM professionals. It would thus seem that the future of HRM in U.S organizations will be exciting, albeit difficult.

Key Organization Addresses

Government Agencies

Employment and Training Administration
U. S. Department of Labor
Room N4700
200 Constitution Avenue NW
Washington DC 20210
WorldWide Web Site: www.doleta.gov

Environmental Protection Agency Headquarters
401 M St., SW
Washington, DC
Phone: 202-260-5922
WorldWide Web Site: <http://www.epa.gov/epahome/postal.htm>

Equal Employment Opportunity Commission
1801 L. Street NW
Washington, DC 20507
Phone: 202-663-4900

National Labor Relations Board
1099 14th Street NW, Room 5400 East
Washington, DC 20570-0001
Phone: 202-273-1991

Social Security Administration
Office of Public Inquiries
6401 Security Blvd.
Room 4-C-5 Annex
Baltimore, MD 21235
Phone: 1-800-772-1213

U.S Department of Commerce
U.S Census Bureau
c/o Public Information Office
Room 2705, FB-3
Washington, DC 20233
Phone: 301-457-4100

U.S Department of Labor
Bureau of Labor Statistics
Division of Information Services
Washington, DC 20212
Phone: 202-606-5886
WorldWide Web Site: <http://www.bls.gov>

U. S. Small Business Administration
409 Third Street SW
Washington, DC 20416
WorldWide Web Site: www.sba.gov

Professional Associations

American Society for Training & Development
1640 King Street
Box 1443
Alexandria, VA 22313
WorldWide Web Site: <http://www.astd.org/>

The Human Resource Planning Society
317 Madison Avenue
Suite 1509
New York, NY 10017
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WorldWide Web Site: <http://www.hrps.org/>

The Society for Human Resource Management
1800 Duke Street
Alexandria, VA 22314
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WorldWide Web Site: <http://www.shrm.org/>

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Conclusion: Patterns and Future Directions

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Introduction

In this concluding chapter, major patterns in the HRM policies and practices of the ten economies are identified and examined, based on a preliminary comparative content analysis. The focus on major patterns is intended to elicit those issues considered to be of direct relevance to the formulation and implementation of APEC HRD policies and programs. Therefore, following the examination of each pattern, there is a brief discussion of the implications for APEC HRD. Finally, the future directions for APEC HRD policy, programs and research arising from this study are presented.

Major Patterns

Diversity

It is a self-evident truth that there is enormous diversity among the economies' HRM policies and practices among the economies' HRM policies and practices covered in this study. Nevertheless, this pattern was one of the most striking. The diversity found exists at many levels: between and within economies, between and within industries, between and within enterprises, down through to differences between and within work groups, and between individual employees.

Thus some economies are categorised as developed (for example, USA, Japan, Korea, Australia), and others as developing (for example, Indonesia, Malaysia, Thailand, the People's Republic of China). Within economies, for example, there is diversity in legal systems. In the USA and Australia there is not only a federal legal system impacting upon an array of HRM issues (eg. pay, bargaining, equal opportunity), but also multiple state legislatures overlapping with and adding to their federal counterpart. At the industry level, diversity is manifest in the skill requirements of the agricultural and advanced manufacturing sectors. At the enterprise level, large firms are seen to differ from SMEs in their capacity to provide attractive terms and conditions of employment. At the workgroup level, there is diversity between the tasks and rewards of managers and those of their subordinates. At the individual level, it is a commonplace that, overall, men fair better than women in employment.

This diversity in HRM policies and practices, of which the above examples are a very small sample, resides in diverse societies with various geographic, socio-cultural, political and economic conditions. HRM activities are both a part of and shaped by these contextual factors. This is why it is only possible to properly understand HRM in its context.

Implications for APEC HRD

APEC HRD will need to demonstrate sensitivity to the relevant elements of diversity and their various levels in framing its policies and programs. APEC-wide themes will elicit local adaptive responses. Assurance of effective policy or program adaptation would presume input from

the diverse elements in the design and implementation stages; for example, through planned and ongoing dialogue with and participation by interested/affected parties.

Many 'Best' Ways in HRM

A second major pattern to emerge from the analysis is the notion that there are many 'best' ways of managing human resources for success. There was no evidence of a universalistic 'one best way' of conducting HRM. Each economy and its constituents have their own recipes for dealing with HRM issues; some considered more effective than others. For example, in Hong Kong the overall preferred context for managing human resources is its institutionally permissive, free enterprise system. In the People's Republic of China, the ongoing planned shift to a socialist market economy is characterised by continuing significant state involvement in employment matters, albeit increasingly less than previously.

The HRM policies and practices considered appropriate for an economy, an industry or an enterprise are to be seen as largely contingent upon the circumstances in which they find themselves. This invokes the principle of equifinality; namely, that there are many paths that can lead to the successful achievement of economic and social goals. For example, while all economies in the study place significant store in education and training as a means of securing a productive and appropriately skilled workforce, the configuration of policies, programs, institutions and practices has been shaped to suit the local economy environment (with varying degrees of fit). Many economies also indicate a strong interest in attracting foreign direct investment (FDI). FDI is seen not only as an employment and income generator but also as an opportunity to learn and acquire technological and managerial know-how; know-how to be adopted and inevitably adapted to local circumstances.

Implications for APEC HRD

The implications of this pattern include those discussed under diversity, since variation in HRM presupposes different structures, processes and behaviours seen as most effectively fitting a particular set of circumstances. Of particular importance is the need to understand the processes through which HRD policy, 'models' or 'desired' practices are cross-culturally adapted. This would require an assessment, over time, of the key factors that enhance the adoption of 'best' (or 'better') ways of conducting HRM, as well as those factors that act as barriers to effective adoption, so that solutions to overcoming these can be developed.

Coping With the Asian Financial Crisis

A third pattern to emerge from the study are the HRM-related coping strategies employed in economies in response to the Asian financial crisis. Only six of the economy profiles indicate a concern about its impact and the actions being taken: Hong Kong, Indonesia, Japan, Korea, Malaysia and Thailand. The remaining four (Australia, Chinese Taipei, the People's Republic of China, and the United States) are silent on the crisis and its effects, either because of its limited impact on HRM matters, a lack of concrete information or by omission. Those economies reporting on the economic and social effects of the crisis all tell of retrenchments, redundancies, failing businesses and rising unemployment, with varying degrees of impact experienced by industry and occupational groups. The resultant economic slow down has prompted different HRM-related coping strategies. In Malaysia and Thailand, a prominent adjustment reported (aside from the above downsizing and other belt tightening activities such as pay cuts) was the intention to promote employment growth by refocussing on the development of their agricultural base, which had previously experienced significant decline in employment over many years in favour of growth in the industry and service sectors.

A key feature of Korea's HRM-related response to the financial crisis has been the amendment

of labour law to ease the restrictions on layoffs as a means of promoting labour market flexibility. The trade off for this concession has been the strengthening of workers' basic labour rights and the extension of unemployment benefits. In Japan, the government is deregulating the private placement services industry to improve the labour mobility of the growing number of unemployed, particularly those in mid-career. In Hong Kong, the focus on dealing with its growing unemployment has recently been on job creation by bring forward public projects. The Indonesian economy HRM profile reports the agreement by the government made with IMF to follow on a restructuring plan, but the HRM-related coping strategies are not detailed.

The foregoing demonstrates that while there is a shared concern about the economic slowdown and its HRM consequences among the six economies; their responses are varied to suit perceived local needs.

Implications for APEC HRD

Until recently, most of the economies affected by the recent crisis have not had to deal with economic slowdown and rising unemployment for a number of years, and in some cases, for decades. There is much mutual learning to be gained by economies sharing their ideas and experiences on how to cope with the HRM consequences of the crisis. Such learning may also draw upon the coping strategies and action of those economies not currently affected by the crisis but who may have had recent experience of dealing with similar conditions (for example, Australia which experienced recession and high unemployment in the early 1990s). The work by the HRD Working Group Task Force on the human resource and social impacts of the financial crisis is consonant with these observations.

SMEs Lack HRM Know-How

A fourth major pattern arising out of the study was the apparent lack of HRM know-how shown by SMEs (small and medium sized enterprises). Particular problems highlighted by a number of economies include difficulties in the recruitment and retention of good employees, an inability to pay salaries and benefits that are competitive with big business, and the inability to provide systematic training.

Implications for APEC HRD

Since developing human capital in APEC is considered a pivotal factor in achieving region-wide, economy and corporate goals of prosperity and growth, then how this capital is managed within the SME (a view also held by the EU) 'employment growth engines' warrants close analysis and remedial action.

Enterprise Level Orientation

A fifth and final major pattern discerned in this study is an orientation towards the enterprise as a key level at which macro level HRM policy should be directed. Underlying this perspective is the notion of ensuring increased enterprise level discretion and flexibility in determining locally the most suitable HRM policies and practices. Thus, in Australia successive federal and state governments, over several years, have sought progressively to dismantle the centralised, tribunal-based industrial relations systems in favour of those which permit enterprise level bargaining over wages and conditions. In Korea, as mentioned earlier, labour law has been written which will provide enterprises with increased layoff flexibility.

In Japan, the impact of the national Spring Wage Offensive in determining basic rates of pay is seen to become less relevant, as enterprise level bargaining outcomes and performance-based pay grow in number. Hong Kong already has a system largely non-interventionist, free enterprise based system. The People's Republic of China is progressively devolving increased

responsibility and autonomy over operational matters to its enterprises, including HRM. The USA is widely held as the land of free enterprise. Although this is circumscribed by a complex employment law, enterprises enjoy significant discretion in management of their human resources.

Implications for APEC HRD

APEC HRD policies and programs need to give particularly close consideration to their relevance, applicability and potential impact on the interests represented within enterprises.

Future Directions

The future directions for APEC HRD policy, programs and research arising from this study are presented below.

Take into Account Major Pattern Implications

A number of APEC HRD policy, program, research and process related issues were identified in the preceding analysis of major HRM patterns. These should be included in deliberations on future directions.

Extend Study to Remaining APEC Economies

This study of HRM policies and practices goes a significant way towards mapping the HRM terrain in slightly under half of the APEC membership. As it stands, it is a valuable and up-to-date source of insights into a wide range of key HRM issues. To complete the full APEC picture requires extension of the study to the remaining economies.

Micro Level Studies on Identified HRM Policies and Practices

This study, by its very nature, has entailed a detailed descriptive analysis of predominantly macro economy level HRM policies and practices, supported with pungent firm and industry level examples. However, there is a need to undertake studies of identified HRM issues at the more micro, organizational level, since it is at this level that HRM has its widest and most direct effect. Identification of issues for this kind of research which has broad APEC currency may be derived through more detailed analysis of the economy profiles presented here. For example, one of the major HRM patterns identified earlier was SMEs' lack of HRM know how. A firm level study of this problem might start with researchers in participating economies undertaking detailed case studies of successful SMEs (in specified sectors) with histories of effective HRM practices. In doing so, not only would these 'effective' practices be codified, but the conditions under which they arise and the processes used in their implementation. The findings could then be used as a basis for helping SMEs that face problems in this regard.

Update Economy HRM Profiles

In order to maintain their usefulness, there is a need to update the economy HRM profiles from time to time.