

《研究ノート》

## Investigating the Impact of Japanese Labour Laws on Limited Term Contracts for Foreign Language Teachers at Japanese Universities

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### Abstract

Limited-term contracts for foreign language teachers are commonly used in full-time, long-term positions at Japanese higher educational institutions. This paper shows how labour laws allow this cycle to continue, while direct and indirect financial and academic costs to the institution, students, teachers themselves and also Japanese society in general remain unacknowledged. This paper proposes investigating the impacts of limited-term contracts, using qualitative methods to collect data through semi-structured interviews from foreign language teachers who are on, have been on, or are tenured but who work with, or have worked with, teachers on limited-term contracts. It is hoped that the findings of this proposed study will help gain insight into what can be done to improve the current situation for all involved.

Keywords : higher education, Japan, limited-term contracts, employment, labour law.

### 1. Introduction

Research looking specifically at the effects of limited-term contracts (LTCs) for foreign language teachers (FLT) in Japan on higher educational institutions, the students, other teachers, the FLTs themselves and, more widely, in the nation, is scarce. More specifically, there is little data gathered investigating the impact of LTCs on those who are employed on them, the extent the effects have, and what implications they bring. This paper outlines the reason for this investigation, the context of the current situation in higher education in Japan, the methods used, and some possible findings.

For this investigation, the researchers obtained first hand data from participants to uncover what financial impact LTCs have on higher educational institutions through direct monetary costs, and also to illuminate costs to the quality of education for future students through the loss of knowledge, as well as the hindrance to collaboration, knowledge sharing and

project development, within the institution. We propose that monetary and educational costs to the students should be analysed while also exploring the pressures affecting the mental and physical well being of the FLT's themselves. The combined effects of these costs could ultimately hold obvious ramifications for academia in Japan as a whole, as it struggles with its emergence into globalization.

## 2. Research Context and Topic

To understand the complexities of English education, and thus the hiring of non-Japanese English Teachers in Japanese universities (otherwise referred to as FLT's), it is necessary to understand the government initiatives and social changes that have taken place in Japan over the past 30 years. Thus, after giving an outline of the social and political movements effecting English education over the past three decades, the topic of limited-term contracts to employ non-Japanese English teachers in Japanese higher education will be introduced.

Government reforms since 1983 have focused on maintaining Japan's economic and social status, which was, at the time, considered successful. In order to achieve this, the aim was to welcome more foreign students to Japanese universities. However, by the new millennium the economy was stagnating, and the number of Japanese students studying abroad declined.

Thus, MEXT (the Ministry of Education, Culture, Sports, Science and Technology) worked on enhancing the elite education in Japan (Appendix:1), and one way to do this was to reduce curriculum content. This, along with the increasing numbers of foreign students coming to study at Japanese universities lead to what was called 'Asianation' (rather than 'globalisation') in Japanese tertiary education. Here, the pressure for Japanese students to use English became apparent (Araki-Metcalf, 2011) and the government decided that all Japanese high school students [would] be able to communicate in English upon graduation while university graduates [would] be able to use English in their job (Hashimoto, 2009). At the time 13 universities out of 22 were chosen to receive a portion of the 15 million yen 'Global 30' funding which was aimed at creating an 'internationalised' core at the universities. This was interpreted as being aimed at recruiting and educating international students in Japan (Burgess et al., 2010). With the rise in foreign students came the rise in foreign faculty (ibid). However, the conundrum of the lack of practical English education was not resolved and in 2013 the Japanese government decided that TOEFL would be required at entrance and graduation of public universities (Yoshida, 2013).

By the end of the 1990s, towards the turn of the new millennium, with the decline in the Japanese economy and the practice of 'life-long' employment, less university graduates were employed as companies retained more of their middle management (Kariya, 2011). This consequently had an impact on the intake of new students into universities as parents

wanted the guarantee of employment after graduation. Simultaneously, as demographics in Japan started to decline, the numbers of university entrants was dropping, and consequently entrance into university became more accessible.

Adding to the already complex situation Japanese universities found themselves in, was the rise in academic standards in neighbouring countries which had initiated the fall in ranking of Japanese universities as a whole (Sawa, 2014). One solution offered for raising the academic prowess of Japanese universities has been to “increase the number of professors from abroad” (ibid.). Needless to say this presents a number of issues, one of which is the language barrier (McKinney, 2014). Another is overcoming the lack of a welcoming atmosphere to foreign academics (Snow, 2015) and furthermore is the need to create a culture in which Japanese academia do not view their foreign counterparts as “indulged” (ibid.) and where foreign academia are welcomed into the institutions in such a way they can make contributions to both their field of research, and the decision making within the institutions.

Within the complex backdrop of Japan’s socio-economic climate and government initiatives striving for a more outward perspective, are also shifts within English education, and the employment of foreign teachers of English in higher education in Japan. Recently the number of full-time contract teachers has increased (Murray, 2013; Leachtenauer, 2014). The role these teachers play is pertinent in the bigger picture. For the most part a “full-time contract teacher’s primary responsibility is to teach compulsory freshmen and sophomore classes” (Murray, 2013:53) of which they may have ten of these classes on a weekly basis (Leachtenauer, 2014). This indicates the teaching loads they carry could have quite an impact on the university’s student body as “the employment status of their teachers (part-time or tenured) makes little difference” (Okunuki, 2014) in the eyes of the student.

Having overviewed the context and topic we now discuss various aspects of LTCs.

## **2.1 Limited-Term Contracts in Japanese Employment**

Japan has been a country reputed for life-long employment with companies who take care of their staff by offering them attractive packages including annual or bi-annual bonuses and subsidised housing. However, in more recent years the use of limited-term contracts, otherwise known as fixed-term contracts, have met employers needs in three areas: in supplying a workforce during a period of business uncertainty; in reducing labour costs; and also helping maximize the use of the elderly workforce (Takeuchi-Okuno, 2010). The reasons offered up for wanting to be employed under such contracts include compatibility with the working hours, and days, and the employee, or simply because regular employment cannot be found. The latter is true in many cases for foreigners working at Japanese universities.

Trends since the mid-1990s have brought an increase in the use of limited-term contracts and with this increase the disadvantages of LTCs have become apparent. Those employed under such contracts have access to limited security and protection, as well as generally being on lower wages compared to regular employees. An exception to the reduced pay is that those who are employed for their technical expertise such as in the case of special short-term projects. Further disadvantages to those on LTCs include not being awarded bonuses, or being offered retirement payments. Added to this is the duration of the LTC.

A survey taken in 2009 showed that over 50% of those on LTCs were employed on contracts of six to twelve months. This indicates that, for the most part, the contracts are renewed. For 40% of the cases it was found that contracts were renewed three to five times, but for 15% of the time they were renewed more than ten times. While the result in this system is instability for the employee who might not be sure how long they will have work for, it also prevents them from looking for the next contract. Furthermore this system causes confusion when differentiating between the duration for a contract as opposed to the “limitation on the total duration” (Takeuchi-Okuno, 2010:74) of employment under a limited-term contract.

The Labour Standards Act (LSA), which was implemented in 1947, was amended in 1998. So, until the late 1990s there had been fifty years of a one-year limit for a single contract term. Japan being a culture that does not welcome change, this amendment was strongly opposed. The result was a limited amendment, and then another amendment in 2003, and again further amendments that continue to be disputed to this current day which are detailed in the next section.

## 2.2 The Present Labour Law

In August 2012 the government introduced a law in a bid to reverse the trend of hiring any contract or short-term employees. According to this law, teachers working in Japan under a limited-term contract for five consecutive years with the same organisation, must be offered a permanent position if the employer wishes to retain the teacher beyond the fifth year. However, under this interpretation of the law, the employer can rehire the teacher under the same previous conditions, after a six-month break in employment commencing before the start of the sixth year, if they so desire.

One way to circumvent this law would be for the employer and employee to arrange a six-month period of non-employment after which the university can offer the position back to the employee for another five years. The ramifications and practicalities of this system concerning what the universities would do in the six-month period, and what the teacher would do in that short time span require careful consideration as various issues become open

to debate.

After the law takes effect in 2015, all organisations would have to implement the new system. One solution could be to create contracts with terms, and conditions with certain requirements, that must be fulfilled in order to gain a permanent position. This would seem to be a logical option. Each organisation has specific requirements, and after each organisation drafts their conditions for employment, they can go to the local labour office and submit it in writing. So, each institution can register the terms with the local labour office. For example, as most universities are faced with declining enrolment, a clause can be added that would terminate the contract if classes and enrolment decrease below a certain threshold.

Of important significance is the agreement between the university administration and labour union, and the submission to the local labour office if such cases were to arise. However, the labour union has to agree first to the proposal. Thus, a contract with certain clauses would need to be created then taken to the university union. Following approval, the labour office might accept the rules on condition of agreement with the labour union. However, such contracts would not override the current labour laws. This labour law is rather counter-productive and amendments were made to it in April 2014.

According to the Ministry of Health, Labour and Welfare (厚生労働省) homepage ([http://www.mhlw.go.jp/stf/seisakunitsuite/bunya/koyou\\_roudou/roudoukijun/keiyaku/kaisei/index.html](http://www.mhlw.go.jp/stf/seisakunitsuite/bunya/koyou_roudou/roudoukijun/keiyaku/kaisei/index.html)) there are two clear exemptions to this law. The first is for temporary workers with specialised technical skills whose work is expected to last more than five years:

〔5年を超える一定の期間内に完了することが予定されている業務〕に就く高度専門的知識等を有する有期雇用労働者),

and the second are those who are older workers and who are hired as temporary workers past retirement age (定年後に有期契約で継続雇用される高齢者). With these two facts alone, the law could be interpreted as not including LTCFLT's as, in the first clause, an FLT's position would not be closed as long as there was a student enrolment to support the position, and the latter would not apply to the FLT due to age. However, there is a further amendment to the law, which states:

〔大学等及び研究開発法人の教員等, 研究者, 技術者, リサーチアドミニストレーターについて, 無期労働契約に転換する期間を5年から10年に延長。〕

which translated states:

*For teachers, researchers, technical engineers, and research administrators at universities, etc. and research and development agencies, the change to a contract without limit (tenure) was to be made after the fifth year, but this has been extended to the end of the tenth year.*

Important in this statement is the fact that teachers (教員等), researchers (研究者), and technical engineers (技術者) are defined separately. This amendment does not specify that the university (大学等) must be a technical university and furthermore there is no mention of the amendment being applicable to only certain departments within a university. Thus, this amendment is applicable to all universities, regardless of being technical or not. The wording used for teachers (教員等) also does not specify a limit on what type of teacher (e.g. Japanese, or non-Japanese) and thus covers all teaching staff. Therefore, by clear interpretation of this clause a FLT can qualify for limited-term employment for up to ten years according to this amendment. This amendment is, however, subject to other labour laws, and so, it would be imperative that both the university (employer) and the FLT (employee) are in mutual agreement to continue the contract for up to ten years. There is no obligation on behalf of the university to tenure a FLT if the university employs them for more than ten years under this law.

In the next three years, universities all across Japan must operate under this law and there is still some time for each institution to become compliant. Some job advertisements state that positions can be renewed for up to 10 years whilst other universities are only offering limited term contracts for one, or three years. This law is could be reviewed by the current Diet and therefore may change. Part-time teachers' contracts are now being revised, too, as the limit also affects them. A part-time teacher is subject to the same restriction at a single institution. Continuous reshuffling of both part-time and limited-term contract teachers certainly seems to be an unintended consequence. So, too, is the effect on universities and students of teachers who are constantly coming and going. What remains to be seen is if teachers want such an unstable careers, and how tolerable and sustainable this environment is. Furthermore, the test of time is also waiting.

### **2.3 Limited-Term Contracts in Academia**

For the employer, the benefits of hiring on limited-term contracts may primarily be due to economics but it can also be seen as a form of employment that meets the needs of both workers and employers (North, 2014). However, in education other factors, such as the

discontinuity of the teacher, potential interruption of the students' learning can also play significant parts in weighing up the costs of hiring on such contracts.

In Britain LTCs in academic institutions have been curbed by legislation, which brought a 9.59% decrease in the use of limited-term contracts in the education sector (Koukiadaiki, 2010) while the number of researchers on LTCs has remained the same. Furthermore, the conditions of the instructors on LTCs appear very fair. At Oxford University the regulations for 'fixed-term' employees is very clear, and extends to academic staff being eligible to apply for sabbatical leave. However, this is not always the case, and it has been suggested that universities "critically analyse the reasons for not renewing fixed-term contracts" (Abbott, 2012). In the UK the reality is that more than a third of "the academic workforce is now on temporary, fixed-term contracts" (Fazackerley, 2013) and it appears that the fair treatment of some places is not general practice. The Times Higher Education reveals educators have been left feeling like "bits of plastic... disposed of" which results in "no sense of security" (ibid.). Furthermore with 97% of researchers being on limited-term contracts at another university, the guarantee of educational standards comes under question.

Across Western Europe permanent employment is more easily accessed by two factors: status and age, which leaves those lower down the ladder in positions of limited-term employment. Those in more senior positions, or those who are over 45, are more likely to be in a permanent contract whilst the "majority of junior academic staff at universities" (Ates & Brechelmacher, 2013:25) are in short-term employment. This holds true for over 50% of the junior staff in the following countries: Germany, Switzerland, Norway, Portugal, Austria and Finland (ibid.), which indicates a hierarchical status in Western European universities. This has also impacted Australia.

The situation in Australian higher education followed that of Britain and is therefore very similar. The lower ranking positions are less permanent, and have fewer prospects of being permanent, whilst higher ranking positions have a greater chance of being permanent (Park, 2012). So, with this divide across Western Europe, and Australia, the divide in the U.S. is a little greater. The increased divide in the U.S. indicates an inequality (Park, 2012). There appears to be a trend away from tenure which could account for the resulting "few top in old tenured positions" (ibid.:323) and an insurgence of "full-time non-tenure track and part-timers" (ibid.). This results in 66.5% of academia in the U.S. (Kezar & Maxey, 2013) with little "status, pay, or security" (Batterbury, 2008:7).

Overall, tenure appears to be a dying creature in its last throes before extinction across institutes in higher education. However, while the benefits of perceived alternatives, namely

limited-contracts and part-time positions, appear luring from an economic perspective, the real impact on the education in the classroom needs assessing, and alternatives to both these systems given serious evaluation.

## 2.4 Research Context

The hiring of foreign teachers in Japanese higher education sometimes falls into a different category to those of their Japanese counterparts (Nagatomo, 2014). Whilst Japanese tend to enjoy job security, along with welfare benefits, only a few foreigners gain tenure. However, there is another category, which is more precarious (ibid.:102) which is that of the limited-term contract teacher. The advantage for the limited-term teacher is that the hiring practices for the limited-term contract teacher are less stringent, and the foreigner is often “hired... to promote an international image for the university” (ibid.:103). However, these posts are more of a “conveyor belt” (Rivers, 2013:77) with less experienced, younger, and cheaper teachers. Furthermore these teachers are “marked as being peripheral in their positioning and temporal in their existence,” (ibid.:69). This indicates little commitment from the university to the contract-teacher, and little is usually expected in return outside of the classes they teach.

Under these conditions the opportunities to further oneself through research initiatives can be lacking (ibid.) and the teachers are left to themselves to create their own research opportunities. It then becomes important for the contract teacher to spend energy on networking to build up opportunities for professional development. In doing so the teachers can also combat any feelings of isolation that they might have (ibid.). Knowing that their role is temporary, and they will have to look for work in just a few years, the extent of their focus on the students over looking for more employment comes into question. Adding to the need for socialisation are hiring practices of universities that often will interview based on connections (McCrostie, 2010). Thus networking becomes more of a necessity to ensure future employment.

Furthering the complexity of the situation is the recent change in labour law by the Japanese government, which currently affects more than one-third of Japan’s employees (Takeuchi-Okuno, 2010). This situation is not unique to the foreign contract workers. For Japanese researchers securing tenure it is “increasingly rare” (Okunuki, 2014). Consequently, Japanese teachers in Japanese higher education face the challenges of a lack of long-term stability, just as the foreign limited-term teachers do (McCrostie & Spiri, 2008). Okunuki details the story of once such researcher who was on a limited term contract. When the contract was not renewed she started the process to sue the institution. While the outcome resulted in an out of court settlement and the researcher being re-hired for one more year, the issues of

these limited-term contracts wait to be addressed.

The underlying purpose of limited-term contracts comes to question. Since the turn of the millennium limited-term employment has been on the rise in the West as short-term contracts provide flexibility for the employer (Kakabadse, 2005). For companies with short-term goals and plans, this can be quite attractive. However, if the long-term goal is to produce a higher quality workforce, as Sawa (2014) indicates, then strategies, such as, incentive pay, and investments in learning, should be considered (Tirvayi et al., 2014). Also, limited-term contracts were intended for positions that would be short-term (Takeuchi-Okuno, 2010). However, it appears that the common practice is for teachers to be hired on limited-term contracts and then replaced multiple times, thus, indicating that in actuality the position itself is permanent. This paradox leads to question: what benefits there are from such systems, and what ramifications there are for the instructors, students and universities that use them?

## **2.5 Research Topic and Questions**

The complexity of the background in Japanese higher educational institutions, with the economic and social pressures coupled with the effect the LTCs have on the FLT, two facets of research emerge for investigation. The first focuses on the motivational factors influencing the FLT in relation to their job situations, and the second focuses on the economic impact of such hiring practices.

From the background of the situation where instructors know they are only employed for a limited time, and have to keep their connections active if they are going to be seeking further employment after the current limited-term contract expires, overarching research questions that emerge from this are:

In the perceptions of the participants,

1. to what extent do the LTCs affect FLT's motivation?
2. what other factors are perceived to be influencing motivation amongst the FLTs in Japanese higher educational institutions?
3. what job opportunities are available for the FLTs in Japanese higher educational institutions?

However, based on the pertinence of the economic factors currently influencing Japanese higher educational institutions with declining domestic student enrolment and increasing pressure from overseas coupled with the increasing need for English, the research questions that emerge related to FLTs on LTCs are:

1. What is the financial impact of hiring on LTCs for long-term positions for the institutions?
2. What financial impact do the LTCs have on the students, stakeholders, and the value they receive?
3. What other financial impacts are there as a result of repeatedly hiring on LTCs?

### **3. Costs of Limited-Term Contracts**

While limited-term contracts serve their purpose, as outlined above, there are also demerits to using them. There are five demerits that have the potential to become more acute in jobs that are longer-term: the financial costs to the institution, the academic costs, the impact on the students, or stakeholders, costs to the FLTs, and social costs. These five areas are discussed below.

#### **3.1 Financial Costs to the Institution**

This section considers the social and economic costs that limited or fixed term contracts have on higher educational institutions, their students and their teachers. Limited-term contracts are typically used where the position or task a person is employed for has a fixed term and is unlikely to continue. This is contrary to the majority of limited-term contracts in higher educational institutions in Japan where the teacher's employment has been terminated but not the position, which results in the institution having to search for a replacement. The two extremes of full-time employment, of the limited-term contract, and the more costly tenured position need examination. There seems little interest in ongoing renewable contracts based on teacher performance, student numbers and the profitability of the institution concerned, despite such a form of contract being to the advantage to both the teacher and the institution.

Easily quantifiable and the most obvious economic cost is the cost of recruitment. Staff turnover is an expensive part of running a business and the majority of employers are active in both determining the reasons for employee turnover and implementing measures to improve employee retention. This runs contrary to the belief that exists in many higher educational institutions in Japan, where it is suggested that budgets are the bottom-line and thus the principal reasons for limited-term contracts. As opposed to making the majority of foreign instructors search for a position at another university upon the expiration of their contract, retaining existing competent staff is a more effective method in managing limited financial resources. Based on a formula Bliss (2015) uses to calculate the cost of employee turnover we have determined that the financial cost to replace an employee is on average 20% of the

employee's annual salary. With a fixed term contract of three years a university will need to budget an extra 6.7% per annum of the total annual salary paid to cover the cost of replacing the instructor when his or her contract expires. A five-year contract will require an additional 4% per annum per teacher to cover the costs of replacement.

### **3.2 Academic Costs to Institutions**

The direct and indirect financial costs of LTCs mentioned above are sadly not the only costs that the institution must bear. One significant indirect cost is knowledge loss and the transfer of sensitive information (Urbancova & Linhartova, 2011). When an employee leaves an institution they are working for they will naturally take with them the knowledge and information they have gained over the years working in that institution. Some institutions may be oblivious to this loss while others may see this knowledge loss as foreordained and therefore, extraneous. This knowledge may include insights into the workings of the institution, lesson plans, materials produced, and also knowledge obtained through relationship building both with (a) students and (b) faculty members. The end result of this is that the institution will ultimately sustain a reduction in efficiency and effectiveness. Furthermore, knowledge is being transferred to a rival institution. One huge battle in which educational institutions are struggling with in Japan is the declining number of students. Against this background, higher educational institutions risk having knowledge transferred to a competing institution when the FLT finishes their LTC, which has the potential to have a negative repercussion on their future enrolments and thus economic viability.

LTCs can also hinder knowledge sharing within the department or institution itself. With no perceived benefits in contributing to the institution's long-term strategies and success when placed on a three or five-year non-renewable contract, there is potential for the data from this investigation to show that instructors are actually inclined to withhold, or limit, the amount of knowledge they wish to share. A lack of direction and motivation may also prevail, as ideas for innovative projects get put on hold through fears of not being able to see them through to completion after the contract expires. Instructors may even be tentative about suggesting new projects if doing so would require a larger workload on the part of the instructor. Possibly after leaving the institution the merit and praise gained for successful projects may go to an employee that is tenured or longer term, thus the LCTFLT would not be recognised for their contribution to the institution.

Obviously related to this, is the disruption to possible teamwork opportunities as people come and go. This ultimately affects projects, and research as well. People generally work well in teams, with relationships as a foundation (Playford et al., 2000). However, it can be difficult

to build good working relationships when people are often leaving and new people are coming in. The knock-on effect is that collaboration decreases, team projects become shelved, which ultimately affects other instructors, students, and ultimately the institution as a whole.

### **3.3 Educational and Financial Costs to the Student**

Institutions, and their stakeholders such as students and ultimately the wider community, are also indirectly impacted by employee turnover and poor retention efforts. While harder to quantify it can be argued that these indirect costs significantly outweigh the measurable direct costs associated with limited term contracts. One could argue the most important of all the stakeholders is the paying, or tax payer-funded, student, which should be a main focus of any educational institution. With instructors either settling into their new position at the start of their contract, or precious energy and time spent on job hunting at the end of their contract, students will most likely find their instructor at their most productive in their middle year, or years, of their contract highlighting an overall loss of quality teaching hours. If we are to follow the loss of most likely formula of Bliss, instructors take about 20 teaching weeks to reach full productivity. This in turn means over a 30 week teaching year instructors on average perform at a 70% productivity rate with only the final 10 weeks seeing teachers reach their full potential. The final year will see a decline in instructor productivity as job searching becomes priority and generally productivity will be sporadic depending on positions advertised and application deadlines. Simply put, has the student has been short changed in terms of the number of quality teaching hours received in relation to what they have actually paid for? A student whose subject teacher is on a limited term contract could find themselves losing up to 30% of their investment in that subject depending on the timing of their teacher's employment.

Yet, what else can the teacher who is faced with the need to find a new position to support his or her family along with housing, and schooling for dependents do?

### **3.4 Costs to the Teacher**

Tenured positions in universities for foreign employees are hard to come by and often seem like the pot of gold at the end of the rainbow - never quite within reach (McCrostie, 2010). The connotations of this are that instructors, that are not tenured, are forever searching for that 'pot of gold'. In the past, LTCs were used as a stepping-stone into such positions. However, recently teachers who look to step up to a tenured job find themselves with one foot hanging in mid-air with nowhere to step to. More often than not, they go back to being a part-time teacher, trying to collect as many classes as possible to etch out a satisfactory salary.

Furthermore, with fewer tenured positions becoming available it was inevitable that necessary academic requirements would tighten. Positions that were once attainable with a

relevant master's degree and a set of good publications, will fail to reach the interview stage of the job application process. Being the bearer of a PhD, having a long list of publications and a healthy presenting history at prestigious conferences is fast becoming the only means of getting a foot through the door. Even meeting these criteria and surviving the arduous application process, successful applicants should bear in mind that traditionally tenure-track positions have been held by Japanese nationals (Kuwamura, 2009) and "most full-time foreigners are contracted" (Burrows, 2007:65).

When looking at how this affects the teacher, the data is expected to show FLT's on LTCs under immense pressure to do all that is possible to gain experience, strengthen their curriculum vitae and spend time networking for possible future job opportunities (McCrostie, 2010). When many FLT's have made Japan their home, often with spouses and children to provide for, the pressure to find work can be overbearing. Networking would therefore become a priority. FLT's have to 'stay in the loop' to increase their chances of hearing about and being introduced to possible future job openings. Thus, going to local conferences, and being seen at social events becomes a priority as it may affect future job opportunities (McCrostie, 2010). Often with some positions not being advertised but done through recommendation, the 'who you know' will often get instructors through the door much quicker than the 'what you know.' Frequently new positions can be like a honey pot for instructor working bees that are finishing contracts. In the event that several institutions are releasing and hiring at the same time, it can also be like "playing musical chairs!" (McCrostie & Spiri, 2008).

Another factor, which could emerge from the data, is the pressure placed on a FLT during a LTC if they are used as a go-between for the part-time instructors and the office administration. In some universities the LTCFLT help part-time instructors, and are often their first point of contact for the university, as it appears that it is often the relationship with foreign staff in an institution that opens the door for part-timers to be employed (Sato, 2013). The reasons for this could be that the FLT's on LTCs already have knowledge of how certain systems in the university are run and can possibly help explain these to part-time staff. Often, the LTCFLT's have a good working level of Japanese and it is easier for administrative staff to enlist the help of the full-time instructors to communicate with the part-time instructors who might be less fluent in the language. Although this may not be part of an LTCFLT's job description, taking on the obligatory responsibility may put the instructor under an increased pressure with often little acknowledgement for their help.

### 3.5 Social Costs

Often overlooked costs are the social costs that have an impact on limited-term employees, the institution, and the community. One important stakeholder, which is often overlooked, is the community in which the institution is based. Having on-going support and participation from the community is essential to an institution's long-term success and growth (Bringle & Hatcher, 2002). The community's involvement in events such as student orientation, festivals and graduation indicate a positive relationship. In turn the institution's commitment to its community is seen through community classes and programs and community use of facilities. The institution's success within the community is, in part, reliant on the employees of the institution. Internationally, higher educational institutions provide incentives to have employees live close to the institution and participate in community activities. Initiatives include housing assistance and annual lump sum payments that are jointly offered by the institution and the community (Kamerman & Kahn, 2013). Reasons behind such programs are highlighted in the June 2015 press release from The College Park City-University Partnership (Olson & Woodall, 2015). Here they offer incentives to encourage employees of the University of Maryland "to live near work, reduce commutes, contribute to our local community both day and night, and boost [the] local economy"(ibid.). The University of Maryland President notes that such incentives make "this community an exciting place to live, work and raise a family"(ibid.). All of this is negated under the limited-term contracts that employees, particularly teachers, are faced with. There is little point being actively involved with the community and being the face of the institution within the community if, in three, or five years, you need to uproot your family, find new housing, schools for the children, and start all over in another community. Instead, such employees are likely to base themselves within a community that is most appropriate to their and their family's long-term plans. Ironically limited-term contracts are one of the factors behind the lower birth rate in Japan and those institutions that insist on limited-term contracts are contributing to the very demographics that they often cite as the main cause for falling enrolment.

## 4. Research Methods

Whilst investigating factors affecting motivation among a group of FLT's in a Japanese university (Sato, 2013) evidence of the effects of LTCs arose in the data. Further investigation into the motivational and economic impact of LTCs on full-time instructors in Japan (Sato, Cotter & Schinckel, 2013) revealed the possibility of LTCs having a deep impact on foreign teachers employed under such contracts. Thus, the aim of this study is to investigate the

impact, under the current labour law, on foreign teachers in Japanese higher education. Each participant will have their own perspective on issues that arise from current hiring practices, and this, therefore, favours a qualitative approach. As researchers, we desire to explore the impact of the hiring practices on both those that have been hired under a limited-contract as well as tenured staff who have their own thoughts, actions and experiences related to them.

To understand the participants' various perspectives and related factors within the context of the situation and culture, the interpretivist paradigm was chosen, with the investigation taking place at one chosen period of time with participants across the nation. This opened the way for the participants to explain situations and express themselves freely in their own words. This study aims to be illuminative and, while others might relate to the findings, generalisations of the findings are not advocated.

### **5.1 Paradigms and Methods**

The chosen paradigm is interpretivist to ensure that the relationship between the participants and the environment in which they exist is maintained. A paradigm is described as perceptions about the world, and how to inquire into that world using correct ways and means (Punch, 2009). Scott & Morrison (2005:170) group the paradigms for educational research into four main categories of which two are applicable to this study: 'positivism' and 'phenomenology'. Positivism is objective, accounting for human feelings only when they are observable and measurable. Morrison defines phenomenology as "a form of interpretivism where the emphasis is placed on the way human beings give meaning to their lives" (Briggs et al., 2012:16). This study seeks to understand the perceived impact of the current hiring practices in the view of the participants with the aim to uncover the effects, which in turn can be considered by institutions in their decision-making.

### **5.2 Approach**

A qualitative, contextual study can employ several possible approaches such as ethnography, action research, or case study. This study lies in the confines of time and space (Bassey, 2007:143) as it investigates one group of people at a defined time. Also, the starting point for this research is "a problem that needs a solution" (Punch, 2009:20). Furthermore, it is necessary to maintain the "wholeness, unity and integrity" (Punch, 2009:120) of the study. This study was too complex for surveys or experimental design since "experimental data cannot tell...how human action fits into larger schemes" (Webster and Sell, 2007:197). These factors point to a case study approach. All participants were invited to partake in the study, which yielded ample data to explore views and opinions. Finally, it is desired that findings from this study will illuminate and pave the way for improved hiring practices for FLT's in higher

educational institutions in Japan.

### 5.3 Methods

This study is qualitative, gathering data in the form of words rather than numbers. Large-scale investigations into the views and perceptions held by teachers have often employed questionnaires (Cooper et al., 1998). Nevertheless there are pertinent issues with questionnaires: they do not allow participants the freedom of response desired (Ribbins, 2007) in this study, if collected anonymously they cannot be double-checked later, there is no way to delve deeper into issues, and time to complete a questionnaire is limited (Bell, 2007) which limits data quality. Thus, the tool chosen was interviews since “qualitative questions require qualitative methods to answer them” (Punch, 2009:25). This facilitates finding out “what is in somebody else’s mind” taking care “not to put things there” (Ribbins, 2007:208) in order to “report honestly” (ibid.) the data collected. Nevertheless, interviews have weaknesses; they take time, they have to be arranged, and the location can affect the interview (Cassell, 2009). To maximise the response rate for the collection of good qualitative data two important factors were given consideration: the timing and procedure of data collection.

### 5.4 Data Collection

Participants were invited to participate in the investigation through direct contact with members of the research team. Each participant volunteered to participate on the understanding that the investigation was for academic purposes.

Details of the study were given to all the participants by e-mail (Appendix:2), confirming their willingness to participate in the survey. Responses were collected, and dates for the interviews set. A second e-mail detailing the questions was then sent to the participants.

The time allotted for collecting data was initially based on the academic calendar; when the participants did not have classes, however this was not always possible. To eliminate obstacles created by distance the participants were invited to be interviewed face-to-face using Skype, or in person wherever logistically possible.

While interviews using Skype should not be considered as “an easy option” (Busher & James, 2009:6) in this research they were used to facilitate data collection as there were logistical mobility constraints thus adhering to Franklin’s advice,

[i]nterviews conducted over the phone, Skype included, are perfectly legitimate particularly if time and resources are limited for a face-to-face appointment. (2012:118)

Skype offers researchers and participants to remain in a “safe location” (Hanna, 2012:241) and

while there have been concerns over authenticity of online interactions, regardless of whether the interview is in person, or on-line,

[t]here is no sure way to judge...whether or not a person is being truthful about the information they are sharing regardless of the method of data collection. (Sullivan, 2012:56)

However, this does not negate the researcher's obligation to "construct trustworthy knowledge" (Busher & James, 2009:1). Busher & James suggest, to ensure the verification of online data "as authentic" (2009:79), using "an on going reflexive process" (ibid.:79) approach. That said, in this investigation the data was treated equally rigorously regardless of collection method, and ultimately "the authenticity of data collected in the online environment is no more problematic than in any other" (ibid.:79). Janghorban et al. (2014) conclude that, "Skype offers an alternative or supplemental choice to researchers" and interviews by Skype, and

should be treated as a viable option to the researcher rather than as an alternative or secondary choice when face-to-face interviews cannot be achieved (Deakin & Wakefield, 2013:604)

which is the case in this investigation.

Not wanting to limit the participants in their responses but rather to maintain focus, some pre-established questions were set to guide and help develop the interview. Thus, semi-structured interviews were the most appropriate, allowing the sequencing of the questions to be left to the discretion of the researcher (Coleman, 2012), thus facilitating a natural flow of conversation, deeper penetration of certain areas, and the extraction of rich descriptions and clear interpretations of events and circumstances.

Ultimately fifteen participants were interviewed and interviews lasted between thirty minutes to two hours. Upon starting the interviews the participants were reminded that this research was for academic purposes. Each participant willingly gave their consent for the interviews to be recorded and recordings were done using the *voice memos* app on a disconnected iPhone to "minimise intrusivity" (Ribbins, 2007:207). During the interviews notes were taken for interview purposes. Care was taken to use "clear and unemotional wording" (Gorard, 2003:112) and all the interviews closed with an invitation for the participant to ask questions (Basit, 2010). After each interview the data was transcribed and sent to each participant for verification, after which all sound files were deleted.

Other issues that required consideration were ethical issues, piloting, sampling and authenticity of the research, which are discussed below.

## 5.5 Ethical Issues

While “there are codes of ethical and professional conduct for research” (Punch, 2009:49) that must be adhered to, there are issues that are “sometimes more acute in some qualitative approaches” (ibid.:50) of which Punch lists eleven. The more pertinent to this study are addressed below.

All participation in this research was voluntary. Participants expressed concern about data management, including their identities. Clear explanations of how data would be handled as well as assurance of anonymity were given. Great care will be taken to avoid any potential harm to any of the participants, and to maintain trust imparted to us as researchers. An unbiased, truthful account of the facts is essential. To assure anonymity, participants were all invited to choose or were given pseudonyms. The institutions in which the participants have worked or currently work, and references to other people or places, were removed from the data before analysis.

This study will offer suggestions for hiring practices among the higher educational institutions and will adhere to the “ethical principle that participants have a right to know some of the outcomes of a study” (Busher & James, 2007:117).

## 5.6 Piloting

Ambiguous wording was checked by testing the interview questions and procedure before administering the interviews. Fogelman & Comber (2007:130) state, “the importance of piloting cannot be overstated” as a poorly designed tool will yield poor quality data. One pilot interview was conducted after which the researchers checked the data before proceeding with the investigation.

## 5.7 Data Analysis

Before analysis, the data was rigorously checked for references to other people and places, all of which were removed from the data as previously mentioned. Denscombe's (2010) advice was followed to prepare the data for analysis; the data format was unified, spaces edited in for notes and memos, each piece of raw data given a name, and back up files made of all the original transcripts. For analysis the three components in the Miles and Huberman framework described in Punch (2009:173-175) will be followed. These are “concurrent flows of activity” (Miles and Huberman, 1994:10) that are all part of the analysis. The interviews were printed to ease analysis. The summarizing, coding and memo taking of data will be done by hand. Data display will be varied, honing down patterns and themes to generate theories that

will be tested and confirmed against the data, finally giving interpretation and explanation to the research.

### **5.8 Authenticity**

Authenticity includes reliability, validity (or trustworthiness), and triangulation. These three are addressed below.

### **5.9 Reliability**

Semi-structured interviews can increase the difficulty for ensuring reliability, but for consistency there was only one interviewer for all participants. Gender differences between the researcher and participants, cultural influences, and also duration of relationships between the researcher and the participants can influence reliability. These are variables that cannot be controlled and are therefore expected to influence the data. And yet, these points also enrich this study. Thus reliability, as is described by Yin (1994), is neither attainable nor desirable.

### **5.10 Validity**

As reliability and validity are primarily associated with positivist research, Bush (2012) argues that authenticity is more important for qualitative research, which then raises the issue of trustworthiness (Bassey, 2007). Bassey, (1999) details the eight points, which Lincoln & Guba (1985) put forward for trustworthiness in case studies and these will be used as guidelines. To reduce interviewer bias, the scripts of the interviews were verified by the participants before analysis. Construct validity is achieved through “correct operational measures” (Yin, 2013:46), which include using multiple sources of data and establishing a chain of evidence, the latter of which has been described above.

While, as a team of researchers, there will be transparent handling of the data, documentation, and analysis, which will conform to Yin’s (2013) definition of reliability, there is the possibility that another researcher could have a different point of view. However, this is “how it should be” (Denzin, 2009:154).

### **5.11 Triangulation**

Triangulation where data is gathered using more than one method (Bush, 2007) is not applicable to this study, so triangulation within the data, or respondent triangulation (McFee, 1992), through correlations of viewpoints, events or statements from different participants will be utilized for data source triangulation (Chow, 2008). Furthermore, with 15 participants, saturation in the data (Kvale, 2007) might occur.

## 6. Conclusion

Amidst the backdrop of government initiatives to increase 'globalisation' in Japanese universities, coupled with the increased emphasis on English communication in the academic curriculum in Japan is the sustained use of LTCs for foreign instructors in higher education in Japan. With measures from the government that were intended to curb the use of LTCs, there appears to be a lack of change within Japanese higher educational institutions. Two elements arise from this proposed investigation: one is the motivation of those employed on these contracts, and the other is the costs incurred by employing such contracts as, there are less obvious costs that are being born by the employees, institutions, and the stakeholders, all of which could impact the reputation of the institutions.

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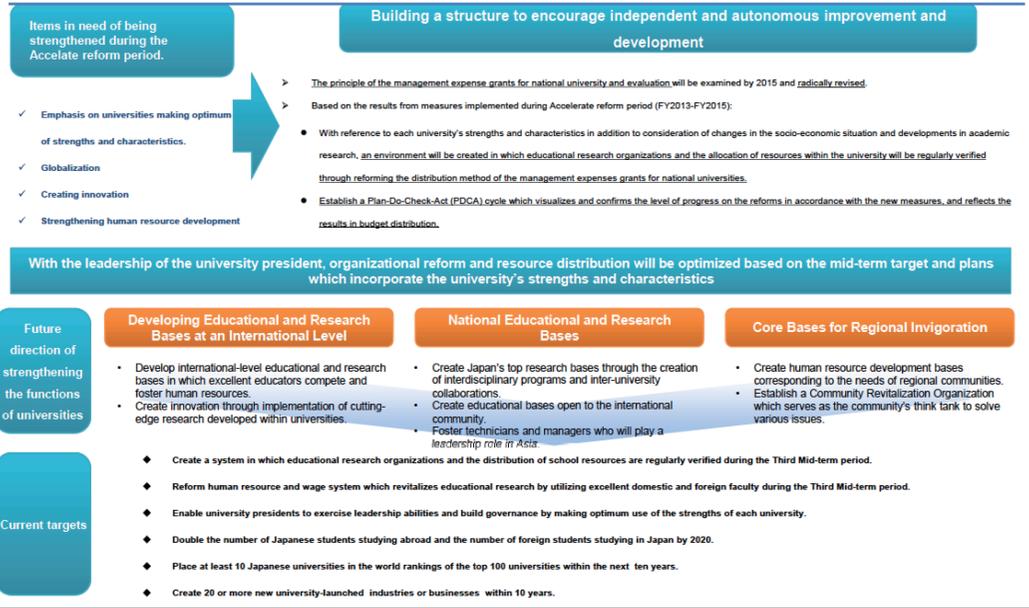
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Appendix 1: The MEXT National University Reform

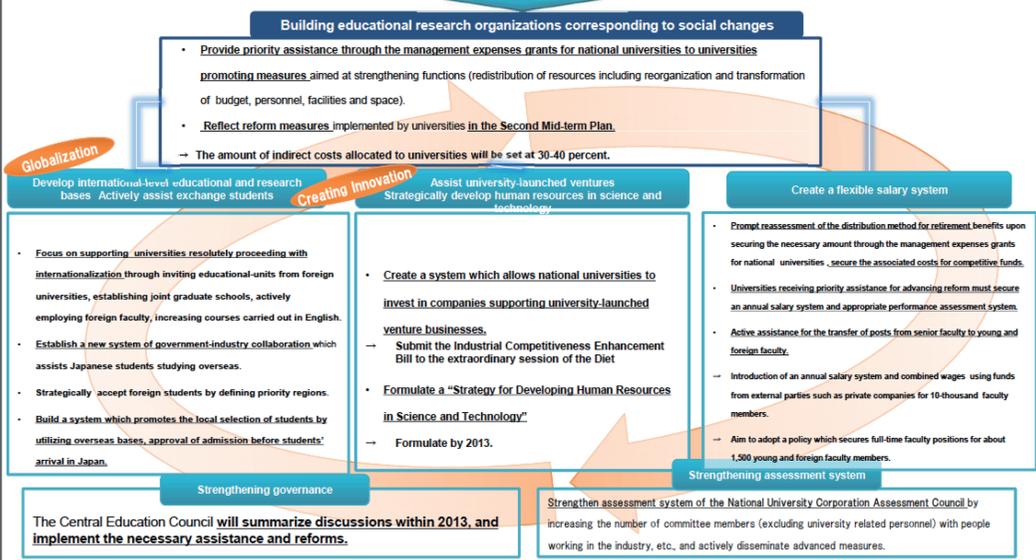
National University Reform Plan (Summary)

The Third Mid-term Plan starting FY2016 aims to reform national universities to maintain competitiveness and create new added-value ideas by building a structure in which each university makes optimum use of its strengths and characteristics and encourages independent and autonomous improvement and development.



Measures to Strengthen Functions of National Universities Intensive Period for the Implementation of University Reforms(FY2013-FY2015) Redefining Mission

Upon exchange of views between MEXT and universities, based on objective data of research levels, educational performance and industry-university collaboration, MEXT and universities will announce their strengths, characteristics and social roles by the end of FY2013.



**Appendix 2: Preliminary Mail to Participants**

Dear (participant's name)

(Appropriate greeting)

Our interview questions are 99% ready now (if there are any changes they will be very minor, but I don't foresee there being any actually) and I would like to set a date for the interview, if that is OK with you.

Just a little background, and to recap: There are four of us working on this project, all from very different backgrounds (details of researchers depending upon relationship with the participant). The investigation is into the effects of hiring practices in Japanese Universities. It's a case study and we have about 12 participants, some are tenured, some are contract. We anticipate the interviews to take no longer than 30 mins, and they will be done on Skype (for obvious reasons). We would like to offer you the opportunity to decide your own pseudonym, but if you would rather you can leave that to us too. After the interview, it will be transcribed, and then sent to you for verification. You may edit it at that point, or add notes in for clarification, etc. After you return it to us we will then start the process of analyzing it, which will include issues concerned with confidentiality. Once the paper is written you will be invited to look at it, if you so desire. If at any time you are not comfortable with any of the questions, or the research you are entitled to withdraw without explanation, so you don't have anything to worry about.

So here is the latest draught of questions, as I said, I doubt there will be much change now. Fingers crossed my end, I'm sure you have some interesting data to share. When are you available? Here are some suggestions from my end.

(suggested dates and times for interviews)

Look forward to hearing from you when you can.

Thanks,

Kate