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FedEE News

COMMENT: The shifting sands of labour

Although the demand for labour in advanced economies is facing a long-term decline, there are significant short-term labour shortages in some countries, often due to demographic trends and a reluctance to expand by setting up operations abroad. However, in Japan there are additional factors contributing to the tight labour market.

Japan has embraced globalisation in recent decades, but managements remain reluctant to decentralise control to operational centres outside the country. There also remains a strong cultural commitment to lifetime employment and against women working on a full-time basis, or gaining equal opportunities - allowing them to move into managerial positions, which limits flexibility and ROI on human capital. As a consequence, the Japanese government has had to reluctantly accept an influx of foreign skilled labour, which now amounts to over one million workers.

The incessant need to build in order to relieve overcrowding has led Japan to have its most severe shortages in the construction sector. Last autumn, only 12% of steel construction jobs could be manned by available skilled workers and hence the demand for foreign workers was intense. Japan's complex immigration laws only allowed this situation to be slowly eased. Even so, the construction sector saw a 41% rise in foreign workers over the year.

The majority of foreign workers entering Japan are on short-term work visas and immigration is still so much a political hot potato that even the term 'immigration' is seldom used in official documents. There is also no category under existing immigration laws to admit unskilled workers, so an existing category of 'training visas' - first established to help developing countries improve their skill base - is serving to fill many jobs nationals refuse to undertake.

The demand for those with the greatest talents is now operating on a truly global scale, but shortages are appearing at all levels, and in geographical pockets, for widely differing reasons. For instance, in sub-Saharan Africa the secondary school enrolment rate is still only 40% and just 7% of students continue to tertiary education. Therefore new enterprises and foreign investors are clamoring for talent in a small skilled-labour pool. In the USA too, the crackdown on illegal workers, new immigration controls and a policy of re-shoring production are being introduced when the unemployment rate is below 5%. This means that many, particularly smaller, companies will be forced out of business because they cannot find the right calibre of people to operate their business.

There is a quote ascribed to Milton Friedman that goes some thing like this: "If the government took over the Sahara desert then there would be a shortage of sand for five years." As youth employment soars and women continue to hit the glass ceiling, governments persist in the application of immigration policies that respond to the popular dislike for foreigners rather than the demands of their economies. Employers and governments alike need to take a long look at both the present and long-term and get back to old-fashioned manpower planning.

GLOBAL: Be-wear the law

After the Israeli parliament lifts its short skirt ban and Trump insists that female staffers 'dress like women', where does the law stand on appropriate attire at work?

Although there are extreme examples of dress requirements, the majority of larger companies require client-facing staff to wear

either what amounts to a uniform or an approved range of clothing. Although companies are generally relaxing their grip on dress codes there is still a preference for freestyle to be restricted to one day a week. Last summer, Starbucks relaxed its standards worldwide and allowed a wider range of clothing colours, including permanent hair colourings for its baristas. Likewise, PWC in Australia dropped its requirements for male staffers to wear suits and female staffers to wear tailored dresses or trousers.

Yet dress code issues can raise more fundamental issues than those of aesthetics and impression management. In the UK on 6th March, Parliament is going to debate a committee report concerning direct and indirect discrimination arising from dress codes that adversely affect one gender, race or religious group. It is widely recognised that the law needs to change so that tribunals can apply consistent standards, but it is equally going to be difficult to remove problems of subjectivity when applying the law in this field.

A long-standing legal issue has been the health and safety justification for dress codes. These do amount to statutory restrictions, even where the codes go beyond the wearing of protective clothing. For instance the wearing of flip-flops and high heels where surfaces are slippery, stair use is frequent or chemical spills may exist. Likewise, a common cause of industrial accidents is where clothing is caught in conveyors or machinery. Safety also extends beyond the workplace, such as the wearing of helmets by motorcyclists commuting to work and in France the wearing of high visibility clothing outside built-up areas at night or where visibility is poor. The act of commuting is

becoming more of an issue for HR managers as working time extends beyond conventional boundaries. In the same way, dress codes may apply to home workers unless companies specifically exclude such workers.

GLOBAL: Driving beyond frontiers

Companies operating in both China and France will soon benefit from greater mobility when staff from one country visits the other. China's motoring laws are currently highly restrictive and do not generally allow foreigners to drive in the country without first passing a local driving test. Now both countries have reached agreement on the mutual recognition of each other's licences. The new regulation should become effective three months after ratification.

An agreement has also been reached between Italy and Sri Lanka on the mutual recognition of driving licences. Similar agreements already exist between UAE and China (2016), Saudi Arabia and Morocco (2015), and Serbia and Macedonia (2014). The 1968 Vienna Convention on Road Traffic applies to around 70 countries that recognise the international driving permit. The latest countries to ratify the convention are Vietnam and Saudi Arabia, but both do not yet accept right-hand drive vehicles. Last year amendments to the Convention were put forward to allow automated vehicles to drive on the roads.

It should be noted by vehicle fleet managers and those hiring cars in Estonia that visitors may drive on a UK driving licence in Estonia; however, the UK licence isn't valid if it was issued on or after 1st May 2015 or if the holder was living in Estonia when the licence was issued.

GLOBAL: ... And so stand fix'd

Throughout the developed world, with very few exceptions, trade union membership remains on a downward curve. It has largely collapsed in Eastern Europe, down to just 5.7% of the working population in Estonia. In Latin America, the pattern is at its most extreme with less than 5% in bona fide unions in Mexico, and yet running at 16% (and still rising) in Chile. The other country which bucks the trend is China where the All-China Federation of Trade Unions claims to have 280 million members.

Elsewhere the decline is either dramatic, as in Israel where it has fallen from 41.7% in 1999 to under 20% today, or just a gradual progressive decline, such as in Australia where it fell from 26% in 1999 to around 15% today. The principal trade union federation in the USA, AFL-CIO, brings together 55 unions with a joint membership of 12.5 million members. But trade unions membership – at 10.7% of the US workforce – is now half the level it was 35 years ago. Its continual decline is forcing the Federation to cut around 10% of its current staff.

In the UK where union membership has stabilised briefly in the last two years, membership is largely being sustained by older – particularly female – workers, those in the public sector and transport. Only one in ten of those at work in the 16–24 old age group are union members and around half the working population have never been union members. Even in Sweden, one of the world's most unionised workforces, the concentration of union membership in the 16–24 age cohort is just 36% compared to an average of 70% across the national workforce as a whole.

However, union density is not necessarily an indication of union influence or power. In France, unions continue to dominate the economy, yet overall union density is just 7.7%. Where unions are highly militant, workers may not often sign up, but stand back and let the unions win concessions for them. An anti-employer bias is also present in the French courts where, in spite of being composed of nominees from both employers and employees, the conseil de prud'hommes finds in favour of employees in the vast majority of cases. Although not as low as France, trade union membership in Japan is around the OECD average at 17%, yet they remain highly influential – largely because they are primarily company unions, formed at the enterprise level. But unlike 'protection unions' in Mexico which are largely controlled by employers, Japanese unions remain largely independent of management and frequently challenge company decisions.

For the last two decades, the final demise of trade unionism has been widely forecast, however union mergers and retrenchment has enabled them to survive. As technology replaces people over the next two decades, they may well return to centre stage. Even in Trump's America, unionisation can defy the overall trend if unions play the security card during company mergers and pursue popular employee goals, like parental leave to cover school activities. Colorado is one such state, where unionisation has grown from 8% in 2010 to 9.8% last year.

JAPAN: Wave of change

One of the major barriers to the employment of women in Japan is the availability of daycare centres for pre-school children. Over 23,000 children are currently on waiting lists

for government-run centres and it has been estimated that 65,000 more children would be attending centres if sufficient places existed.

To help overcome this problem, the government is providing encouragement and some financial incentives to employers to set up company facilities, provided that half of all places are open to children of non-employees. One of the first companies to take up this challenge is Nippon Life – largely due to the fact that around half of its sales representatives in Japan are women. The Nippon scheme is in partnership with a commercial daycare provider and together they plan to open 100 centres over the next two years. A similar partnership is also being formed by the cosmetics manufacturer Shiseido.

One of the biggest boosts to childcare provision was the implementation of a law in 2015 that allowed government subsidies to nurseries with 20 or fewer children. This has made childcare more affordable for parents and attractive to individual employers. However, the biggest barrier facing childcare providers is the shortage of nursery teachers. There are around 800,000 trained nursery teachers in Japan who have left their profession because of poor pay and working conditions. Tough controls on immigration also mean that nursery staff cannot easily be imported from elsewhere in Asia.

To realise the government's dream of zero waiting lists, it will be necessary to woo back trained nursery teachers by offering them more attractive salaries. Childcare initiatives by large companies are also unlikely to meet all the potential demand. For this reason the government is offering tax breaks to

landowners willing to lease land for the building of nurseries.

Childcare is only one element in a new family-friendly policy wave spreading through Japanese companies. In the major construction company Taisei, for instance, encouragement is given to the sharing of domestic responsibilities and the HR department has even begun publishing a monthly news sheet called 'Papa report' containing accounts from working fathers about how they spend free time with their families. They also operate a facility for working fathers to leave work at 4pm and go home to prepare dinner for their working spouses.

PARAGUAY: Hard times

Although Article 46 of the Paraguay constitution prohibits all forms of discrimination, this landlocked South American nation still lacks any actual legislation banning discrimination against women, LGBTI people and indigenous peoples.

Paraguay is not alone as three other South American countries are still in the same position – French Guiana, Suriname and Guyana. A draft law called the **Julio Fretes Bill** was drawn up several years ago and last debated in the Paraguay Congress in 2015. It has now achieved backing from the Human Rights Committee and the Equality and Gender Committee in the Senate, but has suffered from strong opposition from the Catholic Church and President Horacio Cartes.

Curiously, the church does nothing to encourage reform of the current age of consent in Paraguay, which is still age 14.

Moreover, same-gender relationships have been legal there since 1880, yet transgender people are not allowed to change their name and gender on official documents, and the age of consent for same-gender participants is 16 rather than 14. In the workplace there is no protection in practice and prejudice is widespread. Women also experience little career progression, in spite of the fact that female literacy rates are higher for women than men. The gender pay gap is the second widest in South America and there are also many (albeit anecdotal) reported incidents of sexual harassment.

Paraguay's social protective laws also fall short in a wide number of fields. Although laws exist banning forced labour, it is a common practice. Likewise, the national minimum monthly wage of PYG1964507 (US\$354), last amended at the end of 2016, is generally ignored. It has also been estimated that just over half of all children aged between 5 and 17 are in work, with the majority working over 14 hours a week.

Pay, Tax and Benefit Trends

AUSTRALIA: The Australian Bureau of Statistics has just published results from its latest earnings survey. This reveals that, on average, there was a 2.2% increase in gross average earnings over the year to November 2016. In that month "ordinary time" weekly earnings for full-time workers stood at AUD1533.40 (US\$1173) and overtime accounted for an additional AUD62.1 (US\$48) a week. When part-time employees are included the average fell to AUD1163.50 (US\$890) a week.

HUNGARY: Average gross monthly wages and salaries in Hungary were HUF277,300 (US\$947.00) last year. This amounted to an increase of 6.1% since 2015. Net monthly earnings rose over the same period by 7.8% because of changes in income tax.

IRISH REPUBLIC: According to the Irish Central Statistical Office average gross wages and salaries in the private sector rose over the year to Q4 2016 by 1.4% to 658.30 euros (US\$697). The highest increase during the same period was 5.4% in the professional, scientific and technical activities sector.

MALAYSIA: The average increase in total compensation last year was 5.2% in Malaysia, according to the latest remuneration survey published by consultants Aon Hewitt. Starting salaries for new graduates was around MYR2,500 (US\$561) a month, whilst a 21% premium existed for HR managers, and even more for strategic planning managers.

PHILIPPINES: Over the year to July 2016, private sector total compensation in the Philippines grew by an average of 5%. A survey by Willis Towers Watson, that has recently been made public, reveals that annual bonus payments averaged 1.6%, but were highest in the pharmaceutical sector.

SOUTH AFRICA: In his latest budget, Finance Minister Pravin Gordhan has introduced a new upper income tax bracket for the country's 100,000 taxpayers earning over R1,500,000 a year (US\$115,000). The current 41% bracket will remain, but its lower threshold will be raised slightly to R708,310.

UNITED KINGDOM: According to Sky news, the latest annual bonus payments for the CEOs of Barclays, HSBC and Lloyds Banking Group will be £1.5m, £1.6m and £1.2m, respectively, but each payment will be deferred for several years and paid as company shares. Royal Bank of Scotland has reduced its employee bonus pool for the eighth year running to about £330m (US\$412m).

Other Global HR News in Brief

ARGENTINA: The Argentine government is formulating plans to modernise the labour market and reduce the 'grey economy'. The principal change will be the removal of taxes on employers, provided they hire employees in the formal labour market, offer them permanent contracts and grow their payrolls. It is also planned to merge all state-funded training organisations into a single 'talent agency'.

BELARUS: Protests are taking place across the country against a 'social dependency' law requiring individuals to pay a special tax equal to US\$250 (half a month's pay) if they work for less 183 days a year and then do not register with state labour exchanges. According to tax authorities, 470,000 people qualify for the tax, although only 10% have actually paid the tax due.

CANADA: One of the fundamental weaknesses in most legal frameworks relating to the treatment of disabilities in the workplace is the inability of employers to know sufficient medical facts in order to accommodate the physical or mental disabilities an employee may have. This problem has been well addressed by the newly published Ontario Human Rights Code.

The code places a broader duty on medical professionals to inform employers in writing about the essential nature of impairments suffered by an employee, the way that any necessary accommodation(s) should be made and to inform employers, on an ongoing basis, when an employee on sick leave could be expected to return to work.

CHINA: Unemployment insurance in many provinces of China has been lowered from 1.5% to 1%. This concession will remain until April 30th 2018. In Shenzhen, a total of 19812 enterprises have also applied for stability subsidies so far this year in order to prevent employee layoffs. These are equal to 50% of the benefit an employee could claim if they became unemployed.

EUROPEAN UNION: FedEE's 14-page data protection code of practice for multinational employers has [now been published](#) in the FedEE knowledgebase. This incorporates an annex that provides a model policy for pre-employment background checks. It is now our aim to seek approval from a data protection agency to give it formal recognition under the GDPR. We are also developing a Kitemark that will demonstrate companies have signed up to the code. A number of cloud infrastructure providers operating in Europe have also adopted a 41-page data protection code drawn up by industry group CISPE.

EUROPEAN UNION: The age profile of a company's workforce will not only reflect past hiring practices, but also the broad demographic structure in the area where a workplace is located. A recent analysis by the European Commission's statistical agency of 2016 data reveals huge differences in the age structure of the EU's

1,342 sub-national regions. The average age for the entire EU was 42.6 years in 2016. However, it was lowest in the French overseas department of Mayotte (17.8 years) and highest in the Greek region of Evrytania (53.6 years). Moreover, 63 EU regions had a median age of 50 years or over and 46 of these regions were in Germany. In contrast, 24 EU regions had a median age of 35 years or less, of which 18 were in the United Kingdom.

NEW ZEALAND: Immigration Minister, Michael Woodhouse, has announced that a new law coming into force in April would aim at minor offences committed by employers, such as not having the right immigration papers in their possession or paying below the minimum wage. The penalties for such an offence would include a fine and the banning of the offending employers from hiring foreign workers for periods of between 6 months and two years. More serious offences, including human trafficking, already have stiff penalties, such as long prison sentences.

SWITZERLAND: The Canton of Geneva has been quietly running a scheme called Papyrus for the last fifteen months to regularise illegal immigrants. So far, 600 people have been granted a 'B' permit (which allows them to work) under the scheme. To qualify, a person must be in work, have a clean criminal record and speak French to a reasonable everyday level. Those with families must have been resident for five years and those without families ten years.

THAILAND: A new law designed to make Thailand a more attractive target for investment in certain industries has just come into force. The principal benefits will be

the waiving of corporation taxes for 15 years, exemption of import duties for production machinery, and the granting of visa and work permit exemptions for foreign experts and specialist craftsmen. In a further move, the government has also removed the requirement for Thai owners to control 51% of the country's aviation companies.

UNITED KINGDOM: In an attempt to assist small businesses with cash flow, the UK has introduced a number of regulations that come into force on 6th April 2017. These require companies to publish, amongst other things, their standard payment terms and payment disputes resolution processes and average actual credit days to suppliers. Failure to do so, or the publishing of a false report, will be a criminal offence. However, the regulations only apply to contracts with suppliers that have 'a significant connection with the UK'. This means that most foreign suppliers of goods and services will be exempt from reporting requirements. As a consequence, instead of maintaining local suppliers and paying them late, companies

will turn increasingly to foreign suppliers and enjoy continued late payment practices.

USA: Many HR professionals are not aware that under S8 of the US Clayton Act, no individual may serve as a director or officer of two competing companies if the corporate performance figures meet a certain level. Each year the Federal Trade Commission publishes new thresholds. The latest figures are now an aggregate of US\$32.914M or more for capital + profit + undistributed profits for at least one company. If one of the companies has aggregates totalling below US\$3.2914M, the restriction does not apply.

USA: The Mayor of Washington DC has signed the Fair Credit in Employment Amendment Act making it unlawful for employers to discriminate against job applicants on the basis of their personal credit records. If approved by the DC state congress, it will become law by mid-March 2017.

Dates for your diary:

March 15th 2017: **Dutch** general elections

April 7th 2017: Final date for comments on **New York** paid family leave proposal

April 16th 2017: Catholic and Orthodox Easter

April 23rd and May 7th 2017: **French** Presidential Election.

June 05-17th 2017: **ILO** Annual Conference

June 24-25th 2017: **Muslim** Eid al Fitr

October 22nd 2017: Federal elections in **Germany**

May 25th 2018: Final effective date for **EU** General Data Protection Regulations.

Travel Warnings

ALGERIA: A suicide bomber has injured a number of policemen in an attack on police station in the eastern Algerian city of Constantine. Extreme caution should be taken in the vicinity of all official buildings anywhere in the country – as they may be open to attack by militants.

CHILE: At least 3 people are dead and 19 others missing after heavy rains struck Chile over the weekend. Storms in the Andes flooded the Maipo river, contaminating it with mud and rubble. The water supply from this river has been cut.

FIJI: Business travelers going to Fiji should take extra care when driving at night, particularly when driving through rural areas. The roads are generally in poor condition and there is a lack of street lighting.

GUATEMALA: The Volcan de Fuego Volcano, which is 45 km from the capital city, has been erupting once more – throwing huge amounts of ash into the air. This could reach the capital and affect flights.

INDONESIA: The police have thwarted an attack on government buildings in the city of Bandung, SE of Jakarta, although a small bomb was detonated. The attacker is thought to be one of a growing number of militants in the country trained by Islamic State in Syria.

ITALY: The major volcano Mt Etna in Sicily burst back into life this week sending huge showers of lava into the sky. The ash plume could interfere with flights, not only into nearby Catania airport, but across much of southern Europe.

MACEDONIA: Several thousand people have been protesting in Skopje against an agreement that would ensure the wider use of the Albanian language in this ethnically divided state. Visitors should take sensible precautions to protect their safety.

PAKISTAN: The British Deputy High Commission has advised its staff to avoid the Abdullah Shah Ghazi shrine in Karachi and the police station in the nearby Clifton district of the city. This is because of possible terrorist acts.

PHILIPPINES: Demonstrations both in support of President Rodrigo Duterte and against his regime are taking place in Manila. Visitors should avoid large gatherings and the expression of political opinions in the interests of their own safety.

PHILIPPINES: The washing up of giant catfish on beaches in the Philippines is leading to some seismic observers to predict a 7+ magnitude earthquake off the coast in the next two weeks. More minor earthquakes have been felt offshore in recent months.

TURKEY: Campaigning has started in Turkey ahead of a national referendum on 16th April 2017. Foreign visitors are advised to avoid all rallies and demonstrations.

USA: A severe storm is expected to hit the north-east seaboard at the end of this week with high winds, the chance of tornadoes and heavy snow. It is likely to be most severe in New York and across New England.

FedEE News

FEDEE RADIO: We are currently establishing an Internet radio station dedicated to international HR news, travel alerts and the discussion of hot issues. First broadcasts are planned for the second half of March. Tune in on the hour from 12 noon until 3pm weekdays for News in English. We shall also be broadcasting separate news reports in Chinese.

TRAVEL WARNINGS: These are now available in real time online at <http://www.fedee.com>. The FedEE website is already mobile-friendly and if you are traveling we recommend you check out our warnings before you depart.

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