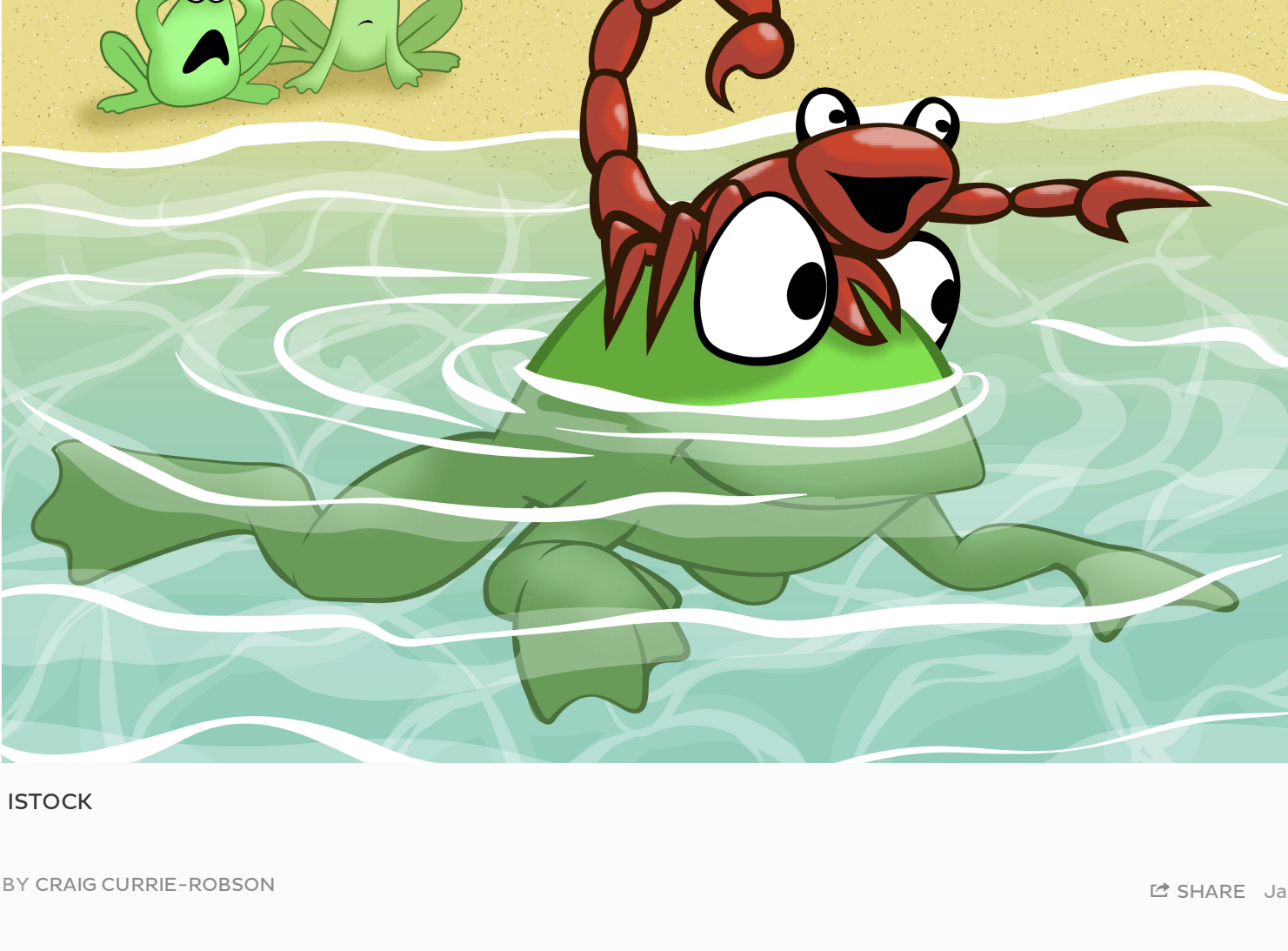


ISSUES | LEARNING CURVE

For Japan's English teachers, rays of hope amid the race to the bottom



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BY CRAIG CURRIE-ROBSON

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The major economic engines of Japan Inc. — car manufacturers, appliance giants and the like — have often been caught price-fixing: colluding to keep an even market share, squeeze competitors out and maintain “harmony.” Similarly, the commercial English-teaching business could be accused of wage-fixing: Rather than competing for talent, they have followed one another’s lead, driving down salaries to hamper career development, limit job mobility and keep foreign teachers firmly in their place.

We’ve all heard the tale of the scorpion and the frog. In a rising flood, the scorpion asks the frog for a piggy-back ride across the river. The frog refuses, complaining that the scorpion will sting it to death midway. The scorpion assures the frog it would do no such thing because they would both drown. The frog accepts the logic, lets the scorpion on its back and begins to swim.

Halfway across, the scorpion stings the frog anyway. As they sink, the frog reminds the scorpion that now they’ll both die. The scorpion replies, “I couldn’t help it; it’s in my nature.”

The *eikaiwa* (English conversation school) industry’s efforts to cut pay and drive down working conditions may be leading to a similar worst-case scenario for firms and their employees. With economies improving and salaries climbing in the Anglophone countries that traditionally supply Japan’s foreign teachers, there is less incentive to make the trip to Japan, where, in many cases, wages barely pay for the cost of living and respect for employees is at best a relative concept.

This decline seems to have accelerated in recent years, and Big Eikaiwa may be nearing rock bottom. At the same time, several perennial thorny issues appear likely to come to a head over the coming year, after disputes heated up in 2015.

All eyes are on October

The biggest change on the cards for 2016 concerns the infamous 29½-hour workweek, which has become the industry-standard method for *eikaiwa* chains to minimize their labor costs. Giving teachers schedules of less than 30 hours has allowed these firms to classify their teachers as part-timers, thereby avoiding enrolling them in the national *shakai hoken* social insurance program, under which the company is required to pay half its employees’ health insurance and pension premiums.

Yet, argues Chris Flynn of the General Union’s Fukuoka branch, “The 29½ hours was only ever an internal guideline (equal to roughly two-thirds of a full-time schedule) that the labor ministry used to clamp down on companies that didn’t enroll workers. It was never a hard and fast rule.”

In the spirit of price-fixing, most large *eikaiwa* chains have been bandying about this figure — which appeared on two Social Insurance Agency internal documents — like a get-out-of-jail-free card. Liam, a longtime ECC labor union member, says that by using this industry guideline, “the big chains funded their expansion with the money they should have paid into worker pensions.” One early victory for the ECC union, back in 2006, was winning the “option” for its members to be enrolled in the health and pension schemes, but nonenrollment remains the default for the company’s new hires.

Last year, with help from the General Union, one assistant language teacher (ALT) dispatched by Interac to the Tokai city Board of Education in Aichi Prefecture took the National Pension Service to court for the right to be enrolled in the health and pension schemes. The Tokyo District Court ruled that the teacher must be enrolled because he was in fact working more than 29½ hours a week, taking into consideration preparation and other “off-the-clock” time at school. The ruling failed to address the legality or otherwise of the 29½-hour rule, but the GU hopes this precedent will help other teachers working over the threshold based on time spent at the workplace win enrollment.

The big news for 2016 is that for teachers working for large firms — i.e., those with over 500 employees — the 29½-hour rule should cease to be an issue from October, when new labor regulations will require these firms to enroll all workers who put in at least 20 hours a week in the *shakai hoken* program. The law is supposed to be extended to cover all companies at an unspecified later date.

In a move the GU believes is not a coincidence, Interac announced in September that an “absorption-type split agreement” would take effect this month whereby the company (with “around 3,000 employees,” according to its website) would split up into at least six smaller regional firms “to position ourselves to manage the growth in the market,” in the words of the company. The union suspects that because the new law will apply only to companies with over 500 workers, Interac is trying to dodge this bullet by spreading its teachers around these new wholly owned subsidiaries.

Redefining employment

Meanwhile, other firms, such as Gaba, continue to sidestep the troublesome issues of thresholds and so on altogether by denying that their teachers are staff at all. Making use of *itaku*, or subcontractor, status — an increasingly popular tactic among companies within and outside *eikaiwa* — Gaba evades all the responsibilities an employer would usually have toward its employees: no sick leave, no pension, no insurance, no paid holidays, no overtime rates.

When an Osaka Labor Commission finding over one dispute carried wording that suggested the teachers were workers according to the Trade Union Law, Gaba appealed to both the district court, which stuck by the original judgment, and then the high court to have the wording removed, but the case was eventually withdrawn as part of a deal reached with the GU.

When Gaba’s owner, Nichii Gakkan, opened a new chain of schools — the fast-growing Coco Juku — it wasn’t going to be hostage to the teachers’ union all over again. Instead, it formed its own in-house one, which all teachers are *required* to join. Japan’s labor laws stipulate that an employer cannot “control or interfere with the formation or management of a labor union.” Perhaps Coco Juku didn’t get the memo.

The only hope a worker has of finding an employer that actually follows labor regulations may be a government job, and there are precious few of those around for foreign nationals. Enforcement in the private sector is universally lax. Worker rights are so shaky in the industry that even union membership can be grounds for dismissal, albeit illegal dismissal.

Though big names such as Berlitz and Nova have come under fire for nonrenewal of union teachers’ contracts in the past, others, such as Peppy Kids Club, Nichibei Eigo Gakuin and Linguaphone, have been ordered to reinstate nonrenewed staff. The Tozen Union was recently embroiled in a high-profile case with Shibaura Institute of Technology in Tokyo over the nonrenewal of seven union members’ contracts, after SIT declared its intention to part ways with all of its foreign English-teaching staff. The SIT union subsequently went on strike, and the case was finally resolved last year with a settlement at the Tokyo Labor Relations Commission. The conditions of the deal are subject to a confidentiality order.

Threats of strikes win concessions

The general trend of deteriorating pay and work conditions for teachers showed little sign of abating in 2015. Nova, for example, taking a leaf from Gaba’s playbook, has taken tentative steps into the *itaku* “contracting” business. Last summer it offered new hires the opportunity to become Nova subcontractors at the competitive rate of ¥2,100 an hour.

However, Nova lessons usually do not last an hour, and new staff can now earn a whopping ¥1,400 per 40-minute lesson, before tax. That is still about double the wage a shop attendant earns at your local convenience store, but teaching English is not a job for grocery clerks: Nova teachers are required to be university graduates and hold a visa that names them as “specialists in humanities/international services.”

Some cry that the industry has been on the rocks since the big crashes of behemoths Nova and Geos some years ago. This a curious cop-out considering that big names such as Nova (reborn after its 2007 bankruptcy and rebranded) and Coco are expanding again and the 2013 summer bonus ECC paid to its permanent (*seishain*) employees amounted to an average of ¥855,000. This is three times the monthly salary of a typical teacher at that school, yet the teachers got no bonus at all.

Others argue that since foreign teachers will not stay forever, they don’t deserve the same bonuses as Japanese staff, but this chicken-and-egg logic misses the point: If the company has profited from the efforts of its core staff, don’t they deserve a share as long as they continue to work there? According to Sarah, who worked at ECC, “It’s an English school, selling English lessons by native English teachers. They can’t very well do it without us.”

With calls for across-the-board pay rises largely stalled, unions have recently been focusing on prizing payment out of employers for “off the clock” preparation time between lessons, a tactic that has met with some success. Drawing a line under a struggle that began nearly a decade ago over remuneration for unpaid five-minute preparation periods, the GU reached a deal last year with Berlitz guaranteeing an increase in pay for those teachers paid per lesson and a decrease in lessons for salaried instructors, among other concessions.

“The members’ solidarity at Berlitz really won the day,” explains GU chair Dennis Tesolat. “We’ve been making the same arguments since 2007, but when the union got big and we took a positive strike vote, the whole situation changed. This isn’t an increase for more work, as people were always working during this time; it is more money for each lesson the teacher teaches — a pay increase.”

ECC also faced strikes in 2014 — over the now-abandoned plan to replace yearly raises with noncumulative bonuses — and the threat of more last May. Industrial action was averted after the company agreed to concessions on pay raises, after which ECC union membership doubled.

Tesolat sees the Berlitz agreement as a springboard for better conditions at other schools. “This victory will have implications for the whole industry as many, especially part-timers, have never been paid for work outside lessons,” he says. “Already we have submitted a similar demand to Nova.”

In addition to asking for enrollment in *shakai hoken*, the Nova Union has also urged teachers not to sign away their existing rights when the company offers “subcontractor” status upon renewal.

A make or break year

Only time will tell whether successes like these can halt Big Eikaiwa’s rush to the bottom, and teachers’ dash for the exits. A General Union online survey of instructors taken last year makes grim reading. Many cited a reduction in wages or hours over the past five years and few respondents expressed optimism about the future. A majority felt they had little job security and that their living standards had not improved — or had deteriorated — since 2010.

Some are taking jobs only to leave within months, teachers report. ALT dispatcher Interac reduces pay in quiet months, or offers two contracts a year to avoid paying teachers during the main holiday periods; the lack of job security leads to a high turnover, and Interac is forced to keep hiring year-round.

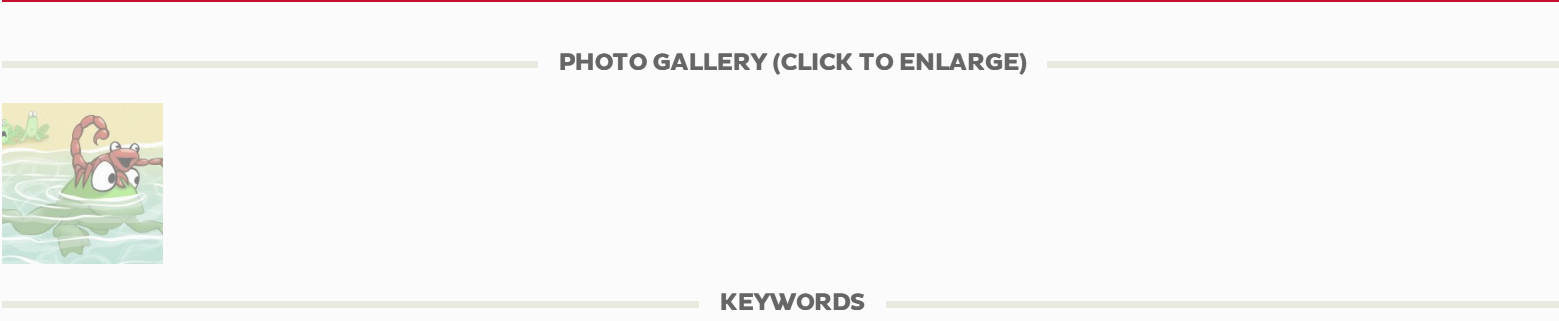
Nick, who works as head teacher at a small Japanese-run school in Sendai, says he is finding it hard to hire. “They’re not coming to Japan, they won’t work in *eikaiwa*, they don’t want to work in Sendai, and they are staying away from our school because at every point they look at it and it doesn’t pay enough,” he says.

Even when it does pay enough, job security can be hard to find. Recent labor regulations stipulate that after five years, temporary and contract workers must be offered permanent positions if they request them. For some education providers determined to keep their foreign teachers at arm’s length, the solution is to dismiss them well before they reach this point. The General Union has reported that Otomon Gakuin High School is currently trying to nonrenew its entire faculty of foreign teachers, in order to avoid this responsibility. A part-time teachers’ union also took Waseda University to task over a plan to limit teacher contracts to five years, and the university was forced to back down.

It is baffling that institutions that pride themselves on quality education should be willing to suffer the loss of so much experience and goodwill. Surely these organizations are only shooting themselves in the foot. Among the customer complaints Nova faced during its implosion were those concerning the quality of the teachers. If Big Eikaiwa has decided its teachers — the core providers of its service — aren’t worth much, then teachers, for their part, will come to the same conclusion about their employers and won’t put in the effort.

With government calls to raise private-sector wages, increased media attention toward “black companies,” union pressure to improve compensation and a dwindling pool of capable people willing to work in the industry, or to stay, a turnaround could finally be in sight in 2016. But if the industry doesn’t improve upon the dreadful conditions it has conspired to create, it might just go down with the teachers on whose backs it has hitched a free ride for far too long.

Views expressed are the author’s alone. In cases where first names only are used, these are pseudonyms. Craig Currie-Robson has taught English in New Zealand, Japan and Hong Kong for well over a decade. He is the author of “English to Go: Inside Japan’s Teaching Sweatshops,” available on Amazon Kindle and Print on Demand. Your comments and story ideas: community@japantimes.co.jp



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