

# Voice

National Union

Inside the "Voice"

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News from the General Union (Kansai & Tokai), NUGW Tokyo South, Fukuoka General Union, Kumamoto General Union, and the Language Teachers' Union of Sendai

## Second Public Hearing in the NOVA Unfair Labour Practices Trial

*General Union*

On July 10<sup>th</sup>, the second hearing in the NOVA Unfair Labour Practices Trial was held at the Osaka District Labour Commission. The General Union NOVA Branch Chair underwent questioning from NOVA's lawyer, Mr Matsushita.

The case was filed against NOVA on February 28<sup>th</sup>, after the branch chair received an unusually low pay rise after NOVA had been notified by the union that he was the new union leader in the company.

The trial began a little after 1.00 p.m. The General Union Chair updated the commission on recent events: Since the last hearing, the NOVA Branch Chair had been accused of sexually harassing a student, a member of staff and a teacher! What levels will NOVA go to next?

NOVA's lawyer was then invited to begin his questioning. After a few opening comments by NOVA's lawyer the questioning was ready to begin...or was it? The whole room suddenly filled with the sounds of "Greensleeves" after NOVA's lawyer had neglected to observe trial etiquette (or the court room posters) and left

his mobile phone switched on.

Questioning got underway with a NOVA general knowledge and personal Q&A session; "How many NOVA schools are there in Japan?" "Where do you work?" "Are you a good teacher?" etc. NOVA's lawyer then asked the million dollar question. "You're here to contest your pay raise, aren't you?" GASP!

After less than an hour of questioning the trial came to a rather abrupt end. Once the NOVA general knowledge questions and the questions that were invalid due to their opinion-related content were separated from the rest, there wasn't really a whole lot left.

The strong impression was that Nova's lawyer had not bothered to prepare his questions at all. Education Head Anders Lundquist had to intervene in an attempt to get in a few questions that had some relevance to the case, but soon gave up.

The next hearing will take place on Monday, August 4<sup>th</sup>. NOVA's lawyer will question NOVA's Head of Education, Anders Lundquist. His cross examination by the union will be on 2<sup>nd</sup> September.

<http://nova.generalunion.org>

## YMCA Strikes Again!

*General Union*

After what seems only a few months of relative peace, teachers at Osaka YMCA are striking again. Whereas previous strikes concentrated on protecting existing working conditions, this time teachers are striking to improve conditions in the International High School division.

Foreign teachers at the high school have been consistently underpaid as much as 25% per annum since the school's inception more than 10 years ago.

**Teachers have come to the point where they will no longer accept this blatant discrimination**

The school employs an equal number of foreign and Japanese nationals. For Japanese teachers there are two systems of hiring one-year contracts and tenured positions. Though identical in workload, the salary difference is staggering.

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National Union of General Workers

# More British Council Nooz

General Union - Tokai

Are you a "returnee studnet [sic]"?

Have you spent "more tha [sic] two years living in an English-speaking environment abroad?"

Would you like an opportunity to practise "communication [sic]" and "develope [sic]" your English in a balanced way"? Then the British Council English Skool is the place for you!

We spotted the above schoolboy howlers (except the last one) in the BC's own description of its courses for "youg [sic] learners" on its web site

<http://www1.britishcouncil.org/japan/japan-english/japan-english-learn/japan-english-learn-nagoya/japan-english-learn-nagoya-young-learners.htm>

We would have thought that "developeing" your English in a balanced way would include learning to spell, but perhaps we're just old-fashioned. The British Council Japan, that august institution which already seems to believe that it's a law unto itself as regards labour matters, now has apparently decided that it can disregard the basics of our language too. Perhaps that's part of the hip and trendy image the BC has been trying to present for quite a while. Still, any time it would like to improve the literacy of its staff, we'll be happy to refer it to the many qualified teachers among our members.

# Berlitz Monitoring

NUGW - Tokyo South

As part of this year's SHUNTO, the Tokyo based Berlitz Union, BEGUNTO demanded that there should be no unannounced monitoring of Berlitz Instructors. It should be pointed out that the type of monitoring taking place at Berlitz is not legitimate in terms of offering useful advice to Instructors.

### The type of monitoring currently taking place at Berlitz is at odds with the Basic Law of Education in Japan.

The type of monitoring currently taking place at Berlitz does not follow guidelines set by the International Labor Organization. An ILO code of practice, Protection of workers' personal data, states that monitoring 'can only be conducted if the workers' concerned are informed in advance of the employer's intentions. Consequently, before the monitoring is put into operation, the workers must know the purpose of the monitoring and have a clear idea of the time schedule (section 6.14).

### Law of Education in Japan

The type of monitoring currently taking place at Berlitz is at odds with the Basic Law of Education in Japan. In one case, (Meguro Koto-Gakko, Tokyo District Court, decision) a dismissal based on a tape recording of lessons by a teacher

without the teachers' consent was contested. The court nullified the dismissal because the tape recording constituted an inappropriate intervention in education which is prohibited by section 10(1) of the Basic Law on Education. Thus, the reasoning was not based on a general worker's right of privacy but on the independence of education - to be free from intervention even by the management of a private school - and may not necessarily be extended to other categories of workers. The judgment stated that tape recording 'is not an appropriate measure to verify the content of the lessons for the purpose of giving useful assistance or advice'. The court overruled the dismissal because it was based on proof (contents of the lessons) collected by unjustified means (Conditions of work Digest, Vol. 12, 1/1993, ILO Publications, Geneva).

### Berlitz Monitoring

Berlitz should, of course, end all unannounced monitoring. Monitoring through a listening device is not an appropriate measure to verify the contents of the lessons for the purpose of giving useful assistance or advice. So says the court interpreting the Basic Law on Education. Private schools must also adhere to this law. Therefore, Berlitz should end all monitoring through listening device or recording device for the purposes of performance evaluation.

# Berlitz Lock-up

General Union

Berlitz have agreed that Pay Per Lesson Instructors do not have to lock up Berlitz Language Centers. Berlitz will restrict the locking up to Contract Instructors and Per Lesson Instructors who 'volunteer'. Berlitz understands that asking Pay Per Lesson Instructors to lock up without paying them puts the company at odds with the Labour Standards Office. Contact the General Union if your rights are being abused.

# Thanks

NUGW would like to thank the following establishments for displaying copies of the National Union "Voice". Special thanks also to all members who help get the NUGW VOICE out on time. You know who you are!

**Fukuoka Area:** Sakae Sushi, The Hacienda.

**Kanto Area:** Dubliners (Shinjuku).

**Kansai Area:** Balabushka (Shinsaibashi), The Cellar (Shinsaibashi), Dubliners' (Kobe), Pig and Whistle (Kyoto, Shinsaibashi & Umeda), Ryan's Irish Pub (Sannomiya), Someplace Else (Shinsaibashi), Tin's Hall (Tennoji), Tramps (Kyobashi), Rumours (Nara), Bar and Grill Pump (Shinsaibashi), Green Leaf, Rakkan (Shinsaibashi), Kitano, Kitano Catholic Church (Umeda), Murphy's Irish Pub, The Playpen (Osaka).

**Kyoto Area:** Café Independent, The Hill of Tara.

**Nagoya Area:** Queen's Head, Pub Restaurant Usquebaugh, Marky's, Pelican Pete's, The Lazy Lizard, Kakuzan Bar, The Exit, The Book Shack, Tokuzo, Jazz Room Exit, Nagoya International Centre. The Elephant's Nest, Red Rock Bar and Grill, Dos Delfines, Desperados.

**Nara Area:** Nara Information Foundation.

# British Council Union Strikes

*General Union - Tokai*

Members of the teachers' union at the British Council Young Learners' Centre in Madrid, Spain have been striking since March in protest at low pay. According to reports on [education.guardian.co.uk](http://education.guardian.co.uk) and *EL Gazette's* online news page, a majority of the Centre's teachers decided to take industrial action after the Council refused a demand for a pay rise in line with increases in the cost of living. So far, a campaign of one-day strikes has forced the Centre to cancel its end-of-term exams.

A union member told *The Guardian* newspaper that, while teachers' working hours had gone up by 20 per cent since 1997, their pay had increased by less than 10 per cent in the past ten years. At the same time, the real value of teachers' salaries had been eroded by a 40 per cent rise in inflation. He added that the Young Learners' Centre student fees had increased by 70 per cent in the last decade. After ten years of pay rises 30 per cent below inflation while school fee increases are 30 per cent above, it's easy to see why staff at the BC Madrid is on strike. A decade of that kind of exploitation would make anyone boil over. We hope our fellow trade unionists will succeed in their struggle to improve their working conditions.

How ironic that an organisation which promotes itself as taking "an active interest in the welfare and careers of its teachers" should be facing a labour dispute on such an issue. However, as the General Union has found, the BC's image of itself as an organisation that can do no wrong is a long way from the truth. Here in Japan, the BC continues to ignore the Labour Standards Law, the Trade Union Law, and the Unemployment Insurance Law. Though the British Council considers itself the example to follow in the language industry, in reality it trails behind even such much-maligned schools as NOVA.

## GU Demands Direct Hiring in ECC Dispatch Fiasco

**'Collective Bargaining' held with Board of Education**

Osaka Prefectural Board of Education, which until now has been employing foreigners directly (NET's) to teach in their high schools, has started bringing in dispatched teachers. An ECC dispatch company 'Best Career' won the bidding for this academic year. This is supposed to be a separate company, but ECC head office ordered some of its own employees to teach in the high schools, as a 'business trip'.

### Sad mess was predictable

However, on the first day of lessons, out of 43 teachers, only 18 turned up, and 23 schools were left high and dry. This sad mess was all too predictable: offering 160,000 yen for a 3-day week, in a deal which cannot qualify you for a working visa, was bound to have employees looking elsewhere for work even before the start of the contract terms, and this problem will inevitably continue.

Asahi Shimbun got the scoop on this, to be followed up by Mainichi Sunday,

which reported the General Union's views on this situation. Shortly after that, as a union with members both at the Board of Education and ECC, the General Union demanded collective bargaining with the Osaka Prefectural Board of Education on 16 July. Central to these negotiations was the union's strong protest against violations of the dispatch law. We also demanded a return to a decent system of employment, giving the dispatched workers direct employment, like the NET's.

The deadline for the Board's official written answer to the union is the end of this month. The main question is whether or not they will use dispatched teachers again next year. If they insist on doing this, we may have to take action against legal violations and start a campaign on this issue.

Our position is that the main responsibility for this fiasco is ECC's, and next the Board of Education's, who should have checked more carefully when dealing with a notoriously irresponsible industry.

# YMCA Strikes Again!

The puzzling thing is that all the male Japanese teachers are tenured but not one woman or foreign teacher can boast such a secure and stable contract, even after having been at the school for as many as eight years. Why is this?

### Why has the YMCA refused to accept the Labour Commission's offer of mediation?

For many years the YMCA has promised to implement a system so that foreign employees would have access to the tenured track. They have even signed a labour agreement to this effect. Still they fail to do anything. What are they waiting for?

In an attempt to limit damage to the students, strikes were recently suspended and the union applied for mediation at the

Labour Commission. The YMCA has refused to negotiate any further and turned down any mediation, which is practically inviting further industrial action. This is the first time that any company has refused mediation in the history of the union. By doing so, they show an unacceptable disregard for the welfare of the students.

Why has the YMCA refused to accept the Labour Commission's offer of mediation? Is it because they are afraid that their blatant discrimination will come out in the public arena?

Teachers have come to the point where they will no longer accept this blatant discrimination and will continue in their push for equality.

<http://ymca.generalunion.org>

# Pushing for the Implementation of International Conventions

*Fukuoka General Union*

By **Stephanie Houghton**  
(Fukuoka General Union)

In 1995, the Japanese Government ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which is one of the major human rights treaties adopted by the UN and the first to have established a monitoring mechanism in the form of the Committee on the Elimination of Racial Discrimination (CERD.) This body monitors the implementation of the provisions of ICERD by states party to it. How does this monitoring mechanism function and what role can NGOs play?

When the Japanese Government ratified ICERD, it assumed the obligation to submit state reports periodically to CERD on the measures it has taken to implement the convention. CERD assists the Japanese Government to implement their obligations by making suggestions and general recommendations based upon examination of the state reports. Such recommendations are not legally binding and progress is therefore dialogue-based. NGOs are invited to enter into this dialogue by submitting their own reports to CERD. They can provide extra information or information which conflicts with the state report.

The Japanese Government submitted its 1st and 2nd periodic state reports jointly on 13th January 2000. I identified two problems in this report. Firstly, information concerning the problem of term limits for foreign educators in Japan was conspicuously absent. Secondly, information provided on social security provision for foreigners was misleading. Consider the following statement taken directly from section 29 of that state report:

'Social security is...granted on the basis of the principle of equality regardless of nationality. For example, the nationality requirement for joining the National Pen-

sion and the National Health Insurance schemes...has been abolished'.

What this report fails to mention is that whilst no distinction is made as to nationality in eligibility requirements for joining the pension schemes, such distinction is made when it comes to qualification for pension benefits. Only Japanese nationals, special permanent residents and permanent residents are eligible to apply for 'karakikan', whereby any periods of residence abroad are factored into the period counted for pension eligibility requirements. Thus, they do not need to work in Japan for 25 years in order to qualify for pension benefits. Foreign nationals on visas who do not sustain work in Japan for 25 years, however, will not qualify for pension benefits upon retirement and up to 22 years of pension contributions may be lost. Of course, foreigners must sustain work in Japan in most cases for ten consecutive years to qualify for permanent residence, which relates to the problem of term-limits imposed on foreigners in employment contracts. Where is the incentive to take permanent residence with such fundamental, long-term job insecurity?

NGOs can submit reports on these types of issues directly to CERD in order to both bypass and encourage the Japanese government to bring its policies more closely into line with the convention. NGOs are encouraged to attend the meetings in Geneva in which the report of the state party is being examined, where they can also arrange informal briefings for CERD committee members lasting approximately one hour before the committee examines the state report. They do not have the right to make statements during the session itself but can try to lobby committee members informally outside meeting hours.

As follow-up, NGOs can inform the public about salient points of the discussion, involve parliamentarians in further discussion, approach governmental bodies to make them more aware of their responsi-

bilities under ICERD and generally pressurize the government in a more informed way. To do so, the organisation must first apply to the UN for consultative status. The award of consultative status also qualifies NGOs to take similar action with regard to other international conventions that the state has signed, not just ICERD. The procedure for application is summarised as follows:

The organisation must submit a letter of intent on the organization's letterhead (signed by its secretary-general/president) to the following address: DESA NGO Section, 1 UN Plaza, Room DC1-1480, New York, NY 10017, USA

The organization will then be sent an application package containing a questionnaire and background materials.

Requirements are as follows: The organization must engage in activities relevant to the work of ECOSOC, have a democratic decision-making mechanism, have been in existence for at least 2 years and derive a major portion of its funds from national affiliates, individual members or other NGO components.

Completed applications must be submitted by June 1st for consideration the following year by the Committee on NGOs, which meets twice a year to decide which NGOs to recommend to the ECOSOC Council for approval.

Once status has been approved, NGOs must submit a brief report of their activities to the Committee on NGOs every 4th year.

**In short, I am of the opinion that the various union branches in Japan need to organize, unite and apply to the UN for consultative status to represent our common interests at the international level in the most effective way possible. Our interests have been ignored for long enough.**

# Summer Bonuses Up 2%! Matsushita Round II

Summer bonuses paid this year increased by 2 percent to 717,419 yen per person, according to an interim report of the 2003 summer bonus survey conducted by the Nihon Keizai Shimbun.

This is the first summer bonus hike in two years. The rising trend in summer bonuses was led by manufacturing-sector companies such as electric appliance manufacturers that have dramatically improved their business performance due to corporate restructuring and increases in exports. On the other hand, the survey found that gaps between individual workers had widened as a result of greater emphasis being placed on personal achievements and performance as criteria for bonus payments.

The top 10 companies that have paid the largest summer bonuses this year:

1. Nintendo Co., with 1,637,145 yen;
2. Rohm Co., 1,236,000 yen;
3. Mabuchi Motor Co., 1,123,874.

They are followed in order, by Sony Corp., Sony Marketing, Olympus Optical Co., Asahi Breweries, West Japan Railway Co., Shiseido Co., and Nihon Yusen K.K.

(Nikkei Sangyo Shimbun)



## General Union

On April 28 the General Union-Matsushita Branch submitted two "new" demands to Excel International (a wholly owned subsidiary of Matsushita); one, that they be recognized as employees and not subcontractors, and secondly, that they receive an 18% pay increase.

### Excel and Matsushita once again face the prospect of a dispute with the General Union over their disregard for their employees and the laws of Japan

Excel teachers formed a union almost one year ago after the company announced a 15% per pay cut. The General Union has negotiated with Matsushita for a year now and the progress has been significant. But why an 18% pay demand and the "right" to be an employee? These two demands were raised after the union was able to stop a significant part of the 15% pay cut for 2002. Therefore the union has demanded an increase in the pay.

The demand over employment is a little more complicated. Matsushita and Excel have negotiated with the union but have held that since teachers are not actual employees, they really don't have trade union rights, or for that matter rights to paid holidays and unemployment insurance, etc. The union has now demanded that Matsushita and Excel negotiate with the teachers and give them all the benefits of employment. Matsushita/Excel's answer: teachers over 20 hours will be employees and the others (the vast majority) will be subcontractors, not protected by the Trade Union Law and the Labour Standards Law. This answer is unacceptable to the union because it bears no relationship to the reality, which is that these teachers are indeed employees and Excel controls their work; they are not free subcontractors who can do whatever they wish.

### The General Union has negotiated with Matsushita for a year now and the progress has been significant.

So after a whole year of negotiations, the union believed Excel would surely not make the same mistake of calling the teachers subcontractors again, but still they do. We are now back where we started, insisting the company recognise the teachers as employees. The company, in the first session of the second round of negotiations, made their stance very clear by declaring that our meeting was not collective bargaining. Excel and Matsushita once again face the prospect of a dispute with the General Union over their disregard for their employees and the laws of Japan, and probably a lawsuit at the Labour Commission over refusal of collective bargaining.

Over the past year the union has concentrated on winning back the cut 15% in wages for old employees but we are now welcoming all Matsushita/Excel employees to join the union to win employment security and an increase in wages to bring them up to a level of parity with those of employees in similar workplaces.

## Joining a Union

**Article 28 of the Japanese Constitution** guarantees the rights of all residents of Japan to form a union and to partake in its activities.

**Article 7 of the Trade Union Law** forbids employers from harassing, firing, or treating union members in a discriminatory manner.

**General Union History – 1999**

Jan	20	Nichibei Eigo Gakuin fires GU branch leader Paul after 10 months of strikes.
	29	GU negotiates with Daiwa Bank over YMCA loan scandal.
Feb	9	GU sues at Osaka District Court for unfair dismissal in Paul's case (Nichibei).
March	2	Osaka Labour Commission issues executive order to Nichibei to allow Paul to stay in Japan during the Unfair Labour Practices Case.
	17	Shunto General Action Day, Osaka; Action for GU Higashi Osaka Branch.
April	17	GU Hunger strike in front of Higashi Osaka City Hall.
	18	GU and Toza students joint struggle leads to a new consumer law. Symposium on 'English Schools and the new consumer law'.
June	16	Paul wins injunction at civil court. Nichibei Eigo Gakuin takes case to full trial.
	21	Thai Labour Ministry representatives visit GU office.
July	17	Osaka Zenrokyo 'Educational Unions Meeting'.
Sept	2	Geos staff Hitomi Nishikawa testifies at Osaka Labour Commission, followed by report / support meeting.
	24	GU files new ULP case against Nichibei Eigo Gakuin in Paul's firing case.
	31	GU makes demands to Shinko Gakuen (Kobe) regarding teaching hours.
Oct	2	Joint event GU/EWA - Symposium on 'Limited term employment'. Reports from Mr Suh Yong-Dal and Kumamoto General Union.
	14	Chinese trainees organise in Fukui. Fukui General Union Branch founded.
	17	Joint meeting, Osaka Gaigo GU branch and Union Higoro (Japanese employees) branch.
Nov	10	GU Mabuchi Interkids Branch formed.



*"We paid you 2 million dollars to break the union and the best you could do was dent it a little?"*

# Monbukagusho & Univs.

*NUGW – Tokyo South*

## Meeting of Monbukagusho's University Section (Daigakuka)

On May 29<sup>th</sup>, ten union members from Tokyo and Kansai held rather heated talks with MoE bureaucrats concerning part-time teachers' problems at universities.

Three supportive Diet members were present and joined in the lively discussion about "shigakuyousai, kouyuhoken and nenkin" i.e. pension and other insurance matters for part-time instructors. As has happened so often in the past, the officials – all "specialists" in their fields – reluctantly offered up their answers straight from the manual. Frequently, they offered nothing at all. For the most part it seemed they had little or no idea of the daily reality as experienced by instructors at universities, or perhaps they were just feigning ignorance.

Only after Diet members aggressively intervened did officials relent and give any substantial answers. A few issues were at last clarified. One of these is of interest. It turns out that the MoE (Ministry of Education and Science) and the MoL (Ministry of Labour and Welfare) prefer not to communicate very much about problems such as university teachers' rights.

But this is a minor hurdle for the four university teachers unions involved. They will arrange another meeting with these ministries in September 2003 where they will demand additional answers and further improvement of conditions for part-time instructors of all nationalities. We hope that more union members can be present, and that non-union members working at universities will show more interest in the on-going negotiations.

HT

# NOVA, the Union and You

*General Union - Tokai*

This year, in Tokai alone, three NOVA teachers have come to us for help in the face of the threatened non-renewal of their contracts. Do you like the way NOVA uses its contract renewal evaluation system to get rid of teachers without a valid reason? Can you be sure a manager won't decide one day to bring up bogus complaints about YOU to ensure you aren't renewed?

Do you like the way NOVA arbitrarily decides how much your pay rise will be, without fair consideration of your performance as a teacher?

Do you like the no-socialisation policy, with which NOVA tries to control your personal life?

You deserve a better workplace. But what are you going to do about the way NOVA treats you? Complain about it to your workmates in the bar after your shift? That won't get you anywhere. NOVA needs to change. But the only way to make it change is to form a NOVA teachers' Union Branch so we can apply pressure where it really hurts – INSIDE. A few teachers imagine that they will only need the Union if they have a problem, and that after the problem arises they can come to us, and we'll sort it all out. WRONG! By then it may be too late for us to help. If you want change at NOVA, then you and your fellow teachers need to unionise. Only with the Union can you negotiate with the company as an equal partner. Only with a strong Union organisation inside NOVA can we achieve our goal of improving conditions for workers there.

**WE CAN MAKE NOVA A BETTER PLACE TO WORK – BUT TO DO THAT WE NEED YOU TO WORK WITH US!**

# Berlitz Pay Per Lesson Contracts

## *General Union*

Berlitz (internationally) prides itself as being '...the leader in language instruction for more than a century', while closer to home, Berlitz Japan boasts it has a 'unique and flexible workforce.'

While the General Union is in no position to comment on the first claim, we are in a strong position to comment regarding the second. In recent months, the General Union has held consultations with the Labour Standards Office and the Ministry of Labour. We were seeking clarification on how Berlitz Japan could operate such a unique and flexible workforce without offering illegal contracts. The answer was a resounding **"It can't!"**

In the old days, Berlitz Japan offered instructors a full-time contract with a range of schedules to choose from. These days, the only full-time contracts offered to foreign national staff are management and the odd specialist position. Apart from a scattering of senior instructors, full-time contracts are but a distant memory. What Berlitz offers these days is a range of part-time contracts that are designed to fit within the needs and requirements of each Language Center.

## **Illegal Contracts**

One of Berlitz's unique part-time contracts is the Pay Per Lesson Contract. This contract is best defined as:

**'a one year agreement between two parties that offers the possibility of work at a set rate but with no guarantees.'**

Under Japanese Law an employment

contract is required to clearly state working hours and conditions. As this contract doesn't meet these requirements it falls into a more than grey area and can be regarded as illegal.

Not happy with just offering illegal contracts, Berlitz also feels it can exploit the Pay Per Lesson arrangement. Instructors have a schedule built around their availability, meaning an Instructor can be on call from 7.00am to 10.00pm. As Instructors receive their schedules daily and will not know what the following day brings until the evening before this leads to an insecure workforce waiting for the next day's schedule handouts. It's not unusual for Instructors at Berlitz to teach a couple of lessons in the morning a couple more in the afternoon and then 3 or 4 in the evening. Why don't Instructors just close off part of their availability, you may well ask? Instructors who have tried just that suddenly find their lessons drop far beyond their close of availability. You may remember a case in Nagoya whereby Berlitz went so far as to take a teacher's lessons away. It took the intervention of the General Union to make Berlitz re-schedule lessons for this particular member.

Berlitz want teachers to provide full availability without a fixed guarantee of income or schedule. Sorry Berlitz, you can't have it both ways. If you are a Berlitz Pay Per Lesson teacher and are being punished for or can't take off the time you need, then contact the General Union.

## JOIN THE GENERAL UNION ONLINE

[www.generalunion.org](http://www.generalunion.org) click JOIN NOW

Name:

Employer:

Address:

Tel:

Email

Or fax this page to 06-6352-9630 (Osaka) or 052-735-9704 (Nagoya).

# Voice

ナショナルユニオン

ゼネラルユニオン(関西・東海)、全国一般東京南部、福岡ゼネラルユニオン、熊本ゼネラルユニオン、仙台外国語教員労組

“Voice”の紙面

- ◇ 松下
- ◇ ノヴァ
- ◇ ベルリッツ
- ◇ プリティッシュ・カウンスル

2 0 0 3 年 8 月 号

## YMCA再度スト突入!

ゼネラルユニオン

比較的平穏な日々が続くように思われたが、それもほんの2、3ヶ月で、大阪YMCAの教師たちは再度ストに突入した。前回のストが現行の労働条件を守ることに重点を置いていたのに対し、今回は、インターナショナルハイスクールでの労働条件を改善させるためのストである。

ハイスクール部門の外国人教師は、10年以上前の開校以来ずっと年間25%もの賃金格差をつけられてきた。

スクールでは外国人と日本人が同数雇用されている。日本人教師には、一年雇用契約と期限の定めのない常用雇用の二つの雇用形態があるが、仕事量は同程度なのに驚くほどの賃金格差がある。

不可解なのは、日本人男性教師は全員常用雇用であるのに、女性教師、外国人教師には、8年も勤続している教師もいるのに、一人としてそのような安定した雇用契約の者はいないことだ。これはどういうこと

か? YMCAは、何年も前から、外国人教員にも常用雇用の途が開かれるような制度の創設を約束してきた。そのような内容の労働協約も締結している。にもかかわらず、未だに何の進展もみられない。一体何を待っているのか?

生徒への影響を最小限にとどめようと、最近、ユニオンは、ストを一時中止して、地方労働委員会に斡旋を申請した。しかし、YMCAは、交渉を拒否、斡旋も受け入れなかった。これは事実上、争議行動を誘っているようなものである。ユニオンの歴史上でも、労働委員会の斡旋を拒否した会社はYMCAが初めてだ。斡旋拒否は、会社側が生徒の利益を軽視する姿勢の表れであり、許すことはできない。

なぜYMCAは地労委の斡旋を受けられるのを拒否したのか? 自らのあからさまな差別行為が公になるのを恐れているからか?

教師たちは、もはやこの厚顔無恥な差別を容認せず、平等を求めてたかひ続ける意思を固めている。

## 府教委で派遣労働者が反乱

ゼネラルユニオン

今まで高校の外国人語学講師を雇用してきた大阪府教委は、今春増員分を派遣に切り替えてきた。ECCの派遣会社が入札に勝利し、別会社であるハズのECC本社も出張強制などで強引な人集めに加担してきた。だが授業初日に出勤したのは18名だけで、25校の授業に穴が空き、大騒ぎとなった。この原因は、週3日で月16万円、VISAは取れない、という中途半端な待遇や、府教委の「業者まかせ」にもあった。

朝日や毎日がこのドタキャンをスクープ、ゼネラルユニオンの見解を大きく報道した。そして府教委・派遣会社・ECCの何れにも組合員がいるユニオンとして、7月16日府教委に団交を申入れた。労基法・派遣法・入管法・社会保険各法違反の摘発が中心だが、「外国人使い捨てで、違法な派遣は中止し、まともな雇用に戻せ」というのが要求である。

もし拒否の場合、ユニオンは、法違反のすべてを告発し、「こんな形では働かないキャンペーン」で、来年度の派遣授業を拒否するであろう。また「委託・委任」など違法な請負をさせている教委もあり、府の責任は大きい。

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全国一般労働組合全国協議会

# No Expansion of Fixed Term Contract System

NUGW – Tokyo South

Statement to the House of Representative's Labor Health and Welfare Committee.

By **Hirohiko Takasu**.

On June 3, 2003, NUGW Tokyo South official Takasu Hirohiko addressed a committee of the House of Representatives on a planned revision of the law on fixed-term labor contracts. He presented a strong argument against the revisions. As an official of NUGW Tokyo South, a union in the Tokyo area, I have been providing labor counseling for the past 13 years for non-unionized workers and limited term contract employees, organizing unions, and fighting for and supporting fired workers. Based on this experience, and my experience in activities with the Fixed Term Contract Workers' Rights Network, I would like to state my opinion on the rules of dismissal, and the extension of the upper limit for employment contracts. First, on the issue of limited term contracts; from the outset, what do you suppose a limited term contract is? Of course the term refers to a time limitation on contracts. But what is the purpose of this limitation? For contract workers, I believe this limitation means 'constraint and elimination'.

Constraint and elimination is a rather difficult expression. However, it characterizes the twin features of a system in which contracted workers lack the freedom to withdraw their labor; being effectively constrained for a term that is based on the needs of the company. By contrast, when a contract expires, workers can be fired easily by means of so-called 'contract

non-renewal'. Thus workers are constrained by the system, and can be easily eliminated. Of course, if there is a reason for the employment to be continued, there is a legal precedent in which legislation dealing with dismissal can be applied, even if the worker is dismissed at the end of a contract. This depends on various factors such as the number of consecutive contract renewals, and the employer's words and actions. However, the application of this precedent has been extremely limited. In reality, if employers want to fire workers, they can do it easily at the contract's expiration. If we compare this with lifetime employment; that is to say employment in which the term is not fixed, it is quite clearly an unfavorable form of tenure. Regular company workers can quit whenever they wish, and their status is protected under the legislation related to dismissal. When limited term contracts are abused, working conditions can be lowered easily at contract renewal. Owing to this contract renewal window, it is very difficult for workers to insist on their rights. Workers are refused new contracts for things like taking paid holidays, or trying to form a labor union. As a general rule, limited term contract workers cannot take leaves for child rearing or family care. Although they do have the right to maternity leave, in order to get a contract renewal, they almost never take such holidays. If a worker quits in mid contract, they can be threatened with damages indemnity, non-payment of the final month's salary, and the withholding of pay for unused holidays. These along with various other forms of harassment are common.

Here are just a few examples of how the system has been abused. In the first case, flight attendants at an airline company were told in their job interviews that they could only be employed initially as contract workers, but that they could expect their employment to continue over the long term, and that they would soon become regular employees. This was reiterated when their contracts were renewed. At one contract expiration, however, the new conditions offered included a sudden 50% salary reduction, and a drastic increase of in-flight working hours. This came after the abolition of regulations controlling the upper limit on in-flight working hours. A group of 12 flight attendants who refused to acknowledge the expiration of their contracts were simply fired. It took four years from the time they were fired for the Tokyo High Court to decide in their favor, and a settlement was reached re-instating them as regular company employees. It was, however, a very difficult fight. The lowering of working conditions and firing those who do not comply is typical during contract renewal. In two other incidents, a vocational school and another company attempted to crush their unions by firing members at the end of their contracts. I don't have time to introduce all the cases. This is only one example, but please understand that if limited term contracts are abused, similar cases may easily occur. From the above cases we may see that, for workers, there is no merit at all in the limited term contract employment system. Is there anyone anywhere who...

**continued overleaf**  
would want to be employed without

the freedom to quit? And do you suppose there is anyone who wants to have to worry whenever they have their contract renewed? Please notice that there is a clear difference between the needs of workers in these cases, and those of workers who want to work in short term part time jobs. The number of fixed term contract workers is, however, increasing. According to a survey conducted by the Ministry of Public Management, Home Affairs, Posts and Telecommunications, the number has been increasing steadily since the late 1990's, last year reaching 7,270,000, or 13.6% of the workforce. Employers advertise contract positions mainly to suit their own needs, leaving workers with no choice but to accept such jobs. In particular, for women and the elderly, the only jobs available are part-time, fixed-term contract positions. The Proposed Amendment although it is claimed that the extension of the upper limit on fixed-term contracts will improve contracts from both the labor and management perspectives, there are no merits for workers. In any case, it is not for part-time and temporary workers on three- to six-month contracts that the term of employment is going to be extended. It is obvious that what is going to happen is, workers employed as full-time employees under the current system will be put onto three- to five-year contracts. Similar contracts will no doubt be introduced in fields such as software development where employers prefer to hire young systems engineers in their 20's and 30's. The same applies to workers in fields requiring a set period of educational training, technicians, foreign laborers, and others. The conditions of fixed-term contracts forbid workers from either quitting or seeking other employment for the duration of the contract; once it has expired, however, the same employee may easily be laid off. The extension of the upper-limit on such contracts will only aggravate the ill-

effects. The problem will be especially grave with contracts for terms as long as five years, which will deprive workers of the freedom to quit over an extended period of time. According to the Ministry of Labour's interpretation of the current law, a five-year contract is considered to be in accord with Article 14 of the Labour Standards Law, as long as the worker's right to quit and his job security are clearly acknowledged after completion of the first year of the contract. Given this fact, why is an extension of the upper limit on contract terms necessary? The only conceivable reason is the advantage it gives to employers, who wish to keep workers bound for the period of the contract, but also want to be free to lay them off as soon as the contract expires. I am opposed to this amendment, and believe that all workers on fixed-term contracts, including terms up to five years, should at least have the right to resign at will. Next, we'll discuss the rules of dismissal. I have taken part in or assisted in many consultations regarding dismissals and have forced companies to withdraw dismissal actions. Every year, approximately 1 million workers are dismissed due to reasons stemming from the company. Among these, only a small number, representing just the tip of the iceberg, appear before the Labor Administration Offices and regional labor unions for consultations. My union receives about 100 dismissal cases a year, and about half of them are invited to join the union, which then engages in collective bargaining with the company. In collective bargaining, first, we ask, 'What is the reason for dismissal? Without a legitimate reason, the dismissal is not allowed. Is there an objective reason for dismissal? Is dismissal not a disproportionate disciplinary measure?' We never raise the issue of the company's right of dismissal in order to protest its abuse. Neither do companies claim the right. To be sure, there are managers that do not understand

the principle of dismissal, but there are other quite ordinary companies that explain the reason and appropriateness of the dismissal to the employee. However, what will it lead to if it is written in the Labor Standards Law that 'The employer can dismiss the worker?' We already concerned that, in particular, managers of small-to-medium, and even smaller firms will brandish the Law like a weapon, stating confidently, 'We have the right to fire workers,' resulting in dismissals-at-will. I have heard that there are plans to amend this. However, the idea of the 'Abuse of the Right of Dismissal' remains. This is an incomprehensible matter to most people. The abuse of a right assumes the existence of the right. Indeed, the existence alone of the right of dismissal is a matter of some concern. Management can then inquire of the union, 'What is unfair about this dismissal?' A law allowing the right of dismissal reverses the previous case, enabling the union to ask for a logical, objective reason for a dismissal. The burden of proof is already a major problem in courtroom practice, and I urge you to reconsider the negative effects the wording of the amendment will have on labour-management relations. The Labour Standards Law is an indispensable aid to workers. I hope you realize that it is only through this law that the rights of workers are protected. The ones who will be immediately affected by the amendment to the law are those in the weakest position: non-unionized laborers. This revision will bring about serious changes to the rights of workers, and will alter the nature of the Labour Standards Law, which sets the minimum standards for working conditions. The upper limit on fixed-term contracts should not be extended. Instead, I propose a radical amendment, to the effect that no dismissal shall be allowed without an objectively valid reason. That concludes my statement.

**Thank you very much.**