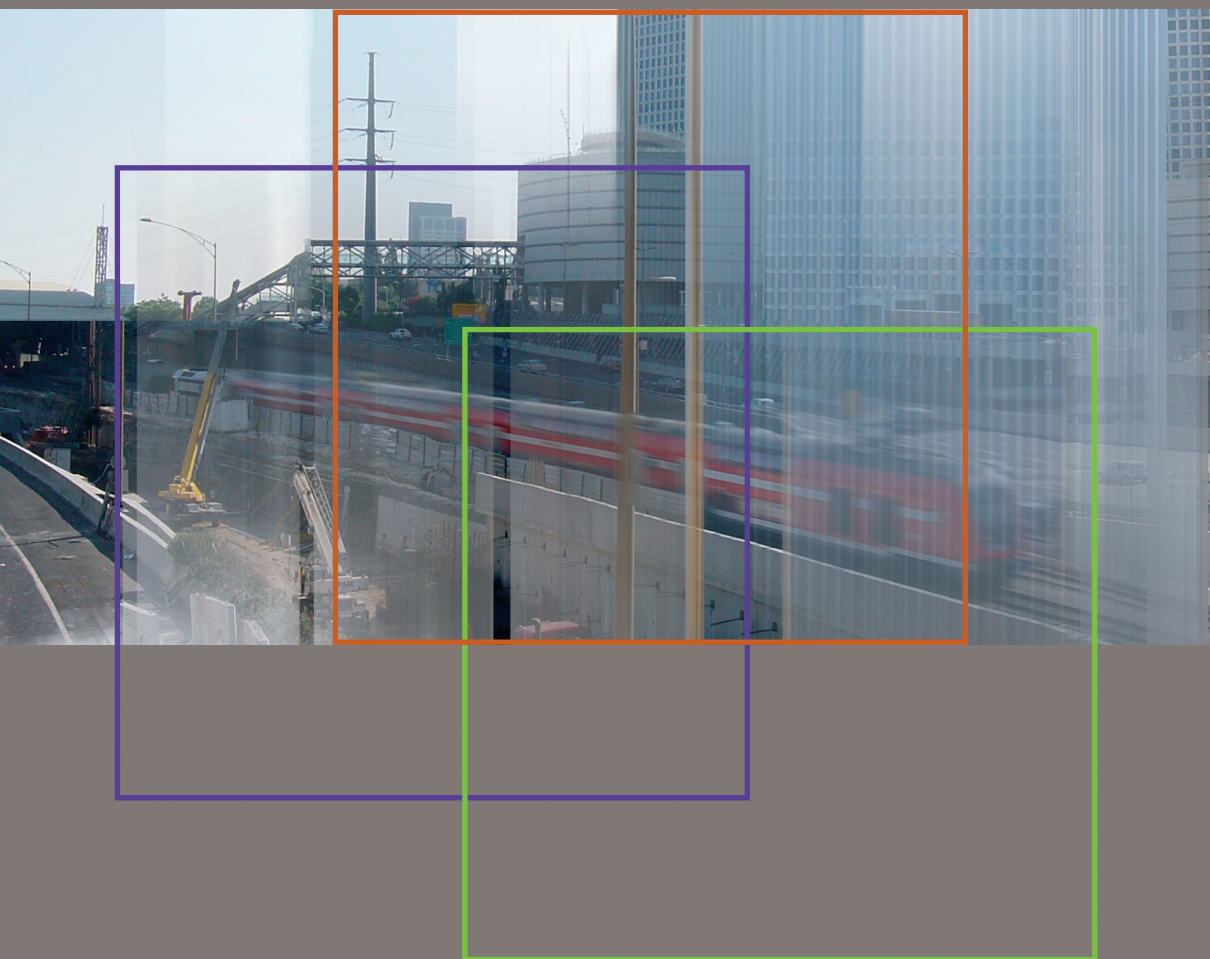


# WORK IN THE GLOBAL ECONOMY

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## **WORK IN THE GLOBAL ECONOMY**

Papers and proceedings  
of an international symposium



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## Preface

The Social Policy Lectures are endowed by the ILO's Nobel Peace Prize of 1969 and dedicated to the memory of David A. Morse, the first post-war Director-General of the Organization. The lectures are held every second year in one of the world's major universities and they have three main objectives. The first is to stimulate the interest of graduate and post-graduate students in international social policy; the second is to promote academic work in areas of concern to the ILO; the third is to encourage dialogue between the academic community on the one hand and policy makers, business and labour on the other.

The Sixth Nobel Peace Prize Social Policy Lectures were given in Tokyo from 1 to 3 December 2003. Professor Ronald Dore, Associate Researcher at the London School of Economics, delivered the series, which was organized in collaboration with the University of Tokyo and the ILO Office in Japan. The theme of the lectures was *New forms and meanings of work in an increasingly globalized world*. Ronald Dore, a Fellow of the British Academy and an Honorary Foreign Fellow of both the Japanese Academy and the American Academy of Arts and Sciences, is renowned for his pioneering work, analysing the transformation of labour markets in Japan and other industrial societies. The venue was Sanjo Hall, Hongo Campus of the University of Tokyo.

The University of Tokyo took the initiative of holding an international symposium in connection with the Social Policy Lectures. Six leading academics from Japan and other countries were invited to attend the lectures as well as to lead panel discussions during the symposium. Prominent members of the academic community, diplomatic corps, international organizations and the media along with leading members

of the ILO tripartite constituency in Japan participated in the lectures and panel discussions. In addition, more than fifty graduate students from the Faculty of Social Sciences and Law at the University of Tokyo attended the lectures and the symposia.

The lectures and symposia were held in four separate sessions, devoted to the following topics: (i) The pains and rewards of work in the twenty-first century; (ii) The concrete meanings of labour market flexibility; (iii) The direction of social change and (iv) Global markets and national employment systems. A detailed agenda of the lectures, symposia and roundtable appears in Appendix I, and short biographical sketches of the participants are given in Appendix II.

The lectures by Professor Dore drew attention to a perceived trend in industrial societies towards a rising tolerance of inequalities. Globalization has always been associated with the rise of “market individualism” and a polarization of the workforce. As the pace of globalization has accelerated in recent years, the outcome has been rising inequality within labour markets. Quite significantly, this is accompanied by a rising tolerance of inequality, notably among the industrialized societies. The lectures discussed whether this trend could be reversed through national economic and social policies. Even in an era of globalized markets, each country can still initiate a range of independent policy choices; the reach and effectiveness of these choices, however, tend to be circumscribed by the economic and cultural hegemony of industrially advanced economies.

The Dore lectures in their original form have already been published by the International Institute for Labour Studies under the title *New forms and meanings of work in an increasingly globalized world*. The editors of the present volume have pleasure in bringing out a sequel to the above mentioned publication, which in addition to the lectures also includes the papers and proceedings of several symposia and a roundtable held in connection with the lectures. This volume is brought out as a joint publication of the University of Tokyo, the International Institute for Labour Studies in Geneva and the ILO Office in Tokyo, all involved in organizing the lectures and symposia.

The volume consists of chapters corresponding to the themes of the lectures, symposia and roundtable. Each chapter opens with a lecture by Professor Dore and is followed by papers contributed by the panellists and commentators for that particular session.

Chapter one: *The pains and rewards of work in the twenty-first century* presents the introductory lecture, where Professor Dore surveys emerging changes in the world of work. These result from globalization and technological innovations, especially in the advanced industrial economies which face a compelling need to raise productivity and to catch up with intensified world competition. The environment in which they operate is marked by an ideological shift to neo-liberal economic policies and flexible labour market policies. The shift has resulted in a conspicuous rise of market individualism and a sharper polarization of the workforce. More disturbingly, those workers crowding at the lower end of labour markets are exposed to the perils of longer working hours and an unequal distribution of job opportunities.

Chapter two includes the second lecture: *The concrete meanings of labour market flexibility*, and the papers of a symposium held after the lecture. Professor Dore believes that the current paradigm of labour flexibility, extolled even by some of the centre-left governments of Europe, has been compelled by the dictates of the market, which makes it essential to optimize the allocation of labour as economies undergo modernization and structural change. These governments are even inclined to undermine the traditional approach of trade unions to the use of workplace controls. The pursuit of policies for enhancing flexibility is now shaping human resources inside and outside the firms into the mould of a core-periphery relationship. The cost of maintaining a high-performing workforce inside the firm is often borne by the peripheral workers, who are employed under precarious conditions. This tendency, driven by the new managerial philosophy of maximizing shareholder value, is sharpening existing income inequalities in industrial societies. It is a socially disruptive force with potentially damaging consequences.

The panellists explored different dimensions of flexibility, and offered additional explanations for the diffusion of flexible labour practices among the industrial economies. In particular, they drew attention to the employers' concern for rapid adjustment of their workforce in the event of an adverse demand shock, their wish to screen workers carefully before hiring, and their desire to reduce the costs of long-term unemployment compensation and benefits. It was also pointed out that the trend towards flexibility is not uniform across the world, and that positive efforts have been made to render work flexibility more socially sustainable. Attention was also drawn to the need for policies to minimize the adverse impact of non-standard employment on vulnerable workers, in particular, on women.

In Chapter three: *The direction of social change*, Professor Dore first examines the causes of a recent shift in societal values from the traditional ideal of solidarity towards greater individual economic freedom. He believes there have been some changes in the criteria for fairness. An alarming observation is the widely perceived trend towards an increased acceptance of income inequalities within contemporary societies. The panellists analysed the implications of rising inequalities for the lives of individual workers and their families. Their main focus was on how national legal systems can rise to the challenge of dealing with the emerging situation. They emphasized the need to strike an appropriate balance between the competing interests of society, to restrain market forces, and to give priority to the preservation of social justice. A lively discussion and a stimulating exchange of views from the floor took place during this symposium.

Chapter four: *Global markets and national employment systems* includes the final lecture of the series along with the papers on that topic which were given at the symposium. Professor Dore goes into important dimensions of globalization, such as the rise of rapid and cheaper means of communication, which are having a visible effect on the growth of markets and on the social behaviour of countries; the rise of a transnational élite among workers, having only a weak sense of solidarity and fellow-citizenship; and the problem of dealing with the cultural hegemony of leading industrial powers in an increasingly inter-dependent world. Can the European social model provide an effective answer to these new challenges, and also serve as a role model for countries coming under the spell of globalization? Can the institutions for social policy and labour law effectively cope with the problems being posed by rapid changes in national labour markets? These were some of the questions discussed at length during the symposium.

Chapter five: *Summary of the discussion* reviews the proceedings of a roundtable held at the end of the lectures. Three international guests – Professor Manfred Weiss, Dr. Susan N. Houseman and Professor Ann Numhauser-Henning – were requested to summarize the discussions that took place in each symposium. The roundtable was also attended by three representatives of the Government, employers' and workers' organizations in Japan, who took the opportunity to discuss the industrial relations system and the future of employment and social policy in their country. The session ended with the concluding remarks and a vote of thanks by Professor Kazuo Sugeno.

The editors of this volume wish to express their sincere appreciation of the valuable support and cooperation they received from a number of colleagues from the University of Tokyo, the International Institute for Labour Studies and the ILO Office in Japan. It was their dedication and tireless efforts which made the Social Policy Lectures and the related symposia a memorable event. We are proud to note that the convention has greatly contributed to enhancing the image of the ILO amidst the academic and policy communities of Japan. The editors would also like to acknowledge the valuable support given by the diplomatic community of Tokyo, particularly by the Royal Norwegian Embassy, in organizing the Sixth ILO Nobel Peace Prize Lectures.

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## Chapter I

### Lecture 1. The pains and rewards of work in the twenty-first century

*Ronald Dore*

These lectures commemorate the award to the ILO of the Nobel Peace Prize in 1969. The award was a fitting tribute to one of the oldest of the UN agencies for a half-century of efforts to promote peace by reducing conflict, and to reduce conflict by tackling the causes of conflict, both within and between countries. In receiving the prize in 1969, Director-General David Morse quoted from the section of the Versailles Treaty which had provided the ILO with its charter a half-century earlier.

Conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled.

There will be a good deal in what follows about the mixture of motives that go into moulding the laws and norms that govern work and employment, and that phrase encapsulates a range of such motives. There is indignation – anger at what is perceived as injustice. There is pity – purely altruistic sympathy for the hardship of others. There is charity – the desire to cure privation. And there is self-interest – your unrest threatens my peace.

In 1919 when those words were written, the threat to peace that the authors most probably had in mind was a renewal of war among the states

gathered together in Versailles. And, indeed, the accusation of social dumping, the charge that hardship and privation among Japanese workers threatened the Western powers with unfair competition, played a not inconsiderable part in the events which led to the spread of the Second World War to the Pacific. Today, after September 11th, we have a broader definition of what constitutes a threat to peace in our more globalized and vastly more technically sophisticated world where the unrest which injustice and hardship bring is magnified by global television. Today, the terrorism which kills innocents directly, and far more innocents indirectly in the wars which follow, is no longer a matter of Archdukes and lone Serbian nationalists.

The award of the peace prize to the ILO in 1969 came at the end of what the United Nations called the Development Decade, a decade of great optimism when so many former colonies became independent states. It was a time when development economists were confidently charting the courses, and marking out the stages,<sup>1</sup> by which they could become rich independent states. The Pearson report, suggesting a target of 0.7 per cent of GNP for rich country aid to the developing nations, was published in 1969. In his acceptance speech, David Morse dwelt on the World Employment Programme which signalled a major shift in the ILO's focus, away from promoting common standards and acceptable mechanisms for resolving industrial conflicts in rich countries to aiding in the economic and social development of what was then coming to be called the Third World.

It is obvious in retrospect that it was rivalry between the First and Second Worlds which accounted for much of the attention and aid which the developing world received in that and subsequent decades. Since the cold war phase of that rivalry ended, the world has become a much less optimistic and a much less generous place. The volume of political speeches deploring the fact that over a billion of the world's population lack clean water or live on less than a dollar a day may be on the increase, especially since the first dramatic siege of the rich world's conclaves by the anti-globalizers took place in Seattle five years ago. But we also hear more about donor fatigue. The aid budgets of the rich world continue to shrink. They also become increasingly concentrated on areas where the

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<sup>1</sup> One of the most influential texts, W.W.Rostow: *The stages of economic growth: A non-communist manifesto* (Cambridge, CUP) was first published in 1960.

unrest which human misery produces seems a direct threat to the interests and security of the rich world. In the mixture of altruism and self-interest noted earlier, it is the forces of self-interest which seem to be gaining ground.

In the ILO's work today, that mixture of altruistic concern and self-interest is most poignantly acute in the issues surrounding what the ILO calls "core labour standards", known in the WTO context as the "social clause". The last lecture will have something to say about that, but the main focus here will be on trends of change in the advanced industrial countries. These changes relate to globalization, but they relate even more directly to the accumulation of technical knowledge which has made globalization possible. For most of the last six centuries, since the first big advances in ocean navigation, the world has seen creeping globalization. In recent years it has accelerated to the point that sometimes it seems as if social scientists can talk of nothing else.

## Various Utopias

Our globalized world is anything but the peaceful place which the committee awarding peace prizes seeks to promote. But peace remains a potent symbol of benign aspirations, productive of utopian visions of a world of amicable coexistence in which zero-sum games are always resolved with smiles and mutual consideration. And if the absence of conflict is one defining characteristic of many Utopias, so too is the absence of work or labour.<sup>2</sup> For Anglophones "toil and strife" go readily together as a cliché summary of the chief ills that human flesh is heir to. As in the old sea shanty: "It's a damned hard life/of toil and strife/that we whalemen undergo".<sup>3</sup>

Most Utopias, to be sure, do not abolish work, they merely transform its nature. One of the most famous formulations is that of Karl

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<sup>2</sup> Reflection on the fact that the International Labour Office is called the Bureau International du Travail recalls those writers in English who try to make elaborate distinctions between just two categories of "labour" and "work". (e.g., Hannah Arendt: *The human condition*, 1958 quoted in Keith Grint: *The sociology of work*, Cambridge, Polity Press, 1991). The fact that there is no similar pairing for "travail" or that Japanese cuts the conceptual area in quite different ways with *rodo*, *kinro*, *hataraki*, *kasegi*, etc., shows up the parochial nature of such debates.

<sup>3</sup> As in many other industries, the toil of whaling has been much reduced, but the international strife surrounding it has greatly increased, a paradigm, perhaps, of a general evolutionary trend in which the major locus of mankind's problems shifts from the physical to the social.



Marx. In the realm of necessity which mankind has hitherto inhabited, the division of labour is imposed by society. A man “is a hunter, a fisherman, a herdsman or a literary critic, and he must remain so if he does not want to lose his means of livelihood.” But with communism, men were to enter the realm of freedom, “making it possible for me to do one thing today and another tomorrow, to hunt in the morning, fish in the afternoon, breed cattle in the evening, criticize after dinner, just as I like, without ever becoming a hunter, a fisherman, a herdsman or a critic”.<sup>4</sup>

Marx may have had an exaggerated opinion of his polyvalent skills, but it is not entirely clear that he really believed himself to be predicting the future state of mankind.

However, another famous economist, making what seems to us today like a Utopian prediction, clearly did. Three-quarters of a century ago, Keynes, in what his biographer has called “the most eloquent expression of his Utopianism”,<sup>5</sup> wrote an essay first published in the year after the great Wall Street crash. It is included in his collected works under the title: *The economic possibilities for our grandchildren*. In it he spoke of the enormous benefits which technical progress would bring. By the end of the century, he forecast, we should all be working something like five hours a week.

How different is the result – in two respects. The richest, most technologically advanced society on earth, the United States, is also the society where annual hours of work are among the longest, for some categories of workers a good deal longer than they were when Keynes wrote. In continental Europe where the preference for leisure has proved stronger, French ministers have recently called for the abolition of a national holiday in order to increase annual work hours, and German employers are agitating for a shift back from the 35 to the 38-hour week. In both cases the argument is that national competitiveness demands it.

Who now remembers Japan’s government-backed drive to reduce the working week of the 1980s, culminating in the reduction of the standard working week to 40 hours in 1988? Though justified on quality-of-life grounds, it was largely prompted by the need to counter American

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<sup>4</sup> *The German ideology*, 1846, translation as quoted in Keith Thomas: *The Oxford book of work*, Oxford, OUP, 1999, p. 515.

<sup>5</sup> Robert Skidelsky: *John Maynard Keynes: The economist as saviour*, 1920-1937, London, Macmillan, 1992, p. 234.

arguments in trade talks that excessive work gave Japan an unfair advantage which justified trade discrimination. Nowadays, in spite of unprecedented unemployment and much talk of work sharing, maximizing the contribution of talented workers seems a more important element in national competitiveness. Overtime shows a secular increase, much of it, apparently, unpaid.<sup>6</sup> Japan's labour standards inspectors launched a campaign to stop unpaid overtime a couple of years ago, and ordered over 600 companies to pay more than 8 billion yen for overtime that was not remunerated.<sup>7</sup>

The second failure of Keynes as prophet was this. He said that by the end of the century we should *all* be working five hours a week. Whether he assumed a more or less unchanged income distribution was not clear,<sup>8</sup> but he did assume that the necessary work would be fairly equally distributed. Instead, the typical pattern in most advanced industrial societies is that there are lucky people and unlucky people. The lucky ones, the most gifted 30 per cent or so of the population who acquire skills in short supply, spend 60 or more hours a week at what society counts as "work", and is in reality an activity full of opportunities for enjoyable problem-solving, self-expression, ego-assertion or whatever, while another 30 per cent, the least lucky, or the least gifted with learning ability and energy, frequently do not work at all, as they move from employment to unemployment, and back again, in a succession of jobs which nobody would do except for the money.

And, as everyone knows, this lousy job/no job cycle is also a low pay/no pay cycle.<sup>9</sup> The unequal and, it seems, increasingly unequal, distribution of work opportunity, is only a symptom of what, for many of us in the advanced industrial societies, is the much more serious problem of an increasingly unequal distribution of earnings per hour worked.

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<sup>6</sup> Suzuki, Fujikazu: "Sabisu-zangyou no jittai to roudou-kumiai no taio" ("Unpaid overtime: The facts and unions' policies for dealing with them") *Nihon rodo kennkyuu zasshi*, No. 519, Oct. 2003.

<sup>7</sup> JIL e-mail Newsletter, 17 Jan 2003.

<sup>8</sup> Skidelsky thinks he had in mind "an enlarged Bloomsbury at the top and bread and circuses for the masses", *ibid.*, p. 237 (see footnote 5).

<sup>9</sup> Paul Gregg and Marco Leonardi: *Wage and employment dynamics in the UK, 1978-1995*, London, Centre for Economic Performance, LSE, Working Paper No.1019.

## The agenda

That inequality issue we shall come to later. The first question about work at the beginning of the twenty-first century is why there is still so much of it about, what motivates it, what satisfactions people get out of it: in short, what the title of these lectures calls the “meanings” of work. The second question – for the next lecture – will be about flexibility, and its consequences. How does one explain the generally acknowledged trend for inequality – inequality of outcomes within one generation, and as a consequence inequality of opportunity; inequality of life chances for the next – to grow in almost all the advanced industrial societies? And in the light of that probable explanation, there arises the third question: the normative question, the justice question. How does one evaluate this polarization in the nature, meaning and rewards for work? How do we balance the greater freedom and well-being and self-fulfilment which the modern world offers for some, against the greater constraints and limitations of freedom for others? And what should be the role of national governments in rebalancing those costs and benefits? Next comes an attempt to situate these recent trends towards polarization in the more extended context of two centuries of industrialization. Are they an extrapolation and acceleration of those long-standing processes of social change which nineteenth-century sociologists identified as the consequence of industrialization and economic growth – those gradual processes of social change which they summarized in such formulae as the shift from status to contract, from community to association, or as a continuing process of structural individuation and the concomitant growth of individualism? Or are they, alternatively, not manifestations of irreversible secular trends, but the more contingent consequences of political choices which might conceivably be reversed? And my final question is this. Just suppose that in some countries there were a consensus on the desirability and feasibility of policies to reverse these trends by promoting greater equality and social solidarity sufficient for the appearance of governments determined to pursue such policies. Has the global integration of the world’s economies left national states so bereft of sovereign autonomy that they would find it impossible to do so? Would it all depend on whether there were a similar change of heart in the economic and cultural hegemon, the United States?

## Work intensification

The first question, then, is why the enormous increase in productivity since Keynes wrote *The economic possibilities for our grandchildren* has not resulted in a marked increase in leisure. The first and most obvious explanation is the endless escalation of wants. As *levels* of living rise, *standards* of living rise too, even faster. What once were luxuries come to be incorporated into the category of basic necessities. What once were gadgets of limited usefulness, like telephones and e-mail become more useful as more people have them and eventually not having them becomes a mark of what we have come to call social exclusion. And conversely there is a proliferation of goods whose value to their owner depends on how many other people *don't* have them – what Fred Hirsch dubbed “positional goods”: luxuries which give satisfaction primarily in their mere possession rather than in their use.<sup>10</sup> The capacity of product development teams to devise ever more baroque elaborations of the mobile phone, the capacity of marketing teams to create brands and to make people feel that they must have them, has grown even faster than productivity. The limitless generation of insatiable wants, the continuous retranslation of concepts of utility, seems to be one parameter economists can take for granted.

There is, to be sure, much discontent with this process. Denunciations of the consumer society abound. The advocacy of zero-growth began in the 1970s, inspired by Malthusian concerns over the limits to the earth's physical resources. It was met with the argument that over the last century technological innovation in agriculture had spectacularly disproved Malthus' pessimistic predictions about sustainability, and that technology would do the same for us and our energy problems in future. More recently, some Japanese economists have tackled the problem of how to achieve a decent society in a zero growth steady state, largely as an attempt to make a virtue out of necessity, given the perception that the earlier sources of Japan's once spectacular economic growth seem to have been exhausted.<sup>11</sup>

But for all these expressions of value preferences, hardly anyone doubts that in practice there is no way of preventing large-scale unem-

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<sup>10</sup> Fred Hirsch: *Social limits to growth*, London, Routledge and Kegan Paul, 1977.

<sup>11</sup> See, for example, Nakamura Yoichi: *Zero seicho no Nihon keizai*, Tokyo, Nihon Keizai Shinbun, 1999.

ployment without growth, and no growth without the contribution to aggregate demand of active, if not avid, consumers. One would never guess it, watching the shops and shoppers of Tokyo, but sluggish consumer demand has been a major contributor to – and some, like myself, would argue the primary cause of – Japan's deflationary stagnation. Meanwhile, in America it is the contrasting exuberance of its consumers which gives hope of recovery from the effects of the post-bubble recession. Indeed, as trade/GDP ratios increase, growth in the rest of the world comes increasingly to depend on the propensity of Americans to consume 4 per cent more than they produce, and the willingness of those, particularly in Asia, who consume less than they produce, to finance that consumption by investing their spare cash in America.

Some calculations made on British statistics for the century 1881 to 1980, showed a fairly consistent long-term trend for a reduction in average lifetime work hours, i.e. an amalgam of shorter working weeks and more annual holidays, as well as later entry to the labour force and earlier retirement. The authors calculated that of the large increase in productivity over that period, about one-third was absorbed in this decrease in lifetime work hours, but about two-thirds by an increase in consumption.<sup>12</sup> One can do a simple calculation of the split in Japan, using average real wages per hour, and the average number of work hours per year – of those, that is, whose work hours are counted and get into the statistics, a category which does not include managers and the self-employed.<sup>13</sup> It emerges that the Japanese took their rewards for the great rise in productivity from 1975 to 1995, one-quarter in increased leisure and three-quarters in increased consumption. However, there is no reason to suppose that any of these historic ratios can be projected into the future. One would expect the earnings/leisure trade-off to be rather different when the average weekly working week falls to 35 or 40 hours, instead of 60.

Juliet Schorr in her *Overworked American*<sup>14</sup> talks of an “insidious cycle of work and spend” brought by the consumerist treadmill and long job hours. She attributes longer work hours partly to consumer ambitions outstripping incomes, but also partly to the stagnation in hourly wages

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<sup>12</sup> Philip Armstrong: *Technical change and reduction in life hours of work*, London, Technical Change Centre, Working paper, 1984. Bruce Williams: “Shorter hours – increased employment?” in *Three Banks Review*, 1985.

<sup>13</sup> Nitta, Michio: *Henka no naka no koyo-shisutemu*, Tokyo, Tokyo Daigaku UP, 2003, pp. 45-47.

<sup>14</sup> Schorr, J.: *The overworked American*, New York, Basic Books, 1992.

in the American economy from the early 1970s. Longer hours and a second income from a working spouse become the only way to maintain expected living standards. Others have stressed the importance of emulation, and suggest that the need for longer work hours to keep up with the neighbours explains the strikingly high cross-country correlation between work hours and income inequality – the more inequality, the more hours worked, at least in manufacturing.<sup>15</sup>

Certainly, in the United States, it is not just the badly paid who work long hours. There is a positive correlation between pay levels and hours worked. Those in the top quintile of the income distribution work longer hours than those in the middle and those in the middle more than those in the bottom quintile. As the poet Robert Frost is reputed to have said: “by working faithfully for 8 hours a day you may eventually get to be boss and work 12 hours a day”.<sup>16</sup> This is by no means the same everywhere. In Sweden, work hours are more or less the same at all pay levels. Italy and Switzerland still show the pattern which half a century ago was common in most industrial societies when the hired hands turned up at the factory at 7 a.m., the clerical staff arrived at 9 and the managers at 9.30.<sup>17</sup> The poor still work more – when, that is to say, they can get a job.

## The shift in priorities: Managers

So consumerism, unlimited wants, emulation and the readiness to work long hours are one **labour-supply-side** reason for the lengthening of work hours. But if that were the whole explanation there is no obvious reason why there should have been a widespread tendency for the slow but steady fall in average work hours to be reversed in many countries in the early 1980s. Business cycle changes mask underlying trends, but the figures for manufacturing work hours show that the reversal point came in 1982 in the United Kingdom, a year later in the United States and Canada, in 1985 in Italy, in 1988 in Norway and Sweden. Germany continued to have falling hours until 1996, by which time Germans were

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<sup>15</sup> Sam Bowles and Yonjin Park: *Emulation, inequality and work hours: Was Thorstein Veblen right?* Amherst, U.Mass. Working paper, 2001. From data for various years from 10 countries, the simple correlation was  $r=0.84$ .

<sup>16</sup> Michael White et al: “‘High performance’ management practices, working hours and work-life balance”, in *British Journal of Industrial Relations*, 41, ii, June 2003, p. 175.

<sup>17</sup> Nathan Glazer: “On Americans and inequality” in *Daedalus*, Summer 2003, pp. 111-114.

working 447 hours a year less than Americans, a big change from 1950 when they worked 380 hours more.<sup>18</sup>

For an explanation of that point one has to turn not to the labour-supply side but to the labour-demand side. The chief governing factor was the intensification of competition, and the accompanying change in managerial priorities and employment conventions. Again, this is a near-universal trend in the industrial world, but it is the Anglo-Saxon economies which have set the pace. The transformation of their economic structure began in earnest in the lead Anglo-Saxon economies in the early 1980s with the near simultaneous arrival in power of Ronald Reagan and Margaret Thatcher. In the institutional dimension it achieved its most sweeping and thorough-going character in New Zealand a decade later. These were always the world's most individualistic market-driven economies, despite the United Kingdom's post-war overlay of collectivism. But the process of transformation which began in those Anglo-Saxon economies in the 1980s today appears to be universal. I stress "today". My last lectures will dwell on whether it will still be so tomorrow.

It is a trend which seems universal, but still considerable differences survive. The economies of countries where there is less faith in the supreme value of competition and more stress on cooperation and consensus, such as Japan, Germany, Sweden or the Netherlands – have been variously described as the economies of Rhineland capitalism, non-liberal capitalism, welfare capitalism or coordinated market economies.<sup>19</sup> In such countries attachment to established institutions is still putting a brake on this intensification of competition. But that resistance has been markedly weakened over the last decade. Many of the things happening today in Japan are mere replays of changes that took place in the Anglo-Saxon economies 20 years earlier. The true believers in the virtues of competition and flexible markets would say that these countries are just laggards, lacking the political courage to face down vested interests and carry out badly needed reforms. I prefer to avoid the value-loading of the word "reform" and use neutral words like "change" or "transformation". But,

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<sup>18</sup> Bowles and Park, *op.cit.* Statistics from the US Bureau of Labor (see footnote 15).

<sup>19</sup> Respectively, Michel Albert: *Capitalisme contre capitalisme*, Paris, Editions Seuil, 1991, (Capitalism vs. Capitalism, London, Whurr, 1992); Wolfgang Streeck and Koza Yamamura: *The origins of nonliberal capitalism*, Ithaca, Cornell UP, 2001; Ronald Dore: *Stock market capitalism, Welfare capitalism: Japan and Germany vs. the Anglo-Saxons*, Oxford, OUP, 2001; Peter A. Hall and David Soskice: *Varieties of capitalism: The institutional foundations of comparative advantage*, Oxford, OUP, 2001.



belief in doctrine apart, the true believers' faith in what might be called the marathon view of history – the notion that, some in front, some lagging behind, all the player countries are on the same track – would seem to have some empirical justification. In Japan, at least – not so obviously in continental Europe – belief in both the desirability and the inevitability of following the Anglo-Saxon countries along the neo-liberal track has gradually become the dominant doctrine in the economic bureaucracy over the last decade, and in the Japanese Government since Mr. Koizumi became prime minister.

But to get back to the intensification of competition, the factors which brought it about are not difficult to list.

One major factor was the gradual establishment of neo-classical economics as the hegemonic doctrine in policy-making circles.<sup>20</sup> Of particular importance were two elements of the market-liberal philosophy with which it is intimately associated. First the view that efficiency is the overwhelmingly dominant value and market competition the only sure way of achieving it. Second, what has become known as the doctrine of shareholder value; the normative view that the overwhelming imperative for corporate managers is to maximize the returns to equity capital. As a result the stock market has become ever more central to the working of the economy, and movements of the stock market have acquired ever more prominence in the news reported in newspapers and television. Today, the American networks' hourly business news reports, heavily concentrated on stock exchange movements, are lapped up by the 45 per cent of American households which directly own equity, and the many more who do so indirectly through their pension funds.

And in parallel, in the minds of managers, the daily movement of their company's shares has acquired an ever greater salience, a tendency vastly increased by the device of paying them in stock options, a contrivance deliberately introduced in order to align managers' interests not with those of their subordinate employees but with their shareholders. Objectively – by which I mean in bottom-line terms – stock markets have become important to firms less as a source of capital than as the ruler of reputation. When a firm's shareholders begin to desert and it fails to keep up its stock price in relation to the industry average, it begins to suffer in

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<sup>20</sup> The process by which this took place is well traced in D.Yergin and J. Stanislaw: *The commanding heights: The battle between government and the marketplace that is remaking the modern world*, New York, Simon and Schuster, 1998.



its product markets as well, and in its ability to attract talented workers. Its managers became more vulnerable to takeover.

## The shift in priorities: Governments

The other source of intensifying competition was an increasing concern of governments with *national* competitiveness. I can recall a time, in the 1970s, when in the United Kingdom the concern was so limited that there was no consensus as to whether the proper word was “competitiveness” or “competitivity”. What made it a central concern? First was the improvement of statistical services, increasing confidence in measures of output growth, increasing publicity given to league tables comparing states’ relative growth rates, and the fact that increasing preoccupation gave rise to further refinements in statistical reporting: quarterly not just annual growth estimates, regular scheduled announcements of lead indicators and so on.

Second, there was a change in the ordering of policy priorities. Whereas full employment had been the dominant goal for most Western governments, it began to fade in importance as it seemed more difficult to achieve and to exact an ever higher cost in inflation. Low inflation and economic growth became the new priorities. Politicians saw that employment figures did not win or lose elections. The unemployed were increasingly, not a cross-section of the labour force, but an underclass who did not vote anyway, whereas delivering high growth rates counted with the voters who counted. It’s the economy, stupid.

The first result of the new preoccupation with national competitiveness was the industrial policy phase, the fostering of national champions, the direction of credit to frontier industries, the subsidization of R&D, the promotion of research consortia, the relaxation of competition policy. Even the homeland of market liberalism, the United States vigorously used its defence budget for this purpose and eventually overcame its anti-trust tradition to create Sematech as a means of countering Japan’s increasing success in electronics.

The beginning of this industrial policy phase, the late sixties and seventies, coincided in the older industrial countries with the height of trade union power, and of egalitarian concerns with welfare security. The guarantees afforded by government backing, and trade union pressure for job security, led on the one hand to a proliferation of government regu-

lation of redundancy dismissals, and on the other to the most famous jobs-for-life firms like IBM and Kodak acquiring ever greater prestige as normative models, at least for the Anglophone world.<sup>21</sup> Efficiency-wage theory and implicit-contract games theory became popular among labour economists as a means of explaining such quasi-community-firm employment practices – “explanation” for the true believers meaning, of course, attributing such practices entirely to acceptable and respectable motives of self-interest. At the beginning of the 1970s, and long before the “learn from Japan” fashion hit the business schools, I was able to marshal plenty of evidence to suggest that there were more signs of the United Kingdom’s employment system endogenously evolving towards something like Japanese large-firm lifetime employment than of Japan becoming more “modern”, using “modern” in the sense in which most Japanese writers still at that time defined it; that is to say, more like the fluid labour markets of the American textbooks.<sup>22</sup>

The subsequent retreat from industrial policy had many causes besides the already-mentioned factor of the steady entrenchment in universities and bureaucracies of market-liberal philosophies. Disillusion came in part with the realization that a general improvement in *performance* improves nobody’s *competitiveness*. If all athletes take drugs, you need ever more drugs to win. Better try to ban drugs altogether. Leveling the playing field by banning government subsidies became a major preoccupation in trade talks, and in the competition policies of the European Union in which four of the major industrial countries were involved. Another factor was disillusion with the other arm of state intervention in the economy, the attempt to counter the endemic problem of inflation through social partnership and incomes policies. Corporatist solutions may have worked, and still continue to work, in countries as diverse as Ireland and Italy, but their manifest failure in some leading economies, notably the United Kingdom, strengthened the hands of those who advocated *market* solutions to the problem of controlling inflation – strict control over the money supply and the curbing of trade union power as a precondition for removing rigidities and bringing flexibility to labour markets.

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<sup>21</sup> Thomas J. Peters and Robert H. Waterman Jr: *In search of excellence: Lessons from America’s best-run companies*, New York, Warner Books, 1982.

<sup>22</sup> Ronald Dore: *British factory, Japanese factory. The origins of national diversity in industrial relations*, London, Allen and Unwin, 1973.

## Competition intensified

So began the deregulation of product, financial and labour markets, injecting market competition into what had been regulated oligopolies and public services. The deregulation intensifying domestic competition coincided with accelerated globalization – lowered tariff barriers, cheapening transport and information costs – which intensified international competition too. And in the older industrial economies, a major factor was the arrival of Japan as a competitor which had reached world-class levels of technology while still enjoying the advantage of low wages. I recall the CEO of a Phillips subsidiary in Britain commenting, in 1979, after I had given a lecture on the Japanese community-like firm, “Phillips, too, used to be a very Japanese sort of firm. Career employment, respect for seniority, keeping redundant workers on the books, etc. And we had the leeway to do it – until, that is, we had to meet Japanese competition.”

Managers, under greater pressure to survive the competition and to keep up the value of their stock quotations, sought to pare their payrolls to the bone, while cutting back on overheads. Getting more hours out of already trained workers seemed better than bearing the costs of training new ones. And along with the attempt to get more work hours per employee went moves to get more work per work hour. “High performance management”<sup>23</sup> or raising productivity through more efficient utilization of human resources is one way of describing it. Work intensification is another. Jobs were redesigned to eliminate those wasted, under-utilized moments which once left room for the occasional smoke or sociable chat. Cost elimination became the name of the game. American business schools seized on Japanese quality circles as a wonderful means of getting the workers themselves to devise ways of eliminating those so-called wasted moments of relaxation. The business gurus in their best-sellers did not always distinguish between stress-reducing and stress-intensifying ways of improving efficiency, nor between what I would call the difference between membership motivation and market motivation. What I mean by that is the difference between managers who share with their workers a sense of membership in a community-like firm and can appeal to that sense of membership to motivate efforts to win market share from their firm’s rivals, and, in contrast, managers who are dedi-

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<sup>23</sup> Michael White et al., define it for survey purposes as using refined appraisal systems, group working and performance-related pay (see footnote 16).

cated to increasing profits for their shareholders and can only manipulate self-interested incentives – market motivations. For the latter, as Peter Capelli has pointed out, that other much-touted feature of Japanese management, team-work, was also useful.<sup>24</sup> It was a way of evoking moral obligation as a supplement to self-interest, particularly attractive since it could be hailed as a move towards decentralized autonomy, liberation of individuals' urge to self-expression, etc. If membership motivation was destroyed at the firm level, as firms became less and less like communities and more and more like the nexus of individualistic contracts that neo-classical theorists say it should be, it could be partially recreated at the grassroots team level. "Commitment" was now to the group of work colleagues, and not letting them down could be a powerful motive for not shirking.

The other side of the shift to reliance on market motivation was the development of ever more sophisticated systems of performance pay and performance measurement. The intensified concern with firms' competitive performance trickled down, as it were, to their personnel policies. These changes in wage systems coincided with, and were accelerated by, long-term shifts in social structure, particularly family structures. There always was a strong functional complementarity between the breadwinner-husband/full-time housewife model of the family on the one hand and payment systems with a large element of reward for seniority on the other, most clearly made explicit in the standard-worker concept used by Japanese trade unions in wage bargaining. The feminist movement demanding gender equality, plus declining fertility, and the general increase in individualism as manifest in growing divorce rates, all served to erode the normative power of that family model. At the same time the shift from seniority career progression wage systems to performance-based inter-personal competition made it more difficult to maintain that model.

All these changes, prompted by the shift in management priorities, were matched and supported by a shift in the priorities of government. Labour protection legislation was steadily diluted, permitting easier dismissal and greater use of temporary contracts, relaxing insurance obligations, reducing the legal rights of trade unions, and impairing their ability to strike.

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<sup>24</sup> Peter Capelli: *The new deal at work*, Boston, 2000, p. 218.

The mechanisms by which these changes led to both work intensification and longer hours of work are fairly clear. There were both sticks and carrots. The reduction in job security made workers at all levels more vulnerable to pressure. New pay systems providing stronger incentives to perform prompted worker's readiness to stretch their capacities by taking greater responsibilities involving extra work. And all this was especially true for managers, professional and white collar workers who anyway had the most challenging and interesting work and were most prone to become compulsive workaholics.

It is small wonder that one of the latest hot topics in the so-called HR field is the work/life balance. It is instructive to compare those discussions with the QWL movement, the Quality of Working Life movement of the 1970s. Then, in what was still called the labour relations and personnel management field, a prime concern was dealing with alienation. A major impetus in the United States, where the movement largely began, was the outbreak of strikes and sabotage at GM's brand new Lordstown factory, in spite of ideal work conditions and the application of the latest human relations theories. But the QWL movement soon faded. A Swedish economist who served for a time as his country's Minister of Commerce summed it up somewhat cynically: when people are earning enough to have all the nice sofas they want at home, they begin to want sofas in the office too. The difference between QWL and the new concern with the work/life balance is that QWL accepted the centrality of work to the human condition. Work was expected, for men at least, to be what Blauner called their central life interest.<sup>25</sup> Work/life balance talk, on the other hand, accepts – most obviously for women whose problems of combining work and career were the starting point of the whole discussion, but also for men – a sharp dichotomy. The American slang admonition to the workaholic: “get a life” sums it up. The change in assumptions about the centrality of work, I suspect, has a lot to do with this intensification of work and its tendency to consume ever more hours of the waking day. Even for those with the most intrinsically enjoyable jobs, the word “work” suggests a source of stress from which everybody needs adequate relief and relaxation.

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<sup>25</sup> Blauner, R: *Alienation and freedom: The factory worker and his industry*, Chicago, Chicago U.P. 1964.

## The multiple forms of job satisfaction

But that, of course, does not make the difference between enjoyable jobs and jobs that are mere drudgery any the less important. “Loving your work” Primo Levi once said, “represents the best, the most concrete approximation of happiness on earth”.<sup>26</sup> But, he added, unfortunately it is the privilege of the few.

The title of these lectures promises talk of new meanings of work. But most meanings of work are old meanings. One thinks of economists as people who write about labour as a factor of production, but the classical economists were well aware of the human meanings of work. Adam Smith, who analysed the efficiency of the division of labour in pin factories also talked about the soul-destroying drudgery of working in one, how it induces a torpor of mind which makes people incapable “of conceiving of any generous, noble or tender sentiment”. Mill’s chapter on labour had a perceptive discussion of the way that convention and the social standing of occupations impinged on both satisfactions and pay differentials. Taussig, an economist in that tradition, offered an eloquent classification of what he called the “sorts of labour, [which] though pursued systematically and continuously, seem never to become wearisome”.<sup>27</sup> There is “...intellectual labour, particularly of persons who are engaged in the pursuit of knowledge and in the satisfaction of man’s insatiable curiosity about the things that surround him” There are “persons of artistic temperament [who] have often so strong an instinctive bent toward one kind of activity that nothing can hold them from it and nothing ever pall the pleasure of the exertion”. Then there are those occupations which satisfy “the instinct of emulation”. And then there is management: “work of leadership and command almost always is continuously pleasurable. It satisfies the love of distinction and the desire for domination, and it has a real or apparent element of freedom.”

The modern HR literature on job satisfaction could be trawled for an endless elaboration of the different kinds of satisfaction which people can get from work, but one is unlikely to find much mention of “the love of distinction and the desire for domination.” Nor is one likely to find

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<sup>26</sup> Levi, Primo (1978) *La chiave a stella*, tr. William Weaver: *The wrench*, London, Michael Joseph, 1984, quoted in Keith Thomas, *op.cit.*, p. 144. (see footnote 4).

<sup>27</sup> F.W.Taussig, *Principles of economics*, 1911, quoted in Keith Thomas, *op.cit.*, p. 168. (see footnote 4).

much mention of that other element in the work of the growing number of people engaged in financial markets, or at least those who are engaged in the speculative trading of foreign exchange or the management of hedge funds, namely gambler's excitement. If not exactly what Taussig had in mind as intellectual work, it is certainly work which requires the exercise of a high level of intelligence which may in itself give satisfaction. Already in the mid-1980s, when financial markets were far less developed, the Nobel Laureate Tobin wrote a forceful passage deploring the fact that so many of his brightest students were attracted to them,<sup>28</sup> and doubtless would have deplored the granting of a later Nobel prize for work on the pricing of options, an essential tool in financial speculation. But when even the best brains have absorbed all the information available, and quantified all the risks (by however dubious a formula), there is still a large element of uncertainty to provide the spice of gambler's excitement, magnified by the often huge size of the possible gains and losses. There is also, as the splendid book *Liar's poker*<sup>29</sup> made clear, a strong element of what Taussig called "emulation". Your bets are placed against those of known or unknown others; your gains are their losses as directly as in a game of tennis.

The type of satisfaction it brings is one way of classifying the meanings of work, with two main sub-categories – intrinsic rewards whose infinite variety I have just been illustrating, and extrinsic rewards. Of these there is less variety, money and fringe benefits being overwhelmingly the most important. But there are also (a) sociability and the enjoyment of work friendships, and (b) social prestige, ranging from celebrity fame to a basic sense of inclusion, the satisfaction of *not* being one of an excluded, and often workless, minority. It is worth adding that when I say "ranging" I do indeed think of a continuum. I do not follow those who would make a distinction between prestige and esteem. The prestige of the celebrity on the one hand, and the boost to his local reputation of an unemployed person who finally lands a job on the other, seem to me to be in the same prestige dimension, just as much as the millions the celebrity earns and the dole of the unemployed are in the same money dimension.

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<sup>28</sup> James Tobin: "On the efficiency of the financial system" in *Politics for prosperity: Essays in a Keynesian mode*, Brighton, Wheatsheaf, 1987, p.282.

<sup>29</sup> Michael Lewis: *Liar's poker*, London, Hodder and Stoughton, 1989.



## Social usefulness

But social prestige suggests another dimension, different from the satisfaction dimension, for classifying work: namely degrees and forms of social usefulness. In Italy the phrase “socially useful work” has acquired an unsavoury taint since it was the name given to a make-work scheme, introduced in the mid-1990s, which essentially offered the chance of paid idleness, often to youths with the right political party connections. But “how socially useful?” is still for me a relevant question to ask about work. And it is certainly one prompted in my mind by the thought of all those people mentioned earlier who toil so assiduously in foreign exchange markets making speculative transactions amounting to over 200 times the sum needed to settle international trade transactions. The proportion of the population involved in these financial services may not have changed much in number, but their take from national economies has grown apace as has their political clout. No-one would write today, as Galbraith did in 1967 about “the air of quaintness that attaches to the suggestion that the United States is run from Wall Street”.<sup>30</sup> To take American statistics: in 1970, financial services took a fifth of total corporate profits. By 2000, having shed a lot of routine clerical labour and acquired a lot of very clever traders, not to mention Nobel-prize-winning mathematical geniuses, their share had increased to over a quarter.<sup>31</sup> It may well be that the economic textbooks are right when they explain to adolescents prone to moralistic indignation that speculation plays an essential part in modern economies. Insurance hedges, and speculators’ revealed forecasts of future prices may indeed be useful to those working in the real economy and producing the goods and services people directly enjoy. But I find it hard to believe that those producers are really much better served today than they were in 1970.

It is worth posing the question: as between the personal satisfaction dimension and the social usefulness dimension, which is the more *important* way of classifying work? In feudal societies, the dominant ideology held that social usefulness was overwhelmingly the most important. In what I would count as the most sophisticated feudal society the human

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<sup>30</sup> J.G. Galbraith: *The new industrial state*, London, Hamish Hamilton, 1967, p. 58. An Italian commentator on the Republican victory in governorship elections in Kentucky and Mississippi remarks, “The class of investors are the ace up Bush’s sleeve; a new social stratum has been born whose sole creed is Wall Street. The right is now a mass party.” Ennio Caretto, *Corriere della Sera*, 6 November 2003.

<sup>31</sup> US National Accounts, Table 6.16.



race has produced, namely Tokugawa Japan, many editions of the elementary school text book, the Teikin Orai, began with wood-block illustrations of the four orders of society. There was the samurai whose contribution was to defend the country with his sword and keep judicial order with his wisdom. Second in rank came the peasant who provided elemental needs. Third came the artisan, pictured making his pots and his barrels, who provided for needs and pleasures beyond mere subsistence. And finally came the merchant who provided a useful service shifting goods from where they were produced to where they were consumed, but had a bad tendency to cheat on the way, to speculate on attempts to corner markets and create artificial scarcities.

The famous Japanese business tycoon, Shibusawa, is noted for his creation in the 1880s of a Japanese word for “businessman” – literally “real business man” – to distinguish himself and his friends from the traditional merchant who had such a bad name. He was, among other things, a banker who helped create the Japanese tradition of handmaids-to-industry banking. He wrote a commentary on the Confucian Analects, and made much of the moral difference between entrepreneurial risk, where outcomes are decided by effort to please customers as well as by luck, and speculative risk where they depend solely on luck and cunning. In our contemporary world whose conventional economic ideas are set by the financial community which dominates the economy, the distinction has disappeared. Read the Japanese economists writing in the popular press today, who talk of “risuku-ando-ritaan” and claim that the world is so justly constituted that the greater the risk, the greater also the potential returns. For them, risk is one and indivisible: moral distinctions are irrelevant.<sup>32</sup>

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<sup>32</sup> Professor Takenaka, later to become Minister for Economic Affairs, suggested in a sponsored advertisement in the Nikkei that it might not be a bad idea to teach children about stocks and shares in primary school, to implant the idea that taking aboard greater risk can lead to higher returns “Risuku to ritaan no kankei, kichin to haaku suru koto ga juyo” (“The important thing: getting a good grasp on the relation of risk and return”) Nihon Keizai Shimbun 26 November, 1999, second section. Another journalist has written a whole book about timid risk-aversion without even a hint that different kinds of risk might have different moral justification. Daniel Ben-Ami: *Cowardly capitalism: The myth of the global financial casino*, New York, Wiley, 2001.

## Justice and the reward system: Software engineers and office cleaners

That suggests a theme which will be central to the next lecture and it relates back to the intrinsic and extrinsic rewards of work, and the difference between intrinsically enjoyable jobs and drudgery. In many traditional wage systems there was something equivalent to the British wage premium called “heat and danger money”. It was said that at one time, in New York, garbage collectors were paid more than teachers. This may be simply explained as a matter of supply and demand in the labour market, but it was also seen as a principle which accorded with most people’s sense of justice that the more unpleasant the work, the more you should be paid. In the income distribution as a whole, however, manifestly the reverse is the case. People who have the most intrinsically satisfying jobs are also paid more for doing them. There is nothing new in this. What is new is the tendency not only for the lucky ones with the most enjoyable jobs to be paid more, but for them to be paid increasingly more, and to be more confident that they deserve it. That needs explaining, and it needs evaluating in the light of conflicting principles of justice.

The value systems invoked for defining those principles of justice are multiple. They differ, clearly, as between those who would define themselves as on the right in politics and those who are on the left. But there is one particular principle which has lately been gaining ground and clearly requires close examination. It is the marketist thesis that, in a democracy, the only valid criterion of social usefulness is what the market will bear. What people are willing to pay for is what they value, what has for them utility. Individual choice is an essential element of freedom, and that applies equally to one-man, one-vote democracy and to the one-consumer, one-pocket market. It does not matter how much citizens differ in understanding in the one case or how much they actually have in their pocket in the other. They would concede that the social usefulness of the drug dealer or the child pornographer is not adequately measured by their incomes. A collective act of freedom-constraining social choice is, the marketists admit, therefore necessary to distinguish between legitimate and criminal activities. But in the legitimate realm, freedom to market one’s goods, one’s services, one’s talents, oneself, should be the rule.

It should certainly not interfere with the freedom of software engineers, in their seller’s market, to choose to whom or how they will sell

their talents at any one time, nor the freedom of the firm which cleans the office to choose in their buyer's market the cleaners who, at any one time, do the best job at the lowest wage.

That set of ideas, commonly dubbed neo-liberal, and which I shall call "market individualism" has a lot to do with the topic of flexibility which I will tackle in my next lecture.

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## Chapter II

### Lecture 2. The concrete meanings of labour market flexibility

*Ronald Dore*

There is no more controversial word in the vocabulary of those who write on labour matters than “flexibility” – not so much controversy over its empirical referent, as over its evaluative overtones. For some – those, to take up the distinction made at the end of the last lecture, who see the whole world as a seller’s market for scarce skills – it is the banner under which they move forward to a shining future. To others – most conscious of the buyer’s market for unskilled labour – it is a threat of insecurity and exploitation.

#### Productive efficiency

My sense of the history of the word in the English-speaking country that I know best, namely England, is that it first came into use as the rallying call in attempts to counter the restrictive practices of British craft unions. There was a perfect self-interested rationality in the way individual unions had sought, ever since the nineteenth century, to maximize the work available for their members, and restrict the number of apprentices who could be trained to do it. In the full-employment period of the

1950s and 1960s, unions acquired greater power to pursue such tactics than they had ever had before. Threats of formal strikes, or informal walk-outs, enabled unions in some factories to insist that, for instance, only paid-up members of the woodworkers' union should be allowed to bore holes in wood so that someone else, a fully paid-up member of the electricians' union could install wiring. "Flexibility" was the slogan under which such manifest forms of inefficiency were tackled, which usually meant, in the deeply adversarial context of British industrial relations, that where union job control was strong and the restrictive practices deeply entrenched in convention, managers had to negotiate what became known as the "buying out" of restrictive practices by increasing wages – a form of what became known in the United States as concession bargaining. And that, of course, provided incentives for militant shop stewards to invent new "traditional" restrictive practices.

At the same time there was an attempt to reduce the influence of single-craft unions on training practices. The multi-skilled, the polyvalent worker became the new hero. Since wage systems were also tied to skill definitions, this required negotiating revisions of wage structures too. This in turn, since the nature of polyvalence differed from factory to factory, gave further impetus to the movement towards the decentralization of wage bargaining from the national or regional to the individual firm or, more often, individual establishment, level. It also helped transform the craft unions into general unions. The arrival in the United Kingdom of Japanese firms pioneering single-union agreements on their Greenfield sites gave a further push in this direction.

## Speed of adjustment

A second and different flexibility drive sprang from the growing concern, in the 1970s and 1980s, with the problem of industrial adjustment, not just to changes in the business cycle, but to changes in the structure of economic activities. What gave greater salience to the need for faster adjustment was, first, the acceleration of technical change, and secondly the growing competition in labour-intensive industries from low-wage producers in the Third World. The second affected primarily the tradeables sector, but the first affected producers in all sectors including domestic services like banking. Growing stability in the labour market during the 1950s and 1960s, with measures to encourage company pensions, and to improve job security by establishing unfair dis-

missal proceedings and controlling redundancy, had been thought desirable not only from considerations of welfare and justice, but on productivity grounds. Job security, loyalty, commitment and cooperation had been considered good for efficiency and profits. But in the thinking of managers and governments, the greater speed of change and the intensification of competition which I discussed in my last lecture, made the ability to lay off workers in declining or rapidly automating sectors, and to fill vacancies for skilled workers in expanding sectors, come to seem a more important route to efficiency than fostering loyalty and commitment. At the same time, although full employment no longer had the policy importance it once had, governments were increasingly worried about rising levels of unemployment. The argument that employers were not taking on new workers because it was too difficult to sack them later prompted a reversal of the trend to foster job security. And the argument that high payroll taxes priced workers out of the market and induced excessive substitution of capital for labour provided further fuel for attacks on the welfare state.

So, there were two quite different notions of flexibility. On one hand was the willingness of workers to use their skills in whatever way managers thought they could best contribute, plus managers' cleverness in deploying those skills and in providing training to supplement them – all those ways of strengthening the organization's core competences in the modern jargon. On the other hand was the objective of optimizing the *allocation* of labour in the economy, through increasing managers' freedom to hire and fire; making it possible for them to downsize at minimum cost, and to find the skills they needed in the labour market. Flexibility also meant improving the functioning of the labour market by better institutions – better information diffusion, a vocational education and training system which provided better training and a qualification system which gave more reliable signals, plus measures like housing allowances to enhance geographical mobility and so on.

## Two kinds of flexibility: Two kinds of efficiency

By the mid-1980s the distinction between the two, which came to be known as internal and external flexibility respectively, was well established. But the words “external” and “internal” masked a much more important difference. External flexibility was about the pursuit of allocative efficiency, internal flexibility was about the pursuit of productive effi-

ciency, through good organization, clever innovation and conscientious work. I was able to use these contrasting meanings in an oxymoronic title for a book about Japan, *Flexible rigidities*. It was about the way in which, by sacrificing external flexibility in the employment system – by accepting the impairment of allocative efficiency, in other words – one could derive such an improvement in productive efficiency from internal flexibility as to more than compensate. The argument was not just about labour markets, but about a general Japanese trade-off between allocative and productive efficiency – about the way that accepting the rigidities involved in long-term commitments could build relations of mutual trust and goodwill that profitably enhanced cooperation not only in employment relations, but also in subcontracting relations, customer relations and relations between banks and industrial firms.

The question this raised was one which I always found difficult to answer even after I had written another book explicitly devoted to tackling it.<sup>1</sup> Is the trade-off the same everywhere, or is there something about Japanese cultural and ethical traditions, about the personalities, the modal behavioural dispositions of the Japanese which makes the terms of the allocative/productive efficiency trade-off very different from what it would be in a more individualistic contractualist Anglo-Saxon society, where trust too easily gives way to opportunism, and security is deemed as likely to induce shirking as effort? I am increasingly willing to grant that the “something different” answer is the right one, and the important question is whether it can or should stay different.<sup>2</sup>

## Core and periphery

The question naturally arises whether it is possible to combine the two kinds of flexibility, the pursuit of both allocative and productive efficiency. One attempt to do so was the core-periphery recipe for managing human resources. Firms should seek to cultivate a core labour force in whose heads and dexterous hands resided the firm's core competence, the workers one relied on for sustained organizational learning. Every device the firm could afford should be used to keep those employees and enhance their commitment to the firm. But for a wide range of functions

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<sup>1</sup> *Taking Japan seriously*, London and Stanford, Athlone and University of Stanford Press, 1987.

<sup>2</sup> *Ibid.*

which required little training and little firm-specific knowledge, and for which new recruits could therefore easily substitute for leavers, and for functions not needed on a full-time basis, the emphasis should be on minimizing cost. Such jobs could be done by workers on temporary contracts, despatched workers, or casual part-timers, or they could be out-sourced.

The idea was popular, especially in the United Kingdom but after nearly a decade of discussions in the business press, a survey found that only 10 per cent of employers claimed to be consciously following a core-periphery strategy.<sup>3</sup> And still, a decade later, the institutional changes carried out by governments in the name of flexibility have been, and still are, all in the direction of promoting external flexibility, sometimes directly at the expense of the devices which managers had developed to promote employee retention: the insistence on making pensions portable without loss, for example, or banning closed shop agreements. Both are measures, incidentally, which could claim political legitimacy under the banner of that central element of the Anglo-Saxon value system, freedom – freedom to change your job without penalty, freedom to choose whether or not to belong to a trade union.

Some of the measures taken to improve the workings of the labour market are uncontroversial: better information-diffusion, better vocational training and more reliable qualification systems, the shifting of social security contributions from payrolls to other forms of taxation and so on.

What are, by contrast, highly controversial are the other flexibility measures such as reducing the degree of legal protection against unfair dismissal, removing controls on redundancy downsizing, cheapening the use of temporary and contingent workers by diluting their rights to social insurance and vacations, and so on – all reversals of the trend towards increasing labour protection which dominated the first three-quarters of the last century. And like that earlier trend the new flexibility measures are found worldwide, but still to very varying degrees. There could be no better test of what I called in my last lecture the marathon view of history. The United Kingdom lowered the legal barriers against worker dismissal in the 1980s. The deregulation lobby in Japan succeeded only at the end of the last decade in putting on the legislative agenda a proposal to lower

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<sup>3</sup> Hunter, L.; A, McGregor; J, MacInnes; A. Sproul: "The flexible firm: Strategy and segmentation," in *BJIR*, 1993, 31, pp. 383-407.



the (much higher) barriers set by Japanese legal precedents through less protective statutory regulation. In effect it lost the first round to a coalition of trade unionists, plus bureaucrats and businessmen with some lingering attachment to the notion of a quasi-community firm. (The notion that having to sack workers is a form of triage and not just a cost-effective reduction in labour inputs.) The subsequent law explicitly reaffirmed the principles of case law for disciplinary dismissals, and implicitly reaffirmed, by omitting to mention them, downsizing dismissals. Whether the deregulation lobby will accept its defeat as definitive remains to be seen.

It can be argued that all these latter measures are neutral in relation to the trade-off between allocative efficiency and productive efficiency. By making it easier for firms to turn their peripheral workforce into a highly adjustable, highly variable cost, it also makes it easier for them to bear the fixed costs of maintaining cooperative commitment in their core labour force.

In practice, however, at least in the United States studies have found inconclusively ambiguous relations between the use of contingent workers, turnover, both voluntary and involuntary, and various measures of employee retention and involvement strategies, such as team-work, job rotation, profit-sharing, premium wages, expenditure on careful selective recruiting, and so on.<sup>4</sup>

## Contrasting mindsets

To simplify a little one might say that the mindset which seeks to promote mobility and market-relations and the mindset which values organizational stability and personal security tend to be contrasting mindsets across-the-board; intimately linked to beliefs about human motivation and productive efficiency.

The credo of the former, which I will call the market mindset, can be stated briefly.

- Allocative efficiency is all important because the efficiency of firms depends on the efficiency of individuals.
- Work skills are a transferable commodity.

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<sup>4</sup> Peter Cappelli and David Neumark: *External job churning and internal job flexibility*: NBER Working paper 8111, Feb 2001.

- The effort to apply them can be evoked by clever short-term reward systems – performance pay, stock options, etc. – plus professional conscience and opportunities for self-realization.

And the opposing credo, which I shall call the organization mindset holds that:

- The efficiency of firms depends on their build-up of human resources.
- Skills are not static but are built within organizations by organizational learning.
- Commitment and loyalty can be effective supplements to self-interest in the evocation of effort.
- Individuals' perceptions of their self-interest are not only focused on short-term cash rewards, but on long-term career prospects.

So the one says “the end of jobs for life, hurrah”; the other either denies that it is happening, or admits that it is happening and deplors it.

## Why all the emphasis on market mobility?

But before I get to the “end of jobs for life” question, a prior issue is why the market mindset has dominated labour legislation over the last 20 years.

The first justification which the advocates of flexibility measures offer has nothing much to do with the virtues of markets or organizations. It is that flexibility combats the social evil of unemployment. If one makes it less costly for enterprises to employ people, they will employ more. If it is legal to offer temporary, fixed term, part-time, agency-despatched, specific-project contract work, and other forms of “atypical” employment, they will hire more workers. That this leaves the people they employ insecure and without health insurance or holiday or pension entitlements is unfortunate, but it is better than leaving them unemployed.

Empirical study of the extent to which this is true is difficult, given the manifold other factors which impinge on the unemployment rate. In Italy, for example the freeing up of such atypical forms of employment brought by a 1997 law is credited with having knocked two points off the unemployment rate over the following four years, and it is clear that during that period such jobs grew at a faster rate than “typical” jobs.

However, how much of the increase was real and how much a “coming out” of hitherto unreported “black” jobs remains controversial, and in the two subsequent years “atypical” jobs have grown at a slower rate than jobs of a traditional type.

But the general dominance of what I called the market mindset over the organization mindset is certainly not explained by a concern for unemployment alone. Four other factors seem to me of crucial importance.

I have already talked about the shift in managerial philosophies. Managers single-mindedly bent on maximizing shareholder value are less concerned with, and less likely to take pride in maintaining, employee welfare. The trickle-down of market principles into pay systems strengthened the market mindset in general.

But secondly, the politicians who responded with the legislation demanded by the powerful managerial class, were not just concerned with creating the conditions for national competitiveness. They were also engaged in class struggle. Much of the labour protection legislation had earlier been passed with the support of, and often only under pressure from, trade unions. The attempt to remove it had not only flexibility/efficiency objectives but also the political objective of breaking the power of trade unions and their ability to influence the electorate. This was most explicit in Mrs. Thatcher’s Britain of the 1980s, but it is worth remarking that the erosion of that ability of trade unions to influence elections has greatly reduced the importance of this motive in Britain, much less so in Germany. Where class-based politics have receded in importance, centre-left governments have been converted to the same market mindset as their opponents. There is no more ardent advocate of labour market flexibility as a remedy for Europe’s ills than Tony Blair. Even in Italy, where class-based political affiliations retain greater importance, it was the centre-left government which introduced the measures mentioned above legitimating atypical forms of employment. It was the premier of the same government who proposed a particular temporary dilution of unfair dismissal protection – a relaxation of the conditions under which workers found to have been dismissed unfairly could be reinstated – which later, under a centre-right government became the focus of intense controversy.<sup>5</sup>

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<sup>5</sup> It involved extending the exemption from the requirement of reinstatement of workers found to have been dismissed unfairly from firms with 15 or fewer workers to firms with 19 or fewer.

Third was the legitimation provided by the economics profession as it became ever more dominated by the neo-classical tradition. Allocative efficiency and how markets can achieve it provide the theme for really hard economic science, algebra of the highest degree of arcane cleverness. Productive efficiency, by contrast, is a soft subject whose prime currency is the anecdote. Just go to any business school and ask about the relative position in the pecking order of an economist working on financial markets and an organizational theorist.

But finally, there is the element much stressed by those who applaud the trend: social change producing a demand for greater freedom of choice. It is argued that as society becomes more affluent, and skills more refined and specialized, a growing number of people are not much interested in job security. They want the freedom of choice which flexible labour markets give them. The chief thing they want from employers is a good salary. That way they can build up a bank balance to cushion themselves against the increased risk of losing their job. Secondly they want the chance to “get learning experiences that can be added to their resumé”<sup>6</sup> for when they move on to their next job.

That this spirit of individualism has grown, even in the least individualistic societies such as Japan, can hardly be denied. A young Japanese lawyer, author of an interesting book on cross-shareholdings wrote this about Japanese so-called human-capital-ism some 15 years ago.

Is it really so good for humans? In the truly modern labour contract a worker sells his work; he doesn't sell his soul. The employee-sovereign Japanese firms require Japanese to spend their whole lives, from birth to retirement, in enforced competition, first to enter the firm, then for advancement in it, and for that they have to sacrifice freedom and individuality, human feeling and creativity, cultural pursuits, playing a useful role in the family or community, spiritual poverty in return for material riches.<sup>7</sup>

The proportion of the labour force who harbour such ideas may be small, even in the United States and a fortiori in Japan. The zealous advocates of flexibility and shareholder value in Japan tend in practice to be workaholics in lifetime career jobs. But even if the people who actually live the freedom lifestyle are a minority, they are the most articulate minority, the most celebrated in the lifestyle-obsessed popular media.

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<sup>6</sup> Jacoby (1999).

<sup>7</sup> Nakajima Shuzo: *Kabushiki no mochiai to kigyoho*, Tokyo, Shoji Homu Kenkyukai, 1990, p. 265.

And as such they can have the most influence in shifting expectations and conventions.

And, quite apart from such self-realizing high-fliers, it is clear from many empirical surveys that a lot of those in temporary and insecure jobs are forced into them by the lack of any alternative – including most of those counted in that category in Spain when their numbers reached 34 per cent of the labour force and started alarm bells ringing. However, it is clear that there are also quite a lot who prefer such jobs either for the higher per-hour returns or because they value the greater freedom to come and go. The striking rise in part-time jobs in the Netherlands owes a great deal to changing worker (including male worker) preferences and not just to the cost-reduction efforts of employers.

## The end of jobs for life?

So, can one conclude that a sea-change in employment practices, most obviously advanced in the lead economy, the United States, is generally under way in our globalized world? And that the change is aptly summed up as “the end of jobs for life”, even in an economy like Japan’s where the lifetime employment system was most institutionally entrenched? And that it is equally welcomed by both the managers and the managed? The answer is, well, not entirely. Statistics for average length of tenure, for instance, show little change in either the United States or the United Kingdom. The big increases in the number of non-standard, contingent and casual workers which follow regulatory change seem to level off quite rapidly. If one is talking of managerial objectives, it certainly seems to be true that fewer managers, either in the United States or Japan, would put as high a priority on promoting the welfare of their employees relative to satisfying shareholders as used to be the case. But whatever that says about ends, retaining core employees, engineering commitment, increasing employee autonomy and involvement have for many managers retained their value as *means* of increasing profits and satisfying shareholders.<sup>8</sup> Some new devices have been added, notably

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<sup>8</sup> Sanford Jacoby finds a polarization in the US between what he calls “strategic partner” and “resource-based” HR departments, the former largely charged with minimizing labour costs, deeply involved in M&A decisions and generally quite powerful in the firm, the latter (generally less powerful) who are more concerned with building up the firm’s core competences and keeping and training the people on whom those competences depend. *People on top*, Princeton, Princeton U.P., forthcoming.

employee stock options and profit share schemes. But the greater dominance of the shareholder profit drive does clearly set limits on the extent to which firms will accept fixed cost commitments for the sake of retaining loyal workers. Outsourcing shifts risks onto other firms, frequently former employees. The transfer from defined benefit to defined contribution pension schemes – something only just beginning in Japan – shifts financial risk from the firm to the employee.

## And inequality

The debate about the end of jobs for life, and the debate about growing inequality are often linked, but they are two separate issues. Jobs for life and a low Gini coefficient are not necessarily connected. Internal labour markets in the United States always were dubbed the primary sector in contrast to a secondary sector of low-paid insecure jobs held largely by women and ethnic, predominantly black, minorities. Critics of Japan's dual structure always did argue that the privileges of the lifetime employment workers in the large unionized firms were bought at the expense of low pay and insecurity in those firms' subcontractors. They drew a contrast with Germany where sector-wide collective bargaining greatly reduced such differentials.

But the structure of differentials, apart from fluctuations caused by the business cycle, seemed more or less stable. If there was a secular tendency in the 60s and 70s, nearly everywhere it was towards a compression of differentials. The evidence of a new trend towards widening differentials began to be clear in the Anglo-Saxon economies in the 1980s. For a while, optimists could dismiss it as a temporary blip, but by now there is general agreement that it is a continuing trend, replicated almost everywhere in the industrial world.

There are several competing explanations for this trend, notably the decline in union power, technical change and the integration of low-wage developing countries into the world trading economy.

Low-wage competition from imports, the hollowing-out of manufacturing sectors by overseas outsourcing have certainly played a part. In theory their effects should be temporary; cheaper shirts, and computers with cheaper components, free up cash to spend on other things, so the handing off of labour-intensive sectors should enrich the more advanced societies by creating consumer demand for different kinds of labour. But

even under the best of circumstances – an optimistic climate of expected growth and entrepreneurial dynamism – that adjustment process takes time, and can still leave behind the unadaptable – middle-aged coal-miners supported by their wives, the only members of their families who are welcomed in the new electronic factories. Moreover, import surges, particularly from dynamic countries like China, can happen quickly.

Of the relevance of union power to growing inequality there can be no doubt. Katz and Darbishire<sup>9</sup> argue convincingly that there is an inverse correlation between the strength of unions in collective bargaining and the degree of centralization of the bargaining on the one hand, and both the degree of inequality and the rate at which it is increasing on the other. Strong unions do serve to compress differentials on a national scale, both directly through wage bargaining and indirectly by their political influence restricting deregulation of the labour market. The question which arises is whether that effect is achieved, in Germany, for instance, where differentials are most compressed, at the expense of slow growth, restricted development of the service sector and high unemployment. That is certainly the belief of the current German Chancellor, and it is his view that the imperative of national competitiveness, plus the social costs of unemployment, make the cost too high.<sup>10</sup>

The decline in union power has undoubtedly contributed to, but is not the whole explanation of, what seems to me the crucial factor in widening inequality, which is the increasing tendency for employment contracts to be individually bargained, short term, and directly subject to market forces. For that the change in personnel management systems, the growth of performance pay and so on, all the moves to bring market principles inside the firm has been primarily responsible; the role of unions is relevant insofar as they have failed to resist such changes, and even in some cases encouraged them.

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<sup>9</sup> Katz, Harry C.; Owen Darbishire: *Converging divergences: Worldwide changes in employment systems*, Ithaca, Cornell UP, 2000.

<sup>10</sup> See the review of Katz and Darbyshire's book by Wolfgang Streeck, "High equality, low activity: The contribution of the social welfare system to the stability of the German collective bargaining regime", in *Industrial and Labor Relations Review*, Vol. 54, April 2001, Number 3, pp. 698-706.



## Technological sophistication and learning ability

The trend towards greater market-determination of wages combines with another trend which is genuinely long-term, namely the steady accumulation of technological knowledge and its impact on the structure of jobs. It is a point which must occur to anyone who has to wrestle periodically with some new bit of baroquely elaborated software the computer manufacturers have foisted on us. For all that machines have come to do a lot of thinking for us, there is still a steady and inexorable increase in the number of jobs which only those with high levels of brain power can learn how to do, and as the machines eliminate physical drudgery and simple repetitive clerical work, a simultaneous diminution in the number of jobs which almost anybody can learn to do. Given a relatively stable distribution of learning ability in the population, even with the best efforts to improve learning opportunities in the education and training system, the market-clearing price of the hard-to-learn jobs goes up, and the market-clearing price of the anybody-can-learn jobs goes down.<sup>11</sup> They go down so far in the societies with better welfare systems, as to be not much better than the guaranteed welfare minimum and so reduce incentives to accept employment.

It is difficult for any well-meaning student of labour problems to admit that there are intractable or only narrowly tractable limits to the available solutions and that those limits are set by the distribution of genetically-constrained learning ability which the best environmental improvement efforts can do little to change. It used to be the ritual conclusion of studies of labour market mismatch that we need better education and training. The United Kingdom is now dedicated to the target of getting half of each age group into universities. But the belief that better education and training will make a substantial difference has withered. The Chancellor of the Exchequer, introducing a debate on equality said: "whereas in the 1980s it was possible for John Smith (leader of the Labour Party) to argue that the solution to bringing together economic

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<sup>11</sup> There is by now a huge literature on the rising inequality of wages/salaries. Two recent analyses of American and British data stress that what technological change is eliminating is in fact middling jobs – routine clerical and craft jobs. Employment in the low-paid unskilled jobs like that of care assistants, is in fact increasing but (care-needing people are often too poor for need to be translated into effective demand, while the supply is increased by the "displaced middles" and immigration), not fast enough to create a seller's market for care skills. Maarten Goos and Alan Manning: *Lousy and lovely jobs: The rising polarization of work in Britain*, CEP Working Paper, LSE, and Autor, David H.; Frank Levy and Richard I. Murmane: "The skill content of recent technological change: An empirical exploration", in *Quarterly Journal of Economics*, CXVIII, forthcoming.



efficiency and social justice was policies that promoted education and training, now we have got to look at other means” and went on to talk about wage subsidies and in-work benefits.<sup>12</sup>

One consequence is that whereas most unemployment used to be properly described as frictional, affecting people in a wide range of occupations, much modern unemployment is long term and, as an OECD Council of Ministers said two months ago, “affects vulnerable workers and their families disproportionately”.<sup>13</sup> Japan is now facing the problem of youth unemployment that hit the United Kingdom in the 1980s; as was the case then, this is not a general problem, but the particular problem of those who have done least well at school.

That is not the whole explanation of widening differentials, however. A general feature of widening differentials is the fact that the top decile and especially, in the United States, the top percentile, and a fortiori the top millile, has pulled away much farther from the median than the bottom decile or percentile. The rapidly increasing demand, and the much more slowly increasing supply of hard-to-learn skills may be the major explanation for the stretching of the median/top decile difference. But there is something more than that in the median/top millile difference. The corporate compensation committees which award executive salaries several hundred times the median wage, will claim that this is the price of talent dictated by the market.

But in that market, the going rate, the price tags that all the participants in that market carry, is the cumulative upward-spiralling result of their power to determine their own salary. And they have become increasingly greedy. It is also plausible to assume that their greed has helped to pull the top decile or the top quartile away from the median too. They may not be able to set their own salaries, but comparison with the level just above is a powerful fairness argument they can use when they negotiate. And greed is infectious.

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<sup>12</sup> W. Stevenson, ed.: *Equality and the modern economy: Seminar 1*, London, Smith Institute, 1909, p. 5.

<sup>13</sup> OECD Meeting of Labour and Employment Ministers 29 September 2003.

I shall end this lecture by reverting to the point I made at the end of the first lecture. The effect of increasing technological sophistication on the supply and demand for skills is one thing. The increasing tendency for structural changes to make incomes more directly subject to market forces is a second thing. But the change in morality, ideology, call it what you will, that defines fairness in terms of whatever outcome the market produces is quite another thing and it is the question, primarily, of the evolution of criteria of fairness that will be the subject of the next lecture.



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## The drive for flexibility and the growth of “flexible” staffing arrangements

*Susan N. Houseman*

The expansion of international trade and restructuring of financial markets have put pressure on companies in developed economies to lower costs in order to compete in world product markets and to increase short-term profits to satisfy investors. The consequence for labour markets, Professor Dore argues, has been increased emphasis on “market mobility”, resulting in less attachment between workers and firms, growing inequality, and fundamental changes in the nature of the employment relationship.

Arguably, nowhere is the changing nature of the employment relationship more apparent than in the growth of what has been variously termed “flexible staffing,” “contingent,” or “non-standard” arrangements. The full-time, long-term job has been the norm historically in Japan, the United States, and European countries. Yet, in virtually all of these countries the proportion of workers in part-time, temporary, contract, or other flexible staffing arrangements has increased in recent years, in some countries dramatically so.

In this paper, I examine the concept of flexibility in the context of these arrangements. Specifically, I consider the sense in which such arrangements increase flexibility for workers or firms. While workers

sometimes desire flexible staffing arrangements to accommodate school, family, or other responsibilities, the growth in these arrangements in most countries is largely attributable to employer demand and government policy. Companies may use flexible staffing to relieve a variety of constraints imposed by laws or by industrial relations practices. Thus, differences in the patterns and growth of flexible staffing arrangements across countries may be understood in terms of cross-country differences in these institutions.

Professor Dore links the trend towards labour market flexibility with growing inequality. I conclude with some thoughts on the efficiency and distributional consequences of the increase in flexible staffing.

## Trends in flexible staffing arrangements

Table 1 shows trends in part-time and temporary employment in Japan, the United States, and selected European countries.

Although the levels and trends vary considerably, most countries experienced some growth in the share in one or both of these forms of employment. Especially notable is the growth of part-time employment in France, Germany, the Netherlands, and Japan, and the growth of temporary employment in Spain and France. The share in temporary agencies (not reported in the table) still represents a relatively small fraction of total employment in all countries. Nevertheless, it has grown rapidly in Japan, the United States, and most European countries in recent years.

The importance of the growth in flexible staffing is even more striking when viewed in terms of its contribution to job creation. For instance, 70 per cent of all new jobs in European Union countries were fixed-term contracts in 1997 – up from 50 per cent just five years previously (Fagan and Ward, 2003). The Dutch economy of the 1990s is often admired for its spectacular job growth and decline in unemployment, but most of its net employment growth resulted from the increase in flexible staffing, primarily part-time employment. Similarly, in Japan, part-time work accounted for 77 per cent of the growth in paid employment from 1992 to 1997. In the United States, the growth in temporary employment accounted for 10 per cent of net employment growth in the 1990s.

**Table 1. Trends in non-standard work in the 1990s in Japan, the United States, and selected European countries**

	Total employment (000s)		Part-time <sup>a)</sup> (%)		Temporary <sup>b)</sup> (%)	
	1988	1998	1988	1998	1988	1998
Japan <sup>c)</sup>	60,502	67,003	10.8	15.4	9.1	9.7
United States <sup>d)</sup>	117,342	133,488	18.7 <sup>e)</sup>	17.4	n.a.	3.6
Denmark	2,683	2,679	23.7	22.3	5.6	5.8
Germany	26,999	35,537	13.2	18.3	5.0	5.6
France	21,503	22,469	12.0	17.3	4.6	10.3
Italy	21,085	20,357	5.6	7.4	3.3	4.2
Netherlands	5,903	7,402	30.2	38.7	7.0	11.1
Spain	11,709	13,161	5.4	8.1	15.3	24.3
Sweden	4,375	3,979	27.1	26.3	10.6	13.9
United Kingdom	25,660	26,883	21.9	24.9	5.0	5.8

*Notes:*

<sup>a)</sup> Part-time employment is defined as usual hours of work less than 35 hours per week in the United States. In Japan and European countries, individuals identify themselves as part-time.

<sup>b)</sup> In Japan and European countries, temporary workers are typically defined as those with fixed-term contracts. Japanese data include day labourers. The European data exclude apprentices. In the United States, temporary workers are those with a job that is expected to be of temporary duration.

<sup>c)</sup> Data for Japan are for the years 1987 and 1997.

<sup>d)</sup> Data for the United States are for the years 1989 and 1999.

<sup>e)</sup> Figure adjusted to take into account discontinuity in US data on part-time employment. See Houseman and Osawa (2003) for discussion of this adjustment.

*Source:* Houseman and Osawa (2003), Table 1.1.

## Supply-side considerations: Have flexible staffing arrangements grown because workers want them?

A popular explanation for the growth of part-time and temporary positions is that workers want shorter hours or more flexible schedules. Certainly the growth in labour force participation among women makes this plausible, as they are often obliged to balance work with family responsibilities. Yet this explanation finds limited empirical support. While the dramatic growth of part-time employment in the Netherlands may be partly attributable to the increase in female labour force participation, it also coincided with government policies strongly promoting part-time (and temporary) employment (Gustafsson et al., 2003). None of the increase in part-time or temporary employment in Germany,

Denmark, the United States, or Japan can be attributed to changes in the demographic composition of the workforce (Hoffmann and Walwei, 2003; Houseman and Osawa, 2003). In the United States, in fact, part-time employment among women with children has actually declined and research suggests that temporary employment has not been used by women to balance work and family life (Cassier, 2003). Finally, Nagase (2003) notes that in Japan the number of women desiring part-time employment has increased, owing to the precipitous decline of family and self-employment opportunities there, but argues that because involuntary part-time employment has grown among Japanese women over age 35, their choice of part-time employment is often constrained.

### **The demand side: What advantages do flexible staffing arrangements offer employers?**

Companies use alternative staffing arrangements to increase flexibility – and presumably reduce costs – in a variety of ways. Much of the academic literature has emphasized the use of temporary, part-time, and other staffing arrangements to facilitate the adjustment of employment levels to demand changes. The use of flexible staffing to achieve numerical flexibility is important when companies face constraints on laying off regular, full-time employees. Employers may also use flexible staffing to relieve constraints on dismissing individuals for cause and on setting wage and benefit levels, among other factors. Indeed, these “other factors” have been relatively more important in explaining the recent growth of flexible staffing in many countries.

### **Numerical flexibility**

Under the core-periphery model operating in large and medium-sized Japanese firms, a core set of skilled workers enjoy implied commitments of lifetime employment, commitments that have been reinforced by the evolution of Japanese employment and case law governing dismissals. These regular full-time employees receive significant wage increases with tenure, reducing their incentives to quit. The need to adjust employment levels in response to demand fluctuations has always been recognized and has been accomplished through the adjustment of

workers in small, affiliated firms or through the adjustment of part-time, temporary, and other casual workers, who do not enjoy job security. The growth of part-time employment has been attributed partly to an increase in macroeconomic volatility since the oil price shocks of the 1970s and early 1980s, and the perception that Japanese businesses had to become more flexible.

The development of strong attachments between workers and firms is not unique to Japan. These practices were codified in employment protection laws passed in many European countries in the 1960s and 1970s; such laws were particularly strong in continental countries. What distinguished continental Europe from Japan was the absence in the former of a large flexible or “peripheral” workforce to absorb demand fluctuations. Laws protecting workers from dismissal were accompanied by laws strictly limiting the use of temporary contracts. To some degree this changed in the 1980s and 1990s. Rightly or wrongly, governments – with the support of a large academic community – blamed rising unemployment in Europe during the 1980s and early 1990s on such labour market “rigidities”. The policy response was to relax employment protection laws, or to relax restrictions on the use of temporary agency and fixed-term contracts (which could be used to circumvent dismissal laws), or a combination of the two. Countries with the strongest employment protection laws coupled with the most lenient regulations governing temporary work saw the greatest increase in fixed-term contracts. Most notable is Spain, where temporary contracts account for about 30 per cent of paid employment.

Professor Dore notes that adoption of the core-periphery model in human resources management was never common in the United Kingdom. The same is true of the United States (for evidence see Abraham, 1990). No doubt reflecting human resource practices, employment protection in the United Kingdom is weaker than in most continental countries and such protection is virtually non-existent in the United States. As Robert Hall (1982) carefully documented, long-term attachments between workers and firms have been the norm in the United States. Recent evidence suggests little change in tenure patterns, despite perceptions of a decline in job security (Neumark, 2000). Nevertheless, it is widely accepted that firms will freely lay off workers in the event of an adverse demand shock, and numerous studies of labour market adjustment in response to demand shocks show much more rapid adjustment of employment levels in the United States and the United Kingdom, on



the one hand, than in Japan or many continental European countries, on the other. The regular, full-time “core” job in the former countries comes with considerably less job protection than in the latter countries, and thus employers in the United Kingdom and the United States have little incentive to achieve numerical flexibility through alternative employment arrangements. Recent increases in flexible staffing in these two countries, therefore, cannot be explained by employers’ desire to shield core workers from demand fluctuations.

### **Flexibility to dismiss individuals and the role of screening**

Many US employers use temporary agencies, and European employers use fixed-term contracts and temporary agencies, because they want to screen employees and minimize the need to dismiss them in the future for poor performance. It is important here to appreciate the difference between individual and collective dismissals and related laws, and dismissals for cause vs. dismissals for economic reasons. Employers are concerned not only about adjusting the size of their workforce, but also about weeding out unproductive workers. No country prohibits companies from firing workers for cause. Nevertheless, many European countries require that individual dismissals be justified, placing the burden of proof on employers. In the United States, although employers face minimal restrictions on collective dismissals for economic reasons, they are prohibited from taking into account factors such as race, gender, age, disability, religion, and ethnicity in a dismissal decision. Moreover, state courts in the United States have ruled that individuals have certain rights to their job under implied contract law. Apart from legal impediments, most managers find the task of firing individuals unpleasant and, arguably, they are reluctant to fire workers for all but the most egregious behaviour. If it is costly or otherwise difficult to dismiss poor performers once they are employees, then it is important for managers to screen workers carefully before hiring them. A body of evidence in the United States and Europe suggests that various types of temporary work are extensively used for this purpose (e.g. Carré, 2003; Houseman and Osawa, 2003).

## Wage flexibility

Another important reason why employers use various types of flexible staffing arrangement is to achieve flexibility in the structure of compensation. Japan offers a clear example of this practice. Under the *nenko* wage system prevalent in large and even medium-sized Japanese companies, wages for regular full-time employees increase sharply with age. Economists have argued that under this system of steep wage-tenure profiles, workers are paid wages below their marginal products when they are young and above their marginal products when they are old. Such a wage structure provides a strong incentive for workers to stay with the company, and it has been an integral component of the Japanese system of lifetime employment. This type of wage structure makes sense for employers when they are providing much valuable training to workers and therefore want to retain them when skills are in short supply. It also makes sense when the age structure of the workforce is pyramid-shaped, with large numbers of young workers relative to older workers. These conditions characterized much of post-war Japan.

With the dramatic ageing of Japan's workforce over the last two decades, however, companies have found themselves saddled with large numbers of highly paid but less productive older workers. This demographic development has come at a time when Japanese companies are under greater pressure from international competition and investors to cut costs and increase short-run profitability. One response has been to increase the number of workers in non-standard, especially part-time, arrangements relative to the number in regular full-time positions. Part-time and other “peripheral” workers have never enjoyed implicit lifetime employment guarantees or the associated *nenko* wages. Government tax policies provide strong incentives for workers to accept part-time positions in spite of relatively low wages. Business surveys conducted to discover why companies have dramatically increased their hiring of part-time workers over the last two decades show that lower wage costs have been a driving factor.

In the United States, companies have used temporary agency and contract workers to facilitate the introduction of a two-tier wage structure within certain occupations or to reduce wages. For instance, when companies cannot recruit employees at lower wages, they often fill vacancies for skilled workers with temporary agency or contract workers, who are paid more than employees in comparable positions. Particularly

among low-skilled workers, companies screen weak job candidates through agencies, paying temporary workers less than they would receive as direct hires. Often companies' primary motivation in outsourcing work is to tap the contract company's expertise in a particular functional area. Lower labour costs, however, are also a common motivation. In these circumstances, the company is often transferring work from its own unionized workforce to a non-union contractor.

The use of part-time, temporary, and other flexible staffing arrangements to effect wage differentials among workers is constrained in European Union countries, which have passed laws requiring parity in wages, benefits and rights to representation for workers in part-time and temporary positions. Nevertheless, statistical studies have documented continued disparities between the wages of part-time and temporary workers, on the one hand, and full-time regular employees, on the other. These differentials have been attributed to weak parity laws in countries like the United Kingdom. Another possibility is that wage parity laws can be circumvented by segregating part-time and temporary workers into different occupations from those held by regular full-time employees (Carré, 2003; Gustafsson et al., 2003).

## **Flexibility in benefits and other non-wage labour costs**

Besides achieving wage flexibility, employers may use flexible staffing arrangements to avoid benefit costs or related taxes for certain groups of workers. This use of flexible staffing is heavily influenced by countries' tax laws and benefits regulations. In both Japan and the United States, laws governing benefits often do not apply to those in flexible staffing arrangements. In Japan, employers are not obliged to pay social security, disability, and unemployment insurance taxes for many part-time and temporary workers. Similarly, Japanese employers are not required to provide health insurance to those working fewer than three-fourths of the hours of regular full-time employees.

The US Government does not require that companies provide workers with benefits such as a private pension plan and health insurance, but it does provide substantial tax incentives for employers to provide these benefits. If employers choose to offer their employees these benefits (and they and their employees take advantage of the tax benefits), the

provision of the benefit is subject to regulation. The regulations seek, among other things, to ensure that benefit plans and associated tax breaks give advantages to all employees in the company, not just highly compensated employees. However, many part-time, on-call, and direct-hire temporary employees are not covered by these regulations. Moreover, because independent contractors, contract company workers, and temporary agency workers are not employed by the establishment for which they perform work, they are not covered by a client company's benefit plans. Thus, US regulations provide incentives for companies to use flexible staffing arrangements in order to avoid paying benefits to certain groups of workers.

In many European countries, parity laws limit employers' ability to avoid taxes or benefit costs by hiring workers in part-time, temporary, or other flexible staffing arrangements. Nevertheless, certain groups, such as low-hours part-time workers, are not always covered by such parity laws, and some have argued that recent increases in this type of employment are related to this gap in coverage (Hoffmann and Walwei, 2003).

## Conclusion

Flexible staffing arrangements offer employers flexibility mainly by relaxing constraints associated with laws or industrial relations practices that apply to regular, full-time employees. Thus, the incentives for employers to use flexible staffing arrangements depend on the legal and industrial relations institutions in a given country. For instance, in European countries such as Spain, France, the Netherlands, and Germany, which provide strong job protection to regular employees, the relaxation of restrictions on the use of fixed-term contracts has allowed employers to resort to temporary workers to achieve greater numerical flexibility. The use of fixed-term contracts in these countries has also been an important mechanism for screening candidates for permanent positions; by screening workers more carefully, companies may avoid future costs associated with dismissal. The movement within EU countries to adopt strict wage and benefits parity laws has limited the incentives for employers to hire workers in non-standard arrangements in order to save on costs.

In Japan, employers have traditionally used flexible staffing to achieve numerical flexibility. However, the desire to reduce wages and benefits is probably a more important reason for the recent upsurge of

part-time employment there. Faced with an ageing workforce and a wage-tenure system that offers high wages for older, regular full-time workers, employers had incentives to increase the proportion of workers in arrangements not covered by the *nenko* system or regulations requiring benefits.

Because US employers have always been able to lay off regular, full-time employees quite easily, flexible staffing arrangements have never been an important way to achieve numerical flexibility in that country. Instead, the use of various types of temporary, part-time, and contract work has been driven by other factors, such as the desire to screen workers for regular full-time jobs, or to save on wage and benefits costs.

Thus, employers in different countries have increasingly used labour in part-time, temporary, or contract arrangements to increase flexibility – and lower labour costs – across a number of dimensions. What is the effect of this cost reduction on economic efficiency and on the distribution of income in society? To what extent have the cost savings improved company competitiveness, increased output, and lowered unemployment? Or, as Professor Dore suggests, have the labour cost savings translated into lower income for workers and higher income for managers and shareholders?

Certainly the premise of the spate of labour market reform in EU countries since the 1980s was that relaxing the laws on dismissal and cutting the restrictions on temporary work would cause unemployment to fall. Similarly, policies adopted in Japan and in the Netherlands and France to make part-time employment more attractive to both workers and companies were intended to stimulate employment growth. Although it is empirically difficult to attribute employment growth to these policy changes, they probably had some positive effect on growth. In the United States, the growth of the temporary help industry has been credited, in part, with the prosperous economy of the 1990s, marked by very low wage growth and high job growth (Katz and Krueger, 1999; Houseman et al., 2003).

The view that flexible staffing arrangements have helped expand employment and alleviate long-term unemployment is true to some extent, but the opposing perspective also has validity. No doubt the proliferation of various types of flexible staffing arrangement makes it more difficult for workers to organize, thereby fragmenting labour, and reducing its overall bargaining power.

The tension between these opposing perspectives underscores the problem of treating labour as a monolithic unit with a unified set of interests. The academic literature on Europe, for instance, often classifies workers into two groups: 1) insiders – the employed, and 2) outsiders – the long-term unemployed. To varying degrees, long-term unemployment is a problem in virtually all countries and it disproportionately affects low-skilled groups, youth, and minority populations. To the extent that the expansion of temporary, part-time, contract, and other flexible staffing arrangements has increased employment, the least advantaged populations are likely to have benefited. At the same time, by expanding the available supply of potential labour and weakening organized labour, the growth of flexible staffing arrangements has probably lowered income and working conditions for other workers. Those at the very top – managers and shareholders – and those at the very bottom – the least-skilled, least employable workers – win, and those in the middle lose.

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## Deregulation and labour law

*François Gaudu*

France has reduced the working week to 35 hours and may seem to defy any rational analysis but, in fact, the trends are basically the same as in the rest of the world. Both types of flexibility – internal and external – are increasing, and priorities are shifting, for managers and for government as well. The main trends are towards the end of jobs for life and growing inequalities.

The same shifts are occurring in the United Kingdom and on the continent. “Counter the restrictive practices of craft unions” would have been meaningless in France, because there were no strong craft unions, nor restrictive practices. In a certain sense, the United Kingdom (with its “abstention of the law” and very strong unions) and France (with its weak unions and statutory protection for workers) are the two opposite extremes in the developed world. But a complicated statutory law is very difficult to enforce, when so many workers are demanding jobs and prefer to accept an unlawful atypical contract rather than fight for their rights. The French experience of inefficient labour law is the reverse of the American and British experience: in these countries, strong governments broke the strength of the unions 20 years ago, and then they dismantled the body of law. In France, statutory law is not enforced through strong unions, and it is almost useless.



This is not to say that there is no deregulation at all: there have been some moderate measures, which have nevertheless made it easier for employers to introduce both atypical work and changes in work conditions. Year after year, derogations accumulate. The proliferation of regulations can be a form of flexibility, as shown by recent English history. The Employment Acts of 1980 and 1982, the Trades Union Act of 1984 – were needed to restrain the immunities granted in 1906, and to break the power of the unions.

The nature of the trends is certain. But it may be necessary to underline the diversity of situations and to analyse the changes which affect the specific meaning of flexibility.

## Diversity of situations

I would first point out the coexistence of several policies in an increasingly complex economy. The majority of workers are still employed on open-ended contracts in France (L'Horty, 2003), which means that it is not easy for employers to dismiss them. Nevertheless, these workers certainly feel less secure than their predecessors, and they are right to do so, because of the frequency of redundancy procedures, and because many are now employed by subcontracting companies, whose situation is unpredictable. However, in certain industrial sectors, company behaviour has not changed very much. Some firms lack trained manpower, and competition through innovation provides new arguments in favour of a stable individual labour contract (Eyherabide et al., 2003). Thus, the changes are not uniform. In certain activities, Fordism is new.

Furthermore, the trend towards flexibility has different effects on different age groups. In this area, national data differ significantly. The numbers of unemployed youth and unemployed older workers (over 50) are the result of collective choices, and the French choice – the vast majority of workers between 30 and 55 having a “normal” open-ended, full-time contract, a high rate of youth unemployment and an incredibly low rate of activity after 55 – is presumably not the best one (Guillemard).

The bad situation in the labour market can discourage a new generation of workers. Catching up is difficult after the age of 30, and being 18 years old in 1965 or in 1985 didn't give the same opportunities for social promotion (Chauvel, 2002).

## Changes affecting flexibility

Professor Dore's remarks concerning inequality certainly apply to France. However, the working poor are generally part-time workers or self-employed, because employers must pay a minimum hourly wage defined by statutory law. France is obviously not the only country with a statutory minimum wage; after long stagnation, the American minimum wage was increased during the Clinton presidency, and Tony Blair has introduced a minimum wage in the United Kingdom. In addition, several countries grant a minimum welfare income to all citizens and even to foreign residents (which is the case in France.) Long-term unemployment creates a sub-class of people receiving public assistance (Laurent and L'Horty, 2002). Is the situation of this sub-class worse than the situation of the unemployed during the economic crisis of the 1930s? This is questionable. But it is certain that inequality between the lower middle-class (craft workers, office workers – the former unionized class) and top managers has never been greater. Relatively speaking, in countries with a minimum welfare income, the difference between real workers and the subsidized poor is felt to be unfair when the income level is similar.

## New needs for manpower give rise to new issues

In Europe, the baby-boom generation is beginning to retire. The birth rate is low – very low in certain rich areas of Spain, Italy, Germany and Russia. In a certain sense, this is good news: maybe the unemployment rate will finally decrease. But new needs for manpower concern mainly; (i) highly skilled; and (ii) unskilled workers. There is less need for the medium category than there was in the past.

Thus, managers begin to demand a re-opening of immigration. Of course, highly qualified immigration is not a problem – in fact, it has never completely ceased. Re-opening immigration for unskilled workers is another matter. Apart from the question of the social integration of unskilled immigrants and their descendants, we have to ask whether this response is justified when older workers (aged 50 to 60) are often unemployed, and when they need to work longer to obtain a fair retirement pension. Is it sustainable when numerous unqualified young people are unemployed and jobless people are receiving public assistance? Many managers certainly prefer immigration – it is easier to teach French to an

immigrant willing to work, than to “teach work” to an uneducated urban young man (suburban, in France, as a matter of fact). Further, the re-employment of older people, youth and excluded groups needs time and reforms – vocational training, better working conditions which are bearable for older people, new career patterns to make a certain loss of status socially acceptable: the reverse of flexibility. Both software engineers and office cleaners are needed. But to obtain them, several paths are open: one is the path of the market, which is conducive to re-opening immigration; another is the path of citizenship, which is conducive to putting the unemployed section of the national workforce back to work first. This includes many foreign residents.

The remarks above do not detract from the great pertinence of Professor Dore’s synthesis. Even in the country of the 35-hour week, the trends which he noted can be confirmed. However, here as elsewhere, those trends provoke reactions which I would like to talk about.

## Converging trends: Work intensification

Some developed countries had begun to believe that the issue of health at work was almost resolved, but the problem has returned. Some aspects of the problem, such as new chemical risks, are not related to work intensification, but many are. Occupational health experts see a clear link between labour flexibility and the new work-related diseases – some of a physical nature like RSI (repetitive strain injuries), some of a psychological nature. Atypical work, communications technology (beeper, portable phone, PC, Internet...) and irregular hours are all frequently mentioned. The invasion of personal life by work is also a factor. France has no *karochoi*, but despite the legal reduction of working time, France shares the other phenomena with other developed countries. Two important topics are growing internal flexibility, and the end of jobs for life.

## Growing internal flexibility

How does internal flexibility function with a short working week? Flexibility in the work schedule is one explanation, flexibility in the individual labour contract is another.

## Flexibility in the work schedule

Recently, the new French government has reformed the “35 hour” Act, making the law more manager friendly.<sup>1</sup> Professor Dore also mentions the planned suppression of a national holiday to gain money for persons in a state of dependency (old and handicapped). Oddly, French companies whose managers have strongly criticized the “35 hour” Acts<sup>2</sup> are not rushing to use the new opportunities. One reason is the bad economic conjuncture: longer hours of work are not helpful at present. Another reason is that companies obtained great flexibility in work schedules when the 35-hour week was negotiated. The “35 hour” Acts reduced the weekly hours but, except for the low paid, they did not maintain the monthly level of wages. Unions, of course, seek to preserve workers’ income. To do this, they must give something up.

Theoretically, French law defines the work schedule very precisely. But this regulation can be replaced by collectively bargained rules – for example, collective bargaining can define a yearly duration of work (1600 hours), which is much more flexible than the legal weekly schedule. Agreements must include a weekly schedule, but the employer can modify this schedule at 7 days’ notice. In practice, these agreements allow employers to modify the collective schedule at will. An individual and annual work schedule is even possible.

Between 1998 and 2002, most of the bargained collective agreements included both a reduction of working hours without loss of monthly wages, and annualization of the schedule. Thus, the “35 hour” Acts forced a compromise, employers giving up on wages, unions giving up on flexibility.<sup>3</sup>

The employer, therefore schedules the working time – and considering the evolution of technology, the power to determine the schedule is of great relevance. To ask the worker to come to work when needed – “on call” – is much more useful than to insist on long hours. Who needs maintenance staff when the machine is working?

Everybody knows that the government of the “35 hours” lost the 2002 election, the majority of the working class choosing other candi-

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<sup>1</sup> Act of 17 January 2003.

<sup>2</sup> Acts of 1998 and 2000.

<sup>3</sup> And Government subsidizing the increased costs for employers.

dates or not voting at all. Maybe Italian and Northern European unions were clever enough to refuse the “35 hours”. One thing is certain: the 35-hour week is fully compatible with flexibility.

### **Flexibility in the individual labour contract**

Another 15-year trend is the renewal of the individual labour contract. French law permits employers to insert clauses in the labour contract allowing for changes in working conditions: mobility clauses, and the obligation to perform various duties. Furthermore, the law makes it reasonably easy to modify the individual labour contracts of all a company's workers: the employers must propose the modification to each individual worker, and their silence (during one month) means consent. Of course, it is possible to refuse, but only at the risk of dismissal.

### **End of the job for life: Atypical work**

Deregulation was limited in France – recourse to temporary work, or to fixed-term and part-time contracts became easier between 1972 and 1982, as in Spain in 1984 or in Germany in 1985. However, this happened only in a very cautious way. To tranquilize public opinion and the unions, at the very moment when atypical work was made more flexible by statutory law, the same law accorded the open-ended full-time contract the status of normal employment.

Nevertheless, the growth of atypical work is noticeable. For many young people, atypical work is frequently used as a substitute for a very long trial period. The regulation of atypical work, even if theoretically protective, is useless when the level of unionization is too low. A lot of atypical work in France breaks the law, but few workers complain because they are hoping for a better contract. However, it seems that the proportion of atypical work is fairly stable, perhaps because the law on dismissal is not very efficient.

### **The law on dismissal**

If the labour contract has no fixed term, the employer can dismiss the worker. But notice must be given and severance pay must be provided, at a level which depends on the worker's seniority. Furthermore, the reason for dismissal must be “real and serious”. Each dismissal is sub-

ject to a specific procedure; if the suppression of more than 10 jobs in a month is foreseen, the employer must consult the works council, and indemnify or re-establish the workers whose jobs have disappeared.

These procedures certainly cost money, but they do not make dismissal impossible. According to French companies, it is still easier to dismiss in France than in Germany or in Northern Europe but much more complicated than in the United Kingdom. Since 1974 companies have learned to use the law on dismissal.

Besides this, economic decisions, which depend solely on the employer, make the redundancy procedure inevitable, with no efficient recourse for workers. Plant relocation to low-wage countries is almost impossible to prevent. Outsourcing or subcontracting allows the big companies to avoid hiring directly, and thus to avoid the law on dismissal. When subcontractors lose a contract, they can claim the loss is a “real and serious” reason to dismiss.

As a result, even if no real deregulation occurs – which is the case in France or Germany, European workers can’t be sure that their career will not be interrupted by dismissal. Entering on a career is difficult with atypical work; exiting may be worse: pre-retirement is not for everybody and it is not uncommon for people to finish their working life without a job. This has led to various reactions.

## The reactions

When workers feel that employer decisions are unfair and there is no appropriate means of defence, one response is to use “victims’ weapons”. A more constructive approach is to outline new career patterns: “flexicurity”, transitional markets or occupational social security. We will examine these two types of reaction below.

### Workers as victims

In an Act of 17 January 2002, France introduced the statutory regulation of “moral harassment”. According to French lawyers, this new law has produced a sort of eruption. Before 2002, the issue of harassment was discussed, but not very much and rarely in Court. Since 2002, almost all dismissal cases (and many others) have become harassment cases.

Obviously, this has a lot to do with growing flexibility and work intensification. But American colleagues admit that in many cases, workers use discrimination to contest unfair dismissal. Workers don't really believe they were dismissed because they were fat, or Mexican, black or old... But the law doesn't offer appropriate remedies, especially in non-unionized companies. So workers claim to be the victims of discrimination.

In the United States, such a development can be explained by the legal theory of "employment at will", which leaves the workers unprotected. The multiplication of remedies based on discrimination is not a sign of healthy labour law. However, it must be noted that the American phenomenon has now extended to the European Union. Labour law used to be called "class struggle law". "Victims' law" has supplanted class struggle law.

This is not to say that EC/EU regulations to combat discrimination are not both morally and economically useful. French regulations were outrageously ineffective 30 years ago. The development of EC/EU law certainly determined important changes in national law and in the effectiveness of the law (concerning equality between sexes, especially). Furthermore, from an economic point of view, it was not possible to create a unified European labour market without trying to harmonize the situation of men and women in each country.<sup>4</sup>

But the reason for the American inflation of claims artificially based on discrimination – lack of dismissal regulation – does not apply in the majority of European states, and especially not in France. What, then, explains the success of moral harassment? I would propose the following hypothesis: actions based on discrimination or harassment seem to have a greater legitimacy than claims under ordinary labour law, because they are based on the principle of a fair market between equal contractors. Equality between contractors is the soul of the market. In a fair market (even in the Stock Exchange), discrimination is prohibited,<sup>5</sup> in the same way as intimidation or violence is prohibited. If workers plead harassment, even when labour law recourses exist, it may be because the ideology of the fair market – which allows reparation to victims of torts – seems more reliable than the principles of labour law, which used to impose obligations on employers whether they were "guilty" or not.

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<sup>4</sup> Almost all strong EC/EU regulations are related to the need for market unification.

<sup>5</sup> It is obviously prohibited to boycott a company because of the race or nationality of the shareholders.



## The lawyer and the shop steward

Portraying the worker as a victim amounts to a redistribution of roles in the social struggle. Under the old labour law, the shop steward was the important figure. When the draft of the new French law on moral harassment was discussed, certain unions hesitated. Union lawyers strongly supported the new regulation – which makes the lawyer the central figure. For lack of any alternative strategy, French unions finally supported the reform.

It is perhaps not only unions who have used this type of regulation to camouflage their impotence: each time a government lacks ideas and wants to promise something without changing too much, it will announce new measures concerning discrimination or harassment (this applies to the EU as well). If minimum wages cannot be ensured, and if the harmonization of dismissal regulations is impossible, if preventing plants from closing down is difficult, at least, we have done something...

Substitute claims for workers, and substitute regulations for the public authorities: that is the first type of reaction to growing flexibility and inequality. Building new career patterns is another type of response, under regular labour law.

## New career patterns

It is obvious that many changes in company behaviour are genuine, and that a real “come-back” of traditional labour law is not possible. Besides the emphasis on market mobility, significant modifications have been made in productive organizations during the two last decades. For example, after first imitating the Japanese style of subcontracting, certain French companies have elaborated a new model of partnership, which is economically more efficient.

We have to explore alternative ways. One of these was proposed by the 1999 Supiot report, entitled *Beyond employment*, which was prepared for the EC Commission.<sup>6</sup> According to this report: professional status must be redefined, in such a way that it guarantees the continuity of professional trajectories more than the stability of a sole contract. It matters

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<sup>6</sup> Directed by Professor Alain Supiot (Nantes University), this report was written by a group of nine scholars – lawyers and economists from different countries.



first to protect the worker during the transition period between jobs... What is at stake is nothing less than to give up the model of the linear professional career. Career interruptions and changes of activity must be integrated as normal events of the professional status.

Certain changes have already occurred within the perspectives of the Supiot report. I would like to give few concrete examples of the French situation.

- *Individual right to vocational training for workers.* Workers with sufficient seniority can decide to suspend execution of the labour contract, in order to study. Workers are paid during their study period. The allowance comes from a special fund, managed jointly by unions and company organizations. This fund is fed by a tax paid by all employers as a proportion of their wage bill. Thus, workers can upgrade their skills without resigning or losing income. A nationwide collective agreement of 20 September 2003 improved on this regulation, creating a new individual right to vocational training, which depends on seniority, and which can be transferred from one company to another when the worker is dismissed and finds a new job.
- *Keeping a labour contract during a transition period.* Since 1984, the law allows workers to take leave to try to create their own business. They can do this without resigning their labour contract. A law of 1 August 2003 stipulated that a new “contract for supporting a business project” may be concluded between a company and a new entrepreneur. Various rights usually reserved for workers, such as social security and unemployment insurance, are granted in the framework of this contract, whose duration is between 12 and 36 months.
- For the same purpose, many small reforms facilitate *the coordination of several simultaneous activities* (such as two part-time contracts) *or of several successive activities*. For example, an Act of 18 January 2002 made it possible for workers with a fixed-term contract to resign at very short notice, if they are offered an open-ended contract in another company.
- *Financing the transition* is made possible by several mechanisms. For example, in certain companies, collective bargaining creates accounts in which workers can “store” the right to a later income (non-used holidays, increased allowance for extra hours...) When

the workers wish to do so, they can “draw” on the account. This is an alternative to insurance, which is less passive and which gives workers a (limited) means of career planning.

To offer a real alternative to simple flexibility and to grant a new professional identity to workers with interrupted careers, all these small measures need a global vision. Presenting alternatives to flexibility, Jérôme Gautié (forthcoming), distinguishes two directions for change: the first “asset-based welfare”, accepts that the internal labour market should be replaced by an external labour market. Nevertheless, the State must help individuals to build their skills (professional capital). Through improving employability and financing vocational training, the State realizes some redistribution efforts. But finally, the labour contract<sup>7</sup> and the individual acting on the market are the horizon. The second way is to try to replace the internal market by “transitional markets”. Instead of leaving the professional worker alone in the market, the new welfare should try to regulate the transition – through collective bargaining or statutory laws, whereby the employer retains some responsibilities. If the German sociologist Gunther Schmid or the “Supiot report” have theorized this way, Scandinavian countries, especially Denmark, are believed to have experienced it. Claiming occupational social security, the main French union (CGT) have adopted this as a new strategy.

“Asset-based” or “citizen-based” reorganization of the labour market? Certainly, the consequences of growing flexibility continue to cause surprise and to stimulate.

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<sup>7</sup> For example, the “Jobseeker’s Agreement” of English workfare.

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# Taking gender seriously: The feminization of non-standard work in the Republic of Korea and in Japan

Johee Lee

## Introduction

In an influential book called *Taking Japan seriously*, Professor Dore found that Japanese industrial organizations were able to drive an improvement in productive efficiency from internal, or functional flexibility, forgoing the flexibility of hiring and firing, i.e. external numerical flexibility. This puzzled him, making him ask the following question later, “Is the trade-off the same everywhere or is it to do with Japanese cultural and ethical traditions?”

In fact, Japan did not sacrifice external flexibility, or more accurately, the external flexibility of the whole labour force. Japanese firms have internal labour markets which can provide lifetime employment and extensive seniority pay, but only large enterprises can afford such costly mechanisms. Lifetime employment in larger enterprises also depends on the existence of part-time and temporary workers, and on those employed by subcontracting small or medium-sized firms. These workers, who are either forbidden to join a union at all, or who have very limited opportunities to establish unions in their firms, are always vulnerable to discharge, while the workers hired by large firms enjoy relatively safe employment, high wages, and enterprise-provided welfare.

The same applies to the Republic of Korea. Nowadays, it is quite common for a firm to try to achieve both internal and external flexibility, to pursue both allocative and productive efficiency. The Korea Labour Institute (KLI) 2002 national establishments survey (2,392 cases) shows that firms maximizing internal or functional flexibility tend to employ more workers in non-standard arrangements (Lee and Lee, 2003). Examining recent changes in the US telecommunications industry, du Rivage (2000) also reports that, since the break-up of AT&T, the industry has been characterized by an employment structure where an ageing core of workers is surrounded by a ring of non-union, often temporary or contract workers.

Unlike research on non-standard forms of employment that tends to focus on individuals or industries, such studies of how and why firms use flexible employment arrangements enable us to investigate the multiple reasons why atypical employment is becoming more common. The same survey by the KLI found that firms with confrontational labour relations, and unionized firms tend to hire more workers in non-standard arrangements.<sup>1</sup> Based on a 1997 national survey of about 1,000 establishments, Kalleberg and Reynolds (2000) confirmed that larger firms are more likely to employ temporary workers as a way of avoiding the negative consequences of size, such as bureaucratization and unionization.

Despite the growing scholarly attention to various dimensions of increasing atypical employment arrangements, the gendered nature of the process has not been clearly analysed. The academic study of industrial relations exists in a genderless universe (Pocock, 1997). Mainstream industrial relations has never systematically analysed the costs of male unionism for women workers since the discipline was blind to the workplace struggle between employees and employers in the context of gender politics. This certainly made a lot of industrial relations research inaccurate and incomplete. Feminism has long argued for the need to acknowledge the link between paid and unpaid work, the private and the public, the domestic sphere and the paid workplace (Pocock, 2000). The new style of work organization adopted in the face of intensifying global competition has come to depend more and more on the cheap, productive, and flexible labour supplied by women workers (Carnoy, 1999). Therefore, whether labour can successfully defend itself against the damaging

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<sup>1</sup> The survey suggests that, at least in the Republic of Korea, managers are not only interested in maximizing flexibility in order to survive intense global competition. They are also interested in avoiding trade unions.

effects of increasing flexibility is critically determined by its ability to protect and empower this particular demographic group in the labour market.

This paper analyses the nature and challenges of growing non-standard employment through the lens of gender. A disproportionately large number of women workers are employed in unprotected non-regular jobs in the Republic of Korea and in Japan, while their male counterparts hold relatively secure and high-wage regular jobs. The two countries also share similar trade union movements exclusively organized at the enterprise level, and a decentralized collective bargaining structure. Some thorough analytical studies have been carried out on non-standard employment arrangements in both countries (Jung, 2000; Yun, 2002; Houseman and Osawa, 2003; Sato, 1998) but no comparative research on this topic has been undertaken from the standpoint of industrial relations and gender politics. The next section of this paper develops an analytical framework through which national differences in the gendered nature of non-standard work can be investigated. This is followed by more detailed case studies of Japan and the Republic of Korea. The paper concludes with practical suggestions for a new employment relationship, which must accompany the passing of the male breadwinner model.

## **Explaining variations in non-standard work: A gender perspective**

National patterns of non-standard employment, including the relative use of different forms of flexible contract, vary greatly from country to country. In Spain, for example, there has been a sharp increase in temporary employment so that one out of every three jobs is temporary; the proportion is one in 20 in Luxembourg, Slovakia and the United States (OECD, 2002). Elsewhere, as in Germany, part-time employment has increased rapidly, and in the Netherlands, a disproportionately large number of workers are employed part-time. But women have been particularly subject to the casualization of work, and they are over-represented among temporary and part-time workers.

The Republic of Korea and Japan stand out among OECD countries as having the widest gender gaps in employment as shown in table 1. Despite high GDP per capita and high levels of education, women's labour force participation and gender earning ratios are among the

Table 1. Women's employment indicators, Republic of Korea and Japan

	Republic of Korea	Japan	OECD average
<i>Women's employment rates<sup>1)</sup></i>			
(Total)	56.3	62.7	69.0
Gender gap <sup>2)</sup>	31.8	31.6	18.6
<i>Women's employment rates</i>			
(University/tertiary education)	55.0	62.7	82.1
Gender gap	34.9	33.5	11.2
Gender wage ratio	63 <sup>3)</sup> (2001)	65 <sup>4)</sup> (2001)	84 <sup>5)</sup> (1998)
<b>Temporary work<sup>6)</sup></b>			
Female	57.8	20.9	15.2
Male	42.4	6.8	12.9
(Total)	48.8	12.5	13.9
<b>Part-time work Female</b>			
Male	5.2	11.8	7.6
(Total)	7.1	23.1	15.3
<b>Unpaid family work<sup>7)</sup></b>			
Female	19.3	10.6	6.3
Male	2.0	1.7	2.0
(Total)	9.1	5.3	3.1
<b>Unemployment rates</b>			
Female	3.4	4.7	7.8
Male	4.8	5.1	5.8
(Total)	4.2	5.0	6.3

*Notes and Sources:*

<sup>1)</sup> Women's employment rates, total and university/tertiary education: OECD economic outlook, 2001.

<sup>2)</sup> Percentage point difference between the employment rates for men and for women.

<sup>3)</sup> Gender wage ratio, Republic of Korea, Statistics on wage structure, Ministry of Labour, 2002.

<sup>4)</sup> Gender wage ratio, Japan, Wage indicators General Labour Research Institute, 2002.

<sup>5)</sup> Gender wage ratio, OECD average, OECD economic outlook, 2001.

<sup>6)</sup> Temporary work, part-time work, unemployment rates, OECD economic outlook, 2002, except for temporary work data in Republic of Korea, which come from Additional census on economically active population, National Statistics Office, Republic of Korea, 2003.

<sup>7)</sup> Unpaid family work, OECD, Labour Force Statistics-Indicators.

lowest. The two countries also have in common the fact that the employment rates for women with college degrees are lower than those for less educated women. In all other OECD countries employment rates are generally much higher and the gender gap smaller among women with college degrees than among less qualified women (OECD, 2002).

Not surprisingly, these two countries also share very high rates of female workers in non-standard employment arrangements, compared to the OECD average. This is partly because the tradition of lifetime employment makes it difficult for women to re-enter the labour force if they stop work when they have children. As a result, these women workers usually experience severe career interruption during their childrearing years,<sup>2</sup> which marginalizes them into non-standard forms of employment. Almost 70 per cent of Korean women workers and over 60 per cent of Japanese women workers were either temporary or part-time workers in 2002. Indeed these women workers hold “permanent temporary status”.

National culture and social norms typically explained the low employment status of women in the Republic of Korea and Japan. Married women were under pressure not to work; this led to lower fertility rates, as working women postponed marriage and children. At the same time, women bore most of the non-market work, notably domestic responsibilities and childrearing. However, the social norms that prevent women from working have long existed in other countries as well. The corporatist welfare states in Europe restricted women's role to the domestic sphere, reinforcing the male breadwinner model. For example, in the Netherlands, mothers with children are expected to stay at home, and they rarely work full-time. The lack of childcare also forces Dutch mothers either to take part-time jobs or to remain childless.<sup>3</sup> The traditional gender pattern is very strong, with women constituting the majority of part-time wage earners. The proportion of Dutch women in part-time and temporary employment arrangements is over 70 per cent, which is even higher than that of Korean women.

A deeper comparison between these countries, however, reveals surprisingly different patterns. On the part of both men and women in the Netherlands there is a stronger preference for part-time work than in

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<sup>2</sup> This is known as the M-shaped pattern of female labour force participation.

<sup>3</sup> In 1996 the Dutch welfare state ranked lower than most European welfare states in its provisions and services for young families (Rasmussen et al., 2003).



other countries. Although it is still mainly women who hold part-time jobs, 18 per cent of employed males worked part-time in 1998, compared with 6 per cent in the 15 EU countries. Even more significant is the fact that while part-time employment has rapidly increased, the average hours of work of full-time workers have decreased (Berg et al., 2003). As a result, the distinction between full-time and part-time jobs is becoming blurred, with working time now the only significant difference. The reduction of men's working time is supposed to change the family division of labour and women's labour market participation (Bosch, 2003). In the Netherlands, fathers of young children are entitled to reduced hours, and 13 per cent of fathers switched temporarily to a 4-day week in 1994 (OECD, 2001). In sum, despite a clearly gendered pattern of part-time employment in the Netherlands, the gender gap in employment status is narrowing.

Two interrelated factors helped the Netherlands to bring about such changes in employment relations. First, the Dutch government passed several influential laws that regulated and protected part-time work, and improved the flexibility of full-time jobs. Even before the 1997 EU Directive on part-time work set a standard of equal treatment for full- and part-time workers, the Equal Treatment Act of 1993 firmly established the concept. As a rule, part-time workers pay *pro rata* social insurance contributions in exchange for *pro rata* entitlements. In addition, with the Adjustment of Hours Act, which took effect in July 2000, full-time workers also have a conditional right to increase or reduce their working hours. Furthermore, tax reforms now provide greater incentives for the partners of employed people to work. Individualized pension entitlements unrelated to earnings and based on citizenship rather than employment have also contributed to the normalization of part-time work (Rasmussen et al., 2003; Berg et al., 2003).

It was, however, flexible multi-level governance in national industrial relations systems and a coordinated bargaining structure that actually promoted the legislative changes and made them function at workplace level. The Equal Treatment Act of 1993 simply reflected many collective bargaining agreements which guaranteed that part-time workers would be treated the same as full-timers. The main union confederation, FNV was very active in advocating the right to work part-time for both men and women and in promoting equal rights for part-time and full-time workers in the 1990s. The presence of works councils at enterprise level has also helped both labour and management to negotiate and

fine-tune flexible working time arrangements. Above all, the beginning of the “Dutch miracle” itself owed a lot to the national compromise of 1982, known as the Agreement of Wassenaar, in which the trade unions promised to forgo wage increases in exchange for working time reduction. Since then, the Netherlands has been known for its successful combination of flexibility and security, i.e., “flexicurity”.<sup>4</sup>

Changes in employment arrangements have occurred at a time when collective bargaining in many countries has been under threat from state- or employer-driven decentralization and the individualization of employment relations. However, as Iversen and Pontusson (2000) pointed out in their study of comparative political economy, *common trends* and cross-national *convergence* should be distinguished for analytical reasons. Globalization, decentralization, and pressures for increased flexibility are common trends that almost all the advanced industrial countries are now confronting, but these countries are certainly not becoming more alike. In the Anglo-Saxon countries such trends have weakened the position of trade unions and deregulated labour markets. In other countries, organized decentralization has had different outcomes. Coordinated sectoral bargaining, which Traxler (1995) described as organized decentralization, continued to regulate labour markets and employment systems in several European countries. Countries with a certain degree of coordination in their bargaining structures, such as the Netherlands, tend to achieve more favourable social welfare outcomes along with economic growth than countries without such coordination (Lee et al., 2003). Unfortunately, neither the Republic of Korea nor Japan possessed such an institutional infrastructure for collective bargaining; further, they did not have a trade union movement capable of building the institutions.

## Women part-timers in Japan: Are they really “happy”?

In Japan, non-standard forms of employment mostly refer to part-time work, as dispatched or temporary employment are relatively

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<sup>4</sup> It is defined as “a policy strategy that attempts synchronically and in a deliberate way, to enhance the flexibility of labour markets, the work organization and labour relations on the one hand, and to enhance the security – employment security and social security – notably for weak groups inside and outside the labour market on the other hand” (Wilthagen et al., 2003).

insignificant. During the decade 1990 to 2000, part-time employment in Japan increased by almost 50 per cent, while the ratio of women among all part-time workers rose from 69.4 per cent to 71.6 per cent, and that of women part-time workers among total female employees rose from 27.9 per cent to 36.1 per cent (Yuki and Yamada, 2003). In some countries the practical distinction between full-time and part-time work has less to do with hours worked than with status and working conditions, and Japan is a case in point. A large number of part-timers in Japan have the same working hours as full-timers. Although during the same period the proportion of male regular workers fell from 91.3 per cent to 88.3 per cent, male non-regular workers are mostly young and unmarried students who do not look for regular jobs.

A popular explanation for the feminization of part-time work in Japan is that women *want* the convenience and shorter hours because they have to balance work with family responsibilities. However, much evidence suggests that these supply-side considerations are insufficient to account for the increasing feminization of non-standard work in Japan. Ueno (1994) argues that demand-side changes in the industrial structure, the move from heavy to information-based industries, and a national policy unwilling to admit immigrant workers, all created a labour shortage; Japanese women filled the gap as insecure underpaid part-timers. A survey by the Japan Labour Research Organization in 1998 reports that 57.1 per cent of female university graduates preferred to work continuously, without interruption, while only 28.7 per cent wanted to leave work when they married or had children (Women's Online Media Homepage, 2001).

A more direct and plausible explanation comes from the fact that, in Japan, employers are constrained by a core set of ageing workers who receive significant wage increases with tenure. The employers need some flexibility to adjust employment levels and this has been accomplished by adjusting the number of part-time, temporary, and other casual workers who do not enjoy the lifetime employment commitment of the firm (Houseman, 2003). In addition, the taxation system sets the limit for income tax exemption at 1.03 million yen, which is also the maximum deduction on a husband's income, thereby forcing women part-timers to adjust their working hours so that they do not exceed that amount. Women part-timers with an annual income of 1.3 million yen or less are exempt from social insurance premiums, while their social security entitlements derive from their husbands' regular jobs. Such incentives offered

by tax and social security systems for part-time workers effectively prevent Japanese women from engaging in full-time careers.<sup>5</sup>

It is also frequently pointed out that the gender gap in employment status does not necessarily mean that these women workers are excluded from social protection. The issue of exclusion needs a careful exploration of the distribution and mobility of individuals and households across marginalized and core sectors. If non-regular workers are tied to core workers by kinship relations, and/or there is high mobility between these two sectors, it can be assumed that non-regular workers are also part of the compromise by means of their life course trajectory and/or household formation. This is especially true of Japanese women workers, since most women live in households with male workers. Jung (2002) argued similarly, adding that the social insurance coverage of Japanese workers in non-standard arrangements is higher than that of Korean workers in the same situation.

Table 2. Gender wage ratios in Japan and the Republic of Korea, by sex and employment status

	Japan	Republic of Korea
Male	100	100
Female	52 <sup>1)</sup>	62
Regular	100	100
Non-regular	45	49
Regular male	100	100
Non-regular male	61	52
Regular female	66	72
Non-regular female	32	38

*Note:*

<sup>1)</sup> This gender wage ratio is smaller than the ratio reported in table 1, as the calculation is based on a different survey result.

*Source:*

Japan: *Survey report on diverging employment status and working conditions* Ministry of Labour, Labour Policy Research Bureau, 1999. Republic of Korea: *Additional census on economically active population*, National Statistics Office, Korea, 2003.

<sup>5</sup> The Japanese Government is planning to revise the public pension system in 2004, and part-time workers with an annual income of 650,000 yen or higher will be required to subscribe to the employee's pension plan (Women's Online Media Homepage, 2001).

**Table 3. Coverage of social insurance and severance pay in Japan and Republic of Korea, by sex and employment status (per cent)**

<b>Japan</b>		National pension	Medical insurance	Employment insurance	Severance pay	Company pension
All	Male	–	–	–	82.4	53.3
	Female	–	–	–	49.4	25.5
Regular	Male	–	–	–	92.1	59.6
	Female	–	–	–	86.7	45.9
Non-regular	Male	41.4	44.4	45.9	25.4	15.9
	Female	36.8	38.6	51.8	12.3	5.3
<b>Republic of Korea</b>		National pension	Medical insurance	Employment insurance	Severance pay	Company pension
All	Male	66.6	68.6	57.1	62.8	–
	Female	45.1	46.2	39.6	38.9	–
Regular	Male	96.9	97.9	80.0	99.0	–
	Female	95.6	96.9	78.0	98.0	–
Non-regular	Male	30.0	33.3	29.4	18.5	–
	Female	23.0	24.8	22.7	10.5	–

*Source:* As for table 2.

However, this does not solve all the problems caused by the severe gender gap in employment status. First of all, every “modern” society has a certain rate of marital dissolution either by divorce or by death. In that case, the material welfare of the female-headed household is far below that of the male-headed household. Table 2 demonstrates that the gender wage ratio of non-regular female workers in Japan is even smaller than in the Republic of Korea, as these women earn just 32 per cent of the regular male worker’s wage. Jung (2002) is correct in pointing out the broader national social insurance coverage for non-standard work in Japan, but when we break down the coverage by sex (see table 3), it becomes apparent that Japanese women part-timers are generally excluded from company welfare such as severance pay and occupational pensions. In Japan, unlike most European countries, the provision of privatized welfare within the enterprise is an important source of workers’ overall economic well-being.

The feminization of non-standard work in Japan is not unrelated to the fact that Japanese women workers are under-represented in the

trade unions and the labour movement hierarchy. The unionization of part-time workers, most of whom are women, stands at a low 2.7 per cent, in sharp contrast with that of the total workforce, which is 20.7 per cent. It is true that a growing number of atypical workers forced the union leadership to take a more serious approach to women's work life. Yuki and Yamada (2003) reported on the transition of trade union employment policies regarding part-time work in the 1990s, focusing on the Japan Trade Union Confederation (Rengo-JTUC). In the late 1990s Rengo demanded a revision of the Part-Time Work Law (enacted in 1993) and the ratification of ILO's Part-Time Work Convention (No. 175). Rengo stressed the necessity of equal treatment for part-time workers and criticized discrimination against so-called "pseudo part-time workers". However, the trade union movement in Japan largely failed to stipulate equal treatment for part-timers. Employers are still not obliged to pay major social insurance contributions for part-time and temporary workers.

### **Equalizing misery: The rise of temporary work in the Republic of Korea**

The majority of Korean workers in atypical employment are temporary workers, and partly because of that, the gender division between regular and non-regular jobs is not as apparent as it is in Japan. While the casualization of work is more severe for women, over 40 per cent of male workers are also employed as temporary workers. Of course, this cannot conceal the fact that temporary women workers are most disadvantaged in the labour market.

The drastic increase in temporary work during the financial crisis of 1998-2000 was not a gender-neutral process. In addition to the notable decline in employment demand, job security also deteriorated as firms made swift adjustments to improve flexibility. The proportion of regular workers in the active labour force decreased from 58 per cent in 1995 to 52.8 per cent in 1998. Despite the financial crisis, the proportion of male non-regular workers among male workers temporarily decreased to 35.3 per cent in 1998 from 35.4 per cent a year earlier. But during the same period, the proportion of female non-regular workers increased sharply from 61.6 per cent to 65.3 per cent. This trend suggests that non-standard forms of work and employment have

significantly expanded in the Republic of Korea, following a path of concerted flexibilization, and that female workers are disproportionately affected.

Furthermore, widening wage differentials between regular and non-regular workers suggest that inequality between female and male workers is on the rise. Although the gender wage gap has narrowed over the past 20 years in the Republic of Korea, women still earn just 62 per cent of the average male workers' wage, and non-regular women workers earn well under half the average regular male workers' wage. The social and company welfare gap between regular and non-regular workers is even greater than wage differentials.

If firms are given unrestricted freedom to choose marginal non-regular workers over regular workers, and if the regulatory gap between employment arrangements persists, then the existence of cheap and unprotected female labour will eventually cause the employment conditions and standards of male workers to fall (Bosch, 2003). The steady increase of male non-regular workers in Korea may indicate a deterioration in general employment standards. The Korean national trade union leadership is well aware of this problem, and thus wanted to improve the organizational power of the labour movement by promoting industrial unionism. Enterprise-based collective bargaining agreements often do not cover non-regular workers, and this gives employers strong incentives to replace regular workers (Lee and Lee, 2003).

However, enterprise union leaders and members, facing severe employment adjustment pressures, frequently let employers use non-regular and/or female workers as buffers to save regular jobs. The events at Hyundai Motor Company (HMC) in May 1998 illustrate this point. At the time, HMC management announced a plan to lay off over 8,000 workers, and actually notified about 1,500 employees that they would be discharged. The HMC union strongly protested against the management decision, and as a result, only 277 workers were eventually laid off. Most of them were married female employees working in the HMC cafeteria. After the layoff, they were re-employed, but as non-regular dispatched workers who no longer belonged to HMC. Since then, the HMC union and management have agreed to an employment stabilization pact, which specifically states that the proportion of non-regular workers should not exceed 16.9 per cent of the total labour force. However, it is suspected that HMC has already exceeded this limit.



Despite the efforts of the national union leadership, growing decentralization and individualization in bargaining has continued, and it has been detrimental to maintaining equity among workers. It is directly related to increasing non-standard employment and a worsening employment structure in the Republic of Korea. Those temporary and day workers who are not allowed to join enterprise unions are bound to be the subject of individualized contracts, and therefore unprotected by collective bargaining agreements.

**Table 4. Proportion of women in enterprise union leadership positions by national centres, Republic of Korea (per cent)**

	KCTU <sup>1)</sup>	FKTU <sup>2)</sup>	Total <sup>3)</sup>
President	3.53	1.43	2.20
Chief Vice-President	4.17	4.61	4.25
Vice-President	13.89	8.76	10.15
Secretary-General	5.81	7.98	7.32
Auditor	8.39	10.54	10.27
Other Leadership Position	14.97	17.25	16.27
Total	12.03	11.97	11.91

*Notes:*

<sup>1)</sup> Korean Confederation of Trade Unions (No. of unions: 1, 341; Approx. membership: 586, 809)

<sup>2)</sup> Federation of Korean Trade Unions (No. of unions: 4,501; Approx. membership: 888, 503)

<sup>3)</sup> Proportion of total female trade unionists is 21.12 per cent (total number of enterprise unions surveyed: 596)

*Source: 2003 National establishment survey, Korea Labour Institute.*

The under-representation of women workers in virtually all union positions holds back the ability of the labour movement to devise strong social legislation that can regulate non-standard employment, and provide public childcare infrastructure. Union density reached a high point of 18.6 per cent in 1989, after which it steadily declined to 11.8 per cent in 2001. But a breakdown of the figures by sex reveals an even more striking decline in the organizational rate for women, which reached 21.2 per cent in 1978 and had fallen to 5.6 per cent by 2002. Moreover, women unionists are not in positions of influence in the enterprise unions. According to KLI's 2003 national establishment survey, based on 596 unionized firms, only 2.2 per cent of union presidents were women, while women accounted for 21.1 per cent of enterprise union membership. In order for the trade unions to attract and retain new groups such



as women workers, they must change. They must promote comprehensive gender policies and conclude collective agreements which include the principles of equal treatment and equal pay.

## **Conclusion: Towards a new employment relationship**

A central topic in the field of non-standard work is “flexicurity.” This study has referred to the Netherlands, which has flexible multi-level governance in national industrial relations systems including tripartite and bipartite institutions. The country has developed influential legislation and industrial collective bargaining agreements which offer protection as well as learning and training opportunities for workers in non-standard arrangements. As a result, the employment status gap in the Netherlands is getting narrower, in contrast to the situation in the Republic of Korea and in Japan.

Bosch (2003) agrees that flexibility should accompany security, but he goes one step further to define a new, flexible standard employment relationship, which should depart from the traditional male-breadwinner model. His new model bears a strong resemblance to the Swedish welfare state. The new standard employment relationship must achieve what the old model accomplished i.e. the protection of employees against economic and social risks, the reduction of social inequality, and increased economic efficiency. In addition, the new model must reconcile paid work and family life, and satisfy the aspirations of a better educated workforce in its search for greater freedom of choice. The core assumption is that the more strictly all forms of non-standard work are regulated, the more similar they become to standard employment.

These discussions are all very beneficial, but one should keep in mind that even the Swedish women-friendly welfare state has suffered from severe gender segregation and unevenly distributed life chances. Curtin and Higgins (1998) argue that such progressive measures will not be realized if the major actors in the labour market ignore social inequalities already present in the workplace, i.e. gender. The new flexible and secure workplace that provides full and equal opportunities to all current and future participants in the labour market can only be achieved when researchers, policy makers, and trade unionists abandon the gender-blind approach.

The results of this study point to the following three findings of practical and theoretical importance. First, while non-standard arrangements may offer women the flexibility to combine work and family responsibilities, many of the part-time and temporary jobs found in the Republic of Korea and Japan are associated with casual employment conditions and are detrimental to women's career development. In order to reduce the gender gap in employment status, social policies that favour working mothers, such as paid parental leave and subsidized childcare are critical. However, the policies may have negative effects, as they make women more costly to hire, thus shifting them into non-standard forms of work. Therefore, policies that help working women and men to balance work and family must be accompanied by strong legislative efforts to implement equal pay between men and women, and to guarantee equal treatment of workers in non-standard employment arrangements. If the principle of equal treatment is not respected, there is a risk that the standard employment relationship might also be affected by the increasing casualization of work. This is already happening in the Republic of Korea.

Second, however, a decentralized collective bargaining structure devoid of coordination is not conducive to properly balancing flexibility and security. Enterprise unionism in Korea and Japan deepened the dualistic tendencies in their labour markets, protecting a core set of ageing workers for whom lifetime employment and seniority-based work practices are applied, and using non-standard and/or female workers as buffers to further preserve regular jobs. Thus it is necessary to create greater coordination within the industrial relations systems of these two countries, by encouraging social dialogue between labour and management at both the meso- and micro-level.

Finally, the trade union movements in the Republic of Korea and Japan must improve their representative functions for women workers. The decline in union membership is largely due to the fact that the labour movements have failed to recruit the increasing numbers of women workers in non-standard employment arrangements. It is also related to the fact that women rarely occupy leadership positions in the national federations or the individual enterprise unions. Family is a severe constraint not only on work but also on union activity; the constraint is more severe for women than it is for men. The current trade union leadership in these countries should keep in mind that simply getting women represented in elected positions in proportion to their membership does not

automatically improve the representation of women's interests. Women elected by such routes are usually perceived as marginal in trade union politics, and these women themselves may feel that it is not appropriate to raise women's issues (Colgan and Ledwith, 2002). A thorough transformation of trade unions' organizational culture and independent organizing efforts by women workers will ensure that women's concerns are represented more effectively within the union and at the bargaining table.

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## Comment by Hiroya Nakakubo

Four points should be borne in mind during the discussion on labour market flexibility. The first point is that flexibility is an elusive notion.

As Professor Dore pointed out, its ambiguity conceals certain crucial characteristics, such as productive efficiency and allocative efficiency. Talking in terms of efficiency rather than external/internal flexibility gives a clearer perspective. Professor Dore's new definitions are highly relevant to an analysis of Japanese labour market and employment practices. We may wonder if America's flexible system is really so efficient, considering the costs and unfavourable consequences that it tends to entail.

Japanese employers have had a relatively free hand, or internal flexibility, in their pursuit of productive efficiency. They can easily transfer employees from one position to another according to business needs, and Japanese enterprise-based unions are more or less understanding and cooperative. In recent years, however, many Japanese companies have come to regard their traditional seniority wage system as detrimental to productive efficiency, and have tried to replace it with a more individualized, performance-based wage system. The same is true of the provisions on working hours laid down by the Labour Standards Law. In the name of efficiency (especially for white-collar workers), the Law has incorpo-

rated some flexibility measures such as the controversial «discretionary work» scheme. It is true that internal flexibility is generally high in Japanese companies, but the situation should be re-examined from the viewpoint of productive efficiency.

The traditional Japanese lifetime (or long-term) employment system, coupled with the strict regulation of dismissal through a judicial doctrine of abusive dismissal, has allowed a low degree of external flexibility in respect of allocative efficiency. However, it is almost a cliché to speak of the dual structure of Japanese labour. Outside the umbrella of lifetime employment, there are peripheral, non-regular employees, part-timers, temps and dispatched workers. Fairly or not, they contribute to the allocative efficiency of Japanese employers. In addition, even regular workers who are supposedly employed for life may be required by the employer to leave «spontaneously». Here again, the picture should be examined through the lens of allocative efficiency.

The second point relates to the 2003 revision of Japanese labour laws. The Worker Dispatching Law and the Labour Standards Law were both revised in June. Deregulation was the main thrust of the revision of the Worker Dispatching Law. Worker dispatching in manufacturing was made legal for the first time in history, and the limitations on the dispatching period were extended. However, a good deal of regulation is still in place and the client of a worker-dispatching service has a new obligation to offer direct employment to the dispatched worker after the maximum dispatching period has expired.

The revision of the Labour Standards Law reduced the regulation of fixed-term employment contracts quite considerably. The maximum duration of the contract was extended from one year to three years for ordinary workers, and from three years to five for certain highly-skilled workers and older workers. This will certainly increase the variety of employees who are not engaged on regular, permanent contracts. In contrast, the new provision on dismissal, which was the other main theme of the revision, simply codified pre-existing case law and renders dismissal without just cause null and void. The Japanese Labour Standards Law has not relaxed its rules on dismissal for economic reasons.

Although there is a strong tide of deregulation for the sake of allocative efficiency in Japan, only cautious steps have been taken in this direction. The movement has been steady but far from dramatic. Some people would say we are going too slowly. However, as Professor Gaudu men-

tioned, each country is different. If Japanese society feels it is safer to change things gradually, why not let it proceed at its own pace?

The third point is that we should identify a new set of regulations for the emerging deregulated workplaces in a market-oriented society. The issue here is the principle of equality, or prohibition of discrimination because of race, sex, religion, age, disability, etc. If workers are required to accept the consequences of free competition, and different treatment according to their own performance, ability, and choice, then they should be given a fair chance to prove themselves. Although Japan has been cautious in this direction as well, the development of anti-discrimination laws in the United States and Europe will have significance for Japanese legislation in the future.

The fourth point is the pessimistic tone which was detectable in Professor Dore's lecture. Of course, it is not easy to survive in the brave new world of flexibility. Everyone will be greatly affected by all the changes. However, there may be a positive side to the story.

Professor Dore talked about a young Japanese lawyer who was unhappy in his traditional lifetime employment. His frustration is understandable. Japanese people have to choose between regular work and non-regular work, and although the former offers job security and better conditions, it means dedicating your entire life to the employer, being transferred from one place to another, and putting in many overtime hours at the expense of family life. Japanese employment practices make it extremely difficult for people with a regular job to move to another company.

If increased labour market flexibility can lead to a more humane workplace, it is tempting to accept it. Of course, changes for good do not happen without proper planning and efforts. Professor Hisamoto of Kyoto University recently advocated diversifying the regular workers, instead of diversifying the workforce by using non-regular workers. This is an attractive idea, and it would be encouraging to see other attempts to incorporate the new values of contemporary Japanese workers into the labour market. It is hard to tell whether we will succeed or not, but we can be at least slightly optimistic.





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## Chapter III

### Lecture 3. The direction of social change

*Ronald Dore*

Let me briefly state the agenda for the last two lectures. I have asserted that a trend to greater inequality of incomes is more or less universal and inevitable in any market system with high technology. I also noted another trend, especially in the richest industrial societies, towards an increasing tolerance of inequality, both its existence and its growth, which signified an important shift in ideas of fairness. The clearest manifestation of that tolerance is the widespread attack on welfare state mechanisms of redistribution which make the final, secondary distribution of income less unequal than that produced by the market.

It is on the second trend that the last two lectures will concentrate. The first question, which is the major theme for this lecture, is how far the trend is (a) the consequence of internal structural changes *within* all industrial societies which keep abreast of the ever-more sophisticated stock of technological knowledge as the human race accumulates it, or how far it is (b) a consequence of one particular aspect of globalization – cultural integration under the dominance of a cultural hegemon. Not an original question but a revival of the old nineteenth-century debate about social change: independent evolution or cultural diffusion? The second question concerns the possible sources of a global rethink – which comes down to asking whether the trend towards tolerating greater inequality is

likely to be reversed even in the cultural/political hegemon, the United States.

The third question, which I shall tackle in the last lecture is: supposing that the trend to tolerate ever-increasing inequality remains unchanged in the United States, how far is it possible or likely that individual countries will resist global socio-political homogenization and continue to embody different norms, different conceptions of fairness in their institutions? This question takes us into the whole “diversity of capitalisms” argument.

In 1969 the Chairman of the Peace Prize awarding committee ended her speech on the work of the ILO, as she had begun it, by quoting the motto on the document buried under the foundation stone of the ILO’s original Geneva office. It is in Latin, as in 1919 was thought to befit an international organization. After all, for the vast majority of the nations gathered at Versailles the significant “world” to them was still pretty much coterminous with the Roman Empire, plus the extensions of Rome-derived civilization in north and south America and the Antipodes. Even for the outlier power, Japan, part of being modern and civilized was to have flourishing departments of classics – Greek and Roman classics – in the state universities. So there was nothing odd in using the world’s first global language on portentous occasions. The motto, or injunction, read: *si vis pacem, cole justitiam*. If you seek peace, cultivate justice.

“And we may add”, continued the Chairman, “by way of summing up our experience during these fifty eventful years, and as a guideline for the future: just as peace is indivisible, so also is justice.”

It is those last four words which I wish to dispute. Many, if not most, discussions of justice – procedural justice, distributive justice, social justice – do indeed assume that there are **universal** principles which can somehow be arrived at through reason. And it is quite true that there are certain acts of violent oppression which in any circumstances 95 per cent of the human race would condemn. And it is equally true that in the attempt to build worldwide systems of international law, the principles of justice on which they are based must command something close to worldwide respect if they are to be effective. It was the difficulty in achieving such unanimity which bedevilled the attempts to write into the UN Charter a definition of aggression in 1945, or the attempts to define unfair trade in the WTO today.

## Norms of fairness: The power dimension

But when we move off the global scale of relations between states to questions of justice between individuals, or between individuals and collectivities or legal entities, the variance of principles is even greater. Principles of justice, or what I shall prefer to call, in more everyday terms, “ideas, concepts or norms of fairness”, still, even in our globalized world, vary widely among the world’s societies. Within societies they vary from social group to social group and those differences are the stuff of politics, especially political disputes over legislation. In relations between employers and employees, between husbands and wives, the disabled and the able, the vigorous young and those too old to work, there can be sharp differences in what is considered fair. Clear conflicts of interest are expressed as conflicting principles of fairness: private injuries are given the status of public wrongs. But in spite of that conflictual heterogeneity, it still makes sense to speak of the dominant ideas of fairness in a particular society, dominant ideas, some firmly embodied in law, some not, of what counts as fair and acceptable, or alternatively as unfair and a proper cause for indignation, resentment and revolt. The groups whose self-interested claims correspond with those dominant ideas of fairness can thereby derive moral advantage and increased political clout.

It is still true that relevant differences between societies in their dominant ideas of fairness can be linked to long-standing differences in value systems as between, say, Christian, Confucian or Islamic societies. And note that I say “linked to”, rather than “caused by”, since the flow of causation, the pattern of mutual feedback between ideologies, economies and power structures – between the means of persuasion, the means of production and the means of coercion – must always be in dispute. In many relatively stable traditional societies, particularly in the more sophisticated feudal societies like those of medieval Europe and Japan, there is not much doubt about the way in which those with the confidence and physical power to hold and defend land were able to coerce acceptance of social arrangements in their own interests so successfully that those arrangements become “normal”, and acquired a normative character. It came to seem perfectly fair and sensible, and part of the order of nature, that rights and duties depended on the position in the social order into which one was born. Knights should be knightly and serfs servile.

But power shifts and norms also shift. We observe, today, that the ideas of fairness embodied in the unfair dismissal legislation which many countries enacted in the 1960s and 1970s are giving way to different criteria of fairness as those laws are amended with widespread support from centrist opinion; it is perfectly proper to ask what groups, with what economic and political power, have been able to shift the centre of gravity of opinion among the lawmakers.

## Norms of fairness: The ethical dimension

It is quite proper to ask that question about established power, but not only that question. New ideas of fairness can come bubbling up from below, as in the French and American revolutions, responses to what Marx called the contradictions between economic and political structures and Alexis de Tocqueville saw as a drive towards equality in-built in history – a function of basic and near-universal characteristics of human nature. De Tocqueville called it an “unquestionable sign of God’s will”.<sup>1</sup> Barrington Moore, in a brilliant survey of revolts against injustice described it as a human capacity for a “latent form of moral anger” which social structures could suppress, but not forever.<sup>2</sup>

The enactment of the first pieces of labour protective legislation such as, in the United Kingdom, the 10-hours Act of 1847, was not just the first fruit of labour agitation as Marx and Engels claimed the following year in their Communist Manifesto.<sup>3</sup> Nor, a century later, was the considerable extension of such legislation in the two decades after the Second World War just the result of the entrenchment of trade union power in the electorate. It also sprang from, to use the title of a 1950s British novel, “the conscience of the rich”, that current of middle-class opinion which accepted that, in the trade-off among the French Revolution’s triad of values – the trade-off between liberty on the one hand and

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<sup>1</sup> *Democracy in America*, New York, Vintage Books, 1954, p. 7.

<sup>2</sup> Barrington Moore, Jr.: *Injustice: The social bases of obedience and revolt*, London, Macmillan, 1978, p. 46.

<sup>3</sup> Dicey called the vituperative debate for its introduction, running in parallel with and at cross-purposes with the free-trade versus protectionism debate, “the battlefield of collectivism against individualism” where “Benthamite liberalism suffered its earliest and severest defeat” A.V. Dicey: *Lectures on the relation between law and public opinion during the nineteenth century*, (1914) New Brunswick, Transactions, 1981, p. 237.

equality and fraternity on the other – fairness might require that the balance shift away from liberty towards equality and fraternity.

Interwoven with the power battles between the landed aristocracy and the manufacturing bourgeoisie there were two major strands to that current of opinion: compassion for the weak and unfortunate, and a socially responsible restraint of greed on the part of the powerful. Many people have traced the shaping of that current of opinion in nineteenth-century Britain. T.H. Marshall, in one of the classics of the welfare debate,<sup>4</sup> described it as the increasingly substantive definition of the status of citizenship, which he seemed to suggest was a continuing and open-ended process. Dicey, writing at the beginning of the twentieth century, was acutely aware of the ideological affinity between trade protection and labour protection, prefiguring today's neo-liberal alliance between free-traders and the advocates of labour market flexibility. Then it was old, classical liberalism which was giving way to collectivism. He quotes as an example a resounding assertion of the claims of society, of equality and fraternity, against the overwhelming emphasis on liberty. It is by Thomas Arnold, the founder of the famous British school which invented Rugby football. Forty years after the French Revolution he called the notion that liberty was the supreme value “one of the falsest maxims which ever pandered to human selfishness under the name of political wisdom” and he went on to explain in detail what he meant, namely:

the maxim that civil society ought to leave its members alone, each to look after their several interests, provided they do not employ direct fraud or force against their neighbour. ....[K]nowing full well that [people] are not equal in natural powers, [nor in] artificial advantages; knowing, also, that power of every sort has a tendency to increase itself, we stand by and let this most unequal race take its own course, forgetting that the very name of society implies that it shall not be a mere race, but that its object is to provide for the common good of all, by restraining the power of the strong and protecting the helplessness of the weak.<sup>5</sup>

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<sup>4</sup> *Citizenship and social class, and other essays*, Cambridge, CUP, 1950.

<sup>5</sup> T. Arnold: *Miscellaneous works*, pp. 453-4 as quoted in Albert V. Dicey, *op.cit.*, p. 216. (see footnote 47).

## The mid-century consensus

The culmination of the collectivist trend was reached in the third quarter of the last century, incorporated in an accumulating body of labour protective legislation, and in the institutions of the social insurance-based welfare state, both rationalized and theorized in the popular philosophy of Rawls.<sup>6</sup> Rawls argued that fairness between the strong and the weak could be achieved by designing the institutions which would be chosen by the unborn who could not know whether they would be born strong or weak. The labour protective legislation, setting minimum labour standards, and regulating the nature of the employment contract, sought to rebalance the bargaining power between strong employers and weak individual employees, while giving weak individuals the backing of collective strength by facilitating union organizations.

At the same time, the social insurance model of the welfare state was a system for pooling the risks of becoming weak, within a society of citizens equal in basic rights. This was to be achieved by collecting contributions from those who were young and lucky enough to be able to work, and redistributing them to those who were old or unlucky enough not to be able to work. That insurance model alone never proved adequate anywhere. Fairness was still thought to require a link between contributions and the right to automatic benefits. So, while social insurance might take care of the risk of becoming weak, it could not cope with the risk of being weak in the first place and therefore unable to build up a qualifying contribution record. Hence the insurance scheme's redistribution between fortunate and unfortunate citizens of equal rights and duties, and equal dignity – what de Tocqueville called “equality of condition” – had increasingly to be supplemented by a different sort of redistribution, progressive taxation and social assistance – assistance which was means-tested and consequently carried stigmatizing implications of second-class citizenship.

That mixture of labour protection and social security commanded something of a consensus in the industrially developed world of the 1960s and early 1970s. President Johnson saw great political advantage in proclaiming his Great Society ideal even in the most individualistic country of that world, and may actually have believed in it. But today,

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<sup>6</sup> Rawls, J., *A theory of justice*, Cambridge MA, Harvard U.P., 1971.

after 30 years of debate, what one might call the OECD consensus has shifted. The key slogans in that debate have been words and phrases like “self-reliance”, “personal responsibility”, “dependency”, “freedom of choice”, “equality of opportunity not equality of outcomes”, “initiative”, “enterprise”. The need for labour protective legislation is challenged. “Some scholars argue that labour law no longer serves a legitimate mission and should be “dissolved back into contract” says one recent writer.<sup>7</sup> The welfare state is constantly referred to as overblown and dysfunctional.

How should one sum up the present OECD consensus as it is embodied in the communiqués issued by ministerial meetings and largely echoed in speeches by centre-left as well as centre-right prime ministers? It is no longer about “restraining the power of the strong and protecting the helplessness of the weak”. Rather, says today’s consensus, one needs to unleash the power of the strong, the better to provide a safety-net for the weak.

## The new consensus

Let me list some separate elements of that consensus, for which I shall henceforth use the summary term “market individualism”.

1. The social safety-net is clearly necessary, and can be provided by minimum-wage legislation and social assistance.
2. Neither should be set at such a level or under such conditions as to deter people from accepting available work. Hence, as the market-clearing wage for the least skilled labour falls steadily below what society counts as relative, if not absolute, poverty, in-work benefits such as the US earned income tax credit become increasingly the most favoured method of keeping people above the poverty line.
3. Providing incentives to work, even coercive incentives, through such in-work benefits and welfare-to-work schemes, is desirable for two reasons. First, because unemployment figures have symbolic importance for measuring a government’s handling of the economy, irrespective of

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<sup>7</sup> Karl Klin: “The horizons of transformative labour and employment law” in J. Conaghan; K. Klare; M. Fische (eds.): *Labour law in an era of globalization: Transformative practices and possibilities*, Oxford, Clarendon Press, 2002.



whether unemployment is concentrated among the least employable whose mobilization would add little to GDP. But secondly, because of the work ethic – because having a job, making a contribution to society, is still regarded, and should be regarded, as an essential condition for first-class citizenship. Welfare dependency is demoralizing, excluding, and conducive to social disintegration. It is both a moral duty of governments and in the enlightened self-interest of the middle-classes who vote for them, to try to make sure that everyone is a work-participating citizen.

4. Even beyond the subsistence-survival incentives for work at safety-net levels, the main motivation for work at all levels is money, plus what we used to call fame or reputation and now call celebrity. The notion once prevailed that the rewards offered by public service – honour, self-realization, and the satisfaction of solving problems, helping fellow-citizens – could provide a supplementary or even alternative motive to money, and that people working for fixed rewards in bureaucratic career structures could do good, conscientious and efficient work. That is an outmoded illusion. Bureaucratic careers lead only to bureaucratic inefficiency. Career-job security leads only to free-riding and shirking. The public sector is for wimps – except, that is, for soldiers, but even there, while public rhetoric in the United States of course continues to celebrate patriotic dedication, the Department of Defence is busy outsourcing military functions to the private sector, mobilizing the profit-motive in the name of efficiency. Likewise, in the United Kingdom, Tony Blair does the same with hospitals and Japan's prime minister does the same with highways.

5. Power corrupts, but the market disciplines. Reward structures set by administrative decisions in state or corporate bureaucracies are unfair; reward structures determined directly by market forces, or those which simulate market forces within organizations like performance pay, are fair. This is for two reasons. First, market rewards are fair because they have an objective character; they are not subject to any individual's arbitrary, biased and possibly nepotistic judgement. Secondly, it is fair because consumer sovereignty is a basic tenet of democratic societies. The trouble with bureaucratic reward structures is that they tend to reward effort. None does so more than the Japanese *nenko* system, the system of payment according to seniority plus merit, in which the definition of merit puts heavy weight on effort, often at the expense of performance. But the consumer is not interested in effort. The consumer is interested only in performance: does the widget widge at 100 per cent efficiency or

not? Hence it is only fair, since we are all consumers, that it is performance that should be rewarded.

So we live in societies in which it can seem perfectly normal for the CEO of a large company to say: The multiple millions a year I earn as a CEO represent an impersonal valuation of my potential contribution to the company and therefore to the shareholders and society. The valuation is impersonal because it is conducted by my Board's compensation committee in the light of the going rates in the executive labour market, as objectively established by Hays Consultants or Incomes Data Services. As such it is a fair reward for my work. I do not protest that a small part of the income that I cannot tie up in trusts and off-shore accounts should be taxed to provide a safety-net for people with no income, but beyond that they are not my concern.

## Whence the change?

The growing inequality which is increasingly justified by arguments such as these is, as I said in my last lecture, more a matter of the top pulling away from the median, rather than of the median pulling away from the bottom. So why has it happened? Paul Krugman in a brilliant recent essay<sup>8</sup> has asked why it should be that whereas, in 1970 the CEOs of Fortune's top 100 American firms had an average income which was 39 times the salary of an average employee, today the multiple is not 39 but over 1000.

Krugman lists three causal mechanisms which economists have offered to explain this quite startling change. Two of those I mentioned in my last lecture, the impact of low-wage competition from developing countries and increasing skill premiums induced by technological change. The third is the phenomenon of the superstar. The global expansion of the market and new means of communication turn interpersonal competition into rank-order tournaments in which a few winners take all.<sup>9</sup>

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<sup>8</sup> "For richer", *New York Times Review*, 20 October 2002.

<sup>9</sup> Robert H. Frank and Philip J. Cook: *The winner-take-all society: Why the few who make it to the top get so much more than the rest of us*. New York, Penguin Books, 1995.

None of these could even begin to explain the change that has taken place in senior business salaries. So what is there to fall back on? Only one thing, says economist Krugman: what orthodox economists would call the irredeemably fuzzy-minded hypothesis of a change in social norms, what I have been calling an increasing tolerance of inequality, an increasing reluctance to call greed, greed.

Society needs to restrain the strong, said Arnold. Thirty years ago, that restraint was predominantly a matter of ethically-based self-restraint. Krugman quotes Galbraith in the *The new industrial state* remarking on the fact that the divorce between ownership and control had left managers all-powerful. Yet,

a sound management is expected to exercise restraint. .... With the power of decision goes opportunity for making money. . . . Were everyone to seek to do so . . . the corporation would be a chaos of competitive avarice. But these are not the sort of things that a good company man does; a remarkably effective code bans such behaviour. Group decision-making insures, moreover, that almost everyone's actions and even thoughts are known to others. This acts to enforce the code and, more than incidentally, a high standard of personal honesty as well.<sup>10</sup>

A number of mechanisms specific to corporate salaries are involved in this shift in social norms. First is shareholder activism and the doctrine that the managers' job is to serve the shareholder, not to enrich the employees or to cooperate with state planners in maintaining an efficient national technostructure, to use Galbraith's phrase. Second is the consequent growth in the use of stock options as a means of aligning managers' interests exclusively with those of shareholders. (In Galbraith's day they were more valued as a tax dodge than as an incentive.)<sup>11</sup> Third is the way that compensation committees are appointed by the people whose compensation they fix, and fourth is the way they are served by remuneration advisors' research, and tend to put their CEO at least in the second quartile of last year's distribution, thus ensuring a regular upward ratcheting of the market rate.

But for our purposes the important thing is the general change in what Galbraith called "the code", the norms that determine what is considered acceptable, what degree of coexistence within the same society between vast wealth and miserable poverty is considered tolerable. Note,

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<sup>10</sup> J.G. Galbraith: *The new industrial state*, London, Hamish Hamilton, 1967, pp. 115-117.

<sup>11</sup> *ibid.* p. 116.

also, Galbraith's suggestion that self-restraint not only compressed pay differentials; it was associated with honesty. We have recently had plenty of evidence, at Enron, World Com. and Tyco, etc., that the removal of restraint on legally conforming greed has indeed been accompanied by lowered standards of plain honesty.

## Deeper roots: Ideological and political

Some of the roots of this change can be sought in the ideological and political sphere. One can read the history of the growth of neo-liberalism as something like an autonomous shift in the realm of thought, but even that shift can be partly attributed to changes in social structure. The growing army of true-believer economists reinforced the neo-liberals' agenda with their faith in the overwhelming importance of allocative efficiency, and the universal efficacy of market competition as a means of achieving it, together with their arid paradigm of man as a rational self-interest maximizer, a dessicated calculating machine. And the growth of that army can be attributed to the conventions governing university appointments, the ability of cohesive factions to capture departments, plus the values which rank hard mathematical sciences over easier, softer institutional-analytic forms of social science.

Again, neo-liberalism gained adherents for its attack on the role of the state, partly because it was a response to the growth of union power. The corporatist arrangements needed to deal with wage-cost-push inflation threatened to dilute the traditional business dominance of politics and force business to share power with what was called the other "social partner". Continental European business groups largely decided, with reluctance, that they could live with that development. The Italian business confederation entered into a quite constraining tripartite contract regulating wages and industrial relations as recently as 1992, a contract which continues in force today. Anglo-Saxon business groups never accepted such constraints and for the last 30 years have refused even to contemplate such tripartite bargaining.

The subsequent decline of union power came in part from the shift away from mass-production manufacturing much aided by the systematic union-weakening strategies<sup>12</sup> of neo-liberal governments. This was

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<sup>12</sup> Documented, for example, in Harry C. Katz and Owen Darbishire: *Converging divergences: World-wide changes in employment systems*, Ithaca, Cornell UP, 2000.

also a highly relevant factor in the ideological transition, not only because declining collective bargaining power led directly to greater income dispersal, but also because of trade unions' consequent loss of political influence, their power to swing elections. I started by drawing a distinction between the two forces bringing about shifts towards equality and fraternity and away from liberty: the protest of the have-nots and the conscience of the haves. But there has always been feedback between the two. For all the genuineness of Dr. Arnold's moral outrage, his knowledge of how many windows urban rioters had broken in his and his friends' houses cannot have been irrelevant to his feelings. *Your* unrest threatens *my* peace, again.

## Deeper roots: History, family, school, affluence, migration and demography

But one needs to look below politics for the tectonic shifts in social structure which have promoted the change in social norms. Let me briefly list six.

1. What one might call the history factor is obvious. The great advances in collectivism were brought on by the solidarity produced by shared national hardship – the 1930s depression followed by the war. The sort of cross-class solidarity of the infantry platoon that the great labour economist Phelps Brown wrote about<sup>13</sup> as a possible paradigm for industrial peace was reproduced on a national scale. Your fortitude will bring us victory, as the British wartime posters used to say. The Beveridge report which laid the foundations for the British welfare state, a model for many other countries, was explicitly designed to give a promise of a post-war Britain that the troops would find worth fighting for.

That sense of social solidarity that sustains a welfare state – sustains the sense that, in the Biblical phrase, we are all our brother's keepers – is bound to attenuate as the memories of wartime solidarity grow dim.

2. Affluence clearly has its own independent effect. In a poor society, you need the social insurance of mutual trust and mutual aid among family members and members of your local community. Social solidarity counts. In an affluent society you build up a bank balance, buy insurance.

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<sup>13</sup> E.H. Phelps-Brown: "Morale, military and industrial", in *Economic Journal*, 59, No. 233, March 1949.

3. The sexual revolution is relevant in two ways. The repression needed to ensure social stability in pre-contraception days had a reinforcement effect on all other norms which required the restraint of self-gratification. When anything goes in matters of sex, anything can go in matters of greed. The other way in which it is relevant is in its effect on the feminist movement and the gender revolution. This contributes, together with a declining sense of what one might call “general dutifulness”, to the growth of individualism and a declining sense of family solidarity. That has the specific effect of causing the “breadwinner model” to lose its normative force as an element in wage determination within organizations, and the general effect of contributing to the acceptance of market individualism.

4. Even more important is the class revolution. I have talked about the respective contributions, in the history of labour movements, of the protesting have-nots and the conscience-driven haves. Not only sympathy but also ease of communication and collaboration between them was facilitated by the fact that the self-taught workmen who left school at 13 were often just as, if not more, intellectually gifted than their middle-class colleagues. But over the last half century, first, the enormous growth of educational opportunity, secondly, the increasing use of educational certificates in an increasingly meritocratic system of occupational selection, have ensured that the bright people from poor families who might once have become effective left-wing trade union leaders now sail through the educational system and become successful members of the middle class. But after two or three generations, through a combination of economic, cultural and genetic mechanisms, the initial response to the widening of educational opportunity, namely brisk social mobility, is declining. The evidence is clear both in surveys and in the emotional responses of those who dispute it.<sup>14</sup> Divisions between economically and culturally differentiated classes are becoming clearer, and are increasingly transmitted from generation to generation. We seem to be reverting to the situation described by Disraeli in the early nineteenth century, of social classes which are like two nations, “between whom there is no intercourse and no sympathy; who are as ignorant of each other’s habits,

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<sup>14</sup> Not an issue one would expect national bureaucracies to take up, but the lingering attachment to egalitarian values has prompted the Japanese bureaucracy to do so, partly in response to a big media upsurge of interest in 2000. (See Genda Yuji: *Shigoto no naka no fuan*, Tokyo, Chuo Koron, 2003, p. 10). The Ministry of Finance Research Institute produced a major study. See Zaimusho, Zaimu Sogo Seisaku Kenkyujo: *Shakai-kaiso. Ishiki ni kansuru Kenkyukai: Hokokusho*, June, 2003. The highly polemical Chapter 4 by Seiyama Kazuo is an example of the emotional reaction I had in mind.

thoughts, and feelings, as if they were ... inhabitants of different planets." We have, in other words, an attenuating basis for the social solidarity which can prompt the sort of redistribution required for a successful welfare state in a society of increasing dispersion in the primary distribution of income.

5. The same consequence – an attenuation of the sense of fellow-feeling – attends that other growing phenomenon, increasing ethnic diversity brought by the migration of workers from developing countries to do the jobs that rich country citizens are reluctant to take. A concern for the effects of this diversity on social cohesion and political support for the welfare state turns many who are in principle favourably disposed to the tolerant values of multiculturalism into advocates of assimilation.<sup>15</sup>

6. Finally, demography, the ageing of populations brings to the fore the increasing cost of social-solidarity redistribution, in particular one form of it – pay-as-you-go pension systems which redistribute labour income from the working population to the old. Systems once established can often persist from inertia, but not when the certainties of demographic change make their future cost so easy to calculate. The move to shift the pension burden away from state pay-as-you-go defined benefit systems, to private defined-contribution systems, is practically universal, again reinforcing individualistic tendencies and not just weakening redistribution mechanisms but widening inequality. Even the earlier pay-as-you-go pension systems can be divided into the fully solidaristic in which a basic pension is paid out of taxes, and the more individualistic type in which pension benefits depend on contributions. Sweden is one of the former, but it is notable that even in socially cohesive Sweden, the prospect of an increased tax burden to maintain the system has prompted, not, say, proposals for levying an earmarked "old people's support tax" but the more individualistic solution of a notional defined contribution system run by the state.

So, to conclude, there are many reasons why the future looks grim for those whose idea of fairness involves not just a concern for individual freedom but also equality and fraternity. There is the additional factor of

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<sup>15</sup> Alan Wolfe: "Assimilation v. multiculturalism in liberal democracies", in *The responsive community*, 13, Summer 2003. Ronald Dore: The liberal's dilemma, Paper for the BIEN Conference, Geneva, Sept. 2002. Glazer argues that ethnic diversity is a major reason for the weak development of the welfare state in the United States. Nathan Glazer: "On the American indifference to inequality", in *Daedalus*, Summer 204, p. 115.



the feedback mechanisms by which institutions form consciousness and consciousness reinforces institutions. Richard Sennet's title *The corrosion of character: The personal consequences of life in the new capitalism*<sup>16</sup> says it all. Those who live and work in reward systems based on market individualism are likely to end up as market individualists.

## A possible change of heart?

But let me finally touch on the possibility of some reversal of these trends.

First, note that the norms as yet have not decisively tipped. Their proponents are still struggling to establish their legitimacy. As Krugman said, in the essay I quoted earlier, in the United States, where inequality talk exposes you to charges of class warfare, there is a "sizeable, well-financed industry" of conservative think-tanks trying to discredit the data, the methodology and not least the motives of those who report the obvious facts of inequality and poverty. The American Business Council holds emergency sessions on how to combat media criticism of executive salary levels.<sup>17</sup> Greed may be OK, but it is not yet quite legitimate.<sup>18</sup>

One can think of two possible scenarios that might lead the middle classes of the leading industrial democracies to undergo a change of heart before the last vestiges of the old morality disappear. The first is the possibility that the process of unwinding the imbalances in the world

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<sup>16</sup> New York, W.W.Norton, 1998. His concluding assertion of optimistic faith is: "a regime [the flexible capitalism regime] which provides human beings no deep reason to care about one another cannot long preserve its legitimacy."

<sup>17</sup> *Financial Times*, 10 October 2003.

<sup>18</sup> Since writing this I have come across a letter I had forgotten ever having written in response to the announcement of civil service pay rises in Britain, which coincided with the publication of an important survey documenting the rise in income inequality (italics added). "The judgements of (modestly paid) Ministers about how much is necessary to keep top civil servants in Whitehall are as crucial a mechanism in the growth of pay disparity as the judgements of company compensation committees that their CEO's salary must of course not be lower than the top of the second quartile of the distribution. Those judgements depend crucially on a particular assumption about work motivations – namely *that we are all primarily driven by greed and envy. Over large areas of the UK economy – especially but not exclusively, the public sector – that assumption is still false.* People take jobs, and put their backs into jobs, for a variety of motives – a "spirit of public service" among them. No permanent secretary has, in fact, jumped ship for the money lately. Ministers are reported to be anxious to ensure that any temptation is reduced in future. But the thing about such anticipatory moves is that they become self-fulfilling. The more the institutions of our society are built on the assumption that greed and envy are the only reliable motivators, the truer that becomes. (R. Dore: "Danger that greed and envy really will become the main motivating forces", in *Financial Times*, 14 Feb. 1995).



economy – notably the US need for the rest of the world to lend it capital at the rate of a billion and a half dollars a day so that Americans can spend five per cent more than they produce – will lead to a world depression on a 1930s scale and the comprehensive discrediting of Anglo-Saxon capitalism.

One can read the market individualism that I attempted to define above as simply an extension of the trend away from community and towards individualism which preoccupied the nineteenth century sociologists. They framed that trend in different dichotomies, *gemeinschaft/gesellschaft*, status and contract, mechanical and organic solidarity, community and association. Writing a century after such preoccupations began, at the time of the Second World War, Polanyi traced this process as a steady trend for economic activities which once were embedded in social relations, and much constrained by primordial ties of kinship and community, to become completely disembedded with the growth of markets. But instead of assuming, as most of his predecessors had assumed, that this was an indefinitely extending trend, he saw the depression of the 1930s as a shock which would reverse the trend and see the claims of society reasserted.<sup>19</sup> In the 1950s and 1960s, in the growing collectivism and nascent corporatism of the Golden Age, it looked as if he might be right. But since the 1980s, it seems that the old trend has reasserted itself. The only embedding of the economic in the social now much talked about is the universally condemned “crony capitalism”. It may be that the shock of another depression may give us a second chance to experiment with embedding labour relations in the social fabric of organizations, and embedding a segment of exchange relations in the institutions of the welfare state.

The second reason for supposing the possibility of a trend reversal is another of the “your unrest, my peace” effects. The misery of the poor can spoil the quality of life for the well-off. A couple of journalists sketched this scenario with plausible vividness.

Fifty years ago, the notion of most middle-income earners having their properties protected by an alarm would have been diagnosed as a phobia... [In twenty years time] those who can afford it will have the bodyguards, the razor wire and the dogs; those who cannot will work in the black economy in which weapons and crack are the units of currency.

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<sup>19</sup> Karl Polanyi: *The great transformation*, [1944], Boston, Beacon Press, 1957.

People will carry handguns, legal or not... No responsible parent will ever allow their child out unaccompanied. Nice young couples will play bridge by videophone... Your car? Bullet-proofed. Your movements? By day and through decriminalized zones. Your leisure? Zen callisthenics, policed by your own vigilante group.<sup>20</sup>

Already, in the United Kingdom, there is mounting concern with what is called anti-social behaviour – “that menacing mix of small crimes and misdemeanours... incivility, disorder and nuisance” usually deemed a consequence of social exclusion.<sup>21</sup> The British government has commissioned a survey and is contemplating new legislation.

## A basic income?

If such concerns do reignite the conscience of the rich, what form will the response take? There is by now a sizeable body of opinion in favour of one line of response, mobilized in a number of organizations of which BIEN, the Basic Income European Network<sup>22</sup> is the most prominent. It can be summarized as follows.

1. There is no way in which state intervention can much alter the increasingly polarized primary distribution of income which market forces produce.

2. As the market-clearing rate of the jobs available to the least employable citizens falls further below what society considers a tolerable poverty line, recourse to means-tested safety-nets will steadily increase, either in the form of in-work benefits, or social assistance to the unemployed.

3. This implies a) mounting costs in benefits, b) even more rapidly mounting costs in administration, benefit fraud and countering benefit fraud, c) even more problematic social consequences from the relegation

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<sup>20</sup> Michael Bracewell and Julian Evans: “Anti-hero for a razor-wire future” in *The Guardian*, 26 December 1993.

<sup>21</sup> “The politics of behaviour, *The Economist*, 13 September 2003, reviewing Frank Field, *Neighbours from hell: The politics of behaviour*, London, Politico, 2003, See also, Keith Prowse: “Market forces are encouraging the growth of Britain’s anti-social culture”, *Financial Times*, 18 October 2003.

<sup>22</sup> See [www.bien.org](http://www.bien.org). Relevant publications by two of its leading members are Philippe van Parijs: *Real freedom for all*, Oxford, Clarendon Press, 1995 and Guy Standing: *Beyond the new paternalism: Basic security as equality*, London, Verso, 2002.

of benefit recipients to second-class citizenship, first by the means-testing itself and second by the publicity given to the prevalence of benefit fraud.

4. As a result it will – and should – come to seem a sensible alternative to abolish all welfare benefit schemes except for a few disability pensions and instead – at a cost of, say, something like 40 per cent of GDP – pay everyone an income sufficient to live on, simply as a basic citizen's right. That right would be accompanied by an obligation to perform community service work – something more continuous than the national service which remains as an, often valued, hangover of conscription in continental Europe, but somewhat more extensive than the jury service of Anglo-Saxon countries.

I do not have the space to develop the idea fully but the outline is clear. Many of what are now the least well-paid jobs would be covered by community service, including a lot of the caring jobs for which there is now a need but no effective demand because the needy are too poor. Unemployment as an administrative concept would be abolished. Non-employment as an economic problem of under-utilization of national resources need not be a problem as long as money and the prospect of a higher standard of consumption, increasingly supplemented by self-realization, still provide a major motive for work. And unemployed idleness as a social problem of dignity-deprivation should also be abolished if the least employable people who would find it difficult to get a job were joined in their joblessness by poets and gardeners who preferred to write poetry or dig gardens rather than make extra money, and nobody bothered much about who was which.<sup>23</sup>

Admittedly that is a big “if”. To start with, the work ethic, the source of the stigmatizing force of unemployment, is not so easily dethroned – and with welfare to work the slogan of our day, the chief reaction to social problems is currently to reinforce it.

And secondly, will the élites of the industrial nations, increasingly transnational in their daily contacts and increasingly cosmopolitan in their lifestyle and sympathies, really suffer from the disintegration of their societies enough to contemplate such solutions? Or will the globe still

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<sup>23</sup> Milton Friedman's negative income tax, and the French guaranteed income scheme remove the “readiness to work test” which most guaranteed income schemes involve, but they retain the means test. See Robert J. Shiller: *The new financial order: Risk in the 21st Century*, Princeton, Princeton U.P.2003, p. 253. The basic income would remove both stigmatizing forms of “prying by officials”.

contain enough exclusive havens of tourist peace for their holidays to compensate for all the barbed-wire inconveniences of life in the home they occasionally visit?

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In this lecture I have neglected the globe. I have been considering changes within individual societies, and asking whether the direction of social change in what the marathon view of history has hitherto deemed the vanguard societies is firmly set or likely to change. In the final lecture the interaction between societies will be the main concern.



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# Balancing values to build a legitimate society

*Ann Numhauser-Henning*

## Introduction

In his opening lecture Professor Dore outlines the scope for this symposium. He begins with Polanyi in the 1940s and his theory on how economic relations gradually become disembedded from the social relations within which they once took place. He describes the early response of “welfare society” and “quasi-community” corporations, and sketches later developments towards an increasing individuation dominated by the economic value of human capital/market values. Disembedding is said to have gone too far. The effects of this process are diagnosed as the segmentation/division of labour markets (software engineers v. office cleaners) reflected in more active external labour markets and easier hire and fire on the one hand, and the introduction of market principles into remuneration arrangements on the other. Other discernible effects are the neo-liberal trends represented by the “retreat of the state and the corporation’s shift from quasi-community to nexus of arms-length contracts”. As regards the direction of social change, Professor Dore identifies greater affluence, birth control, changing gender relations and changing wage systems as key factors making for the individuation of social relations (the importance of family units as constituents of society is thus reduced).

Furthermore, he pinpoints factors making for increasing inequality, such as the growing importance of human capital depending on educational performance, the accumulation/inheritance of assets, an increasing “tolerance” of inequality, the decline of trade unions, changes in pension systems, etc. The question Professor Dore poses is whether greater social inequality is an inevitable consequence of globalization and growing technical knowledge. My answer to this is no. Or, rather, I will give some normative/legal answers and examples which – at least in my opinion – create a slightly more optimistic picture. However, my view may reflect the fact that I am a legal scholar and also that I represent a part of Europe other than the United Kingdom. There was and will probably always be a segmentation of labour markets, but not necessarily as usually pictured – between the permanently and the atypically employed. There was and will probably always be inequalities, but they must not necessarily increase. We can count on a continuous effort to balance competing but enduring normative values/patterns in order to constitute a legitimate society. I will start by presenting the theory of law as a normative pattern in a normative field, and will go on to raise some of the issues indicated by Professor Dore from the perspective of developments in labour law and social security law.

## The theory of legal development as a normative pattern in a normative field

In his general paper Professor Dore starts out with the eternal quest to discover whether there is a single dimension or motive force giving a direction to history. He seems to find such a direction in the ever-greater complexity and depth of the growing body of scientific and technical knowledge together with “cultural diffusion”. Other scholars have described developments as pendulum movements, historical shifts, waves, etc. A particularly sympathetic notion is Professor Alvin Toffler’s theory of societal development as great waves, a metaphor intended to illustrate how each phase successively replaces previous social structures.<sup>1</sup> See Toffler 1970; 1980; 1983; Hydén, 2002.

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<sup>1</sup> The neo-liberal influences have, of course, been much stronger in the United Kingdom than in the northern parts of Europe. However, in comparison with Professor Dore’s prediction of American cultural hegemony I would like to refer to Manuel Castells’ thoughts about the European Union’s special possibilities as a future model for society (Castells, 1998).

I would now like to present a theory on normative or legal development to meet societal change inspired by the thoughts of Douglas Hofstadter (1985) and Emile Durkheim (1930). The theory of law as normative patterns in a normative field was developed by the late Professor Anna Christensen and myself.<sup>2</sup> The theory is based on the thesis that different basic normative patterns can be distinguished in the multitude of legal norms. As social life is quite complex, these normative patterns do not make up the “hierarchical legal system” we frequently imagine. Instead, these patterns are being put into play in a normative field as determined by the different basic patterns, which also act as normative poles. Amongst the important basic patterns (or poles) present in the normative field within the social dimension are, on the one hand rights of ownership and freedom of contract – which together form the market-functional basic pattern – and on the other hand, protection of the established position (i.e. the right to one’s possessions or, for instance, security of employment in labour law and the principle of compensation for lost income in social security law). A third basic normative pattern is just distribution, a distributory pattern related to social justice and solidarity. The other component of the theoretical framework is the functional relationship between the legal system and the structure of society and conditions for economic production. The basic normative patterns are held to reflect normative practices functional to society and human relationships and the normative field can hence also be pictured as a functional field. Normative patterns thus reflect – and codify – social normative conceptions and practices aimed at making long-lasting human relationships and sustainable societies possible, and they are closely related to societal conditions. Changes in the underlying conditions of production provide explanations for many of the movements in the normative field and the new legal institutions which have arisen to satisfy fundamental normative demands. However, the basic normative patterns all represent enduring legitimate normative conceptions in society, and it is the continuous task of legislators and courts to balance these conceptions within the framework of law. The attraction of the normative poles/patterns may differ, but they seldom lose their attraction altogether.

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<sup>2</sup> See, for instance, Christensen 1995, 1999 and 2000. Ann Numhauser-Henning is elaborating the normative/functional field of labour law in the article *Den framtida arbetsrättens förutsättningar* 1997 and, with special regard to discrimination law, in the introduction to *Legal perspectives on equal treatment and non-discrimination*, 2001. The report *Pension rights and the coordination rules on applicable legislation in the light of migration and labour-market developments*, 2003 provides a normative and functional analysis of European social policy and the coordination of social security. See also Henning 1984, and Numhauser-Henning, 1988.



The focus is on the normative patterns concerned with the protection of established positions and social justice since these are the strategic values of protection in an era of “market individuation”.

## Developments in labour law

Basically, I agree with Professor Dore’s conclusion that educational performance is crucial; it is the basis of future divisions in labour markets. There is an alternative picture, however, to the general view that the deregularization of employment protection is the centre of concern. There are other normative answers providing new ways of counteracting the negative effects of flexibilization. Discrimination law offers other remedies, although as a legal strategy discrimination law may be the outcome of precisely the developments addressed by Professor Dore.

In the preparations for a roundtable discussion at the XVIth World Congress of Labour Law and Social Security Law in Jerusalem in 2000, (Numhauser-Henning, 2001b) I came to the conclusion that knowledge – or rather flexible qualification<sup>3</sup> – has the potential to override new forms of work as the “touchstone” of labour law discourse in the knowledge society.<sup>4</sup>

The very concept of a knowledge society or knowledge economy reflects knowledge as the central productive resource, while technical development and global competence are generally stressed as the forces behind the growing demand for knowledge, qualifications, (continuous) education and adaptability. From the employee point of view, adequate qualifications (knowledge and continuous education) mean increased security as regards (continuous) employment, but also increased chances of achieving high-quality working conditions and a fulfilling working life. The central concept in the relation between qualification and employment is of course the now very frequent term “*employability*”.<sup>5</sup>

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<sup>3</sup> Knowledge or qualification as an adequate production resource is not static. To put it in Gudmundsson’s words “the central component of general qualifications can be defined as flexibility, the ability to adapt to changing conditions and to transform one’s qualifications as needed,” Gudmundsson, 1998, p. 218.

<sup>4</sup> Compare the European Commission’s *New strategy for jobs in the knowledge economy* and the famous Lisbon strategy of March 2000.

<sup>5</sup> Employability was long the first “pillar” in the four-pillar structure of the EU Employment Guidelines adopted by the European Council in pursuit of the Amsterdam Treaty rules under the Employment Poli-

In labour law discourse, the developments described have generally been addressed as the *flexibilization of work*, which has long been a question of conflicting interests. The discussion has frequently focused on the tension between traditional employment and employment protection on the one hand and so-called *new forms of work or atypical work* on the other. The centrepiece of the discussion has been deregulation of traditional labour law. The changing paradigm of the labour market is generally considered to create new conditions for labour law. An early model – and maybe still the best-known one – of the new way of organizing labour is Atkinson's (1984) model of "*the flexible firm*". At the centre is what Atkinson calls the core group of workers. With regard to this segment of the labour force, the relevant flexibility strategy is described as *functional flexibility* – that is, the reallocation of labour through adequate and flexible organizational and competence structures. This can also be labelled internal flexibility or, to speak in Professor Dore's terms, productive efficiency. The second segment is the peripheral group of workers, whose skills are more easily available and who can be recruited on demand. Here, the adequate managerial strategy is supposed to be *numerical flexibility*, implying more or less precarious forms of work such as part-time work and fixed-term work – or what has earlier been called new forms of work or atypical work. The third segment is made up of "outsiders", that is workers who are not integrated into the organization in the sense of being employed there. This group includes people hired out by temporary work agencies, but also consultants, freelancers and, ultimately, any other form of outsourcing. One could describe both the numerical flexibility strategy and the distancing strategy as forms of *external flexibility* in the sense that adjustment and flexibility are achieved on demand, mainly from outside the employer's organization – allocative efficiency in Professor Dore's words. Labour-market developments and the increased need for precise allocative flexibility have generally been perceived as forming a trend towards an increase in the peripheral and distanced workforce. This entails an increase in part-time work, fixed-term work, temporary agency work and other unstable employment relationships – and a decrease in the number of core workers offered permanent, relatively secure, traditional employment. These developments

cies Title (now Title VIII, Employment) on a yearly basis since 1997. As used there, it seemed to be in line with the employee or societal point of view as just described. However, the very term *employability* above all reflects the attention paid to management views on qualifications really in demand for employment. Employability is still a relevant concept and approach as regards current EU employment policies, see Council Decision of 22 July 2003 (2003/578/EC).

impose strains on labour law, in that they engender demands for the deregulation of traditional employment protection and for conditions conducive to more flexible modes of employment.<sup>6</sup>

It seems obvious that workers' skills are of vital importance to the flexibility strategy selected by the management. From the internal flexibility point of view – that is, with regard to the core group of workers – adequate and hard-to-come-by skills can even be described as a categorizing element. From the external flexibility point of view, in the eyes of management, continuous education might be a better strategy for society and for individual employees seeking to change employment possibilities and conditions.<sup>7</sup> Workers have generally perceived this as a situation (according to the protection offered by general regulations) of relative protection for those with permanent positions and uncertainty for those in peripheral or distanced positions.

This is, however, too simplistic. Statistics and research indicate that the importance given to different modes of employment in labour law discourse might be misleading. Legal rules on employment protection in most countries imply that employers have “core groups of workers” in the sense of permanent employees (with employment contracts of indefinite duration) who are not really crucial to activities in the firm. They are almost as likely to suffer the consequences of weakened demand as some of the people in new forms of work.

Swedish investigations on labour-market developments in the 1990s (Wikman et al., 1998) show that there is reason to divide permanent employees as well as atypical workers into different categories on the basis of their labour-market experience. The full-time permanently employed were divided into two categories, one group frequently working overtime<sup>8</sup> and the other (almost) never doing so. In the deep

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<sup>6</sup> Schömann et al., 1998 pp. 10 ff, from a more theoretical point of view, mention “the Standard Employment Relationship theory” (Mückenberger, Streeck) and “the theory of Reflexive Labour Law” (Teubner, Rogowski and Wilthagen) as two different ways to approach the flexibilization process in labour law. “The Standard Employment Relationship theory” adheres to an external-factors approach whereas “the theory of Reflexive Labour Law” represents an internal autopoietic approach. The theory of law as normative patterns within a normative field can be said to combine these functional and normative approaches in a fruitful way. While legal innovations are likely to be reactions to social or legal consequences of previous legal regulations, the attraction of normative patterns “reacts” to social change, as societal conditions influenced the creation of existing basic normative patterns in the first place.

<sup>7</sup> Compare what is said on the EU employment guidelines above.

<sup>8</sup> This group consisted of those who, at least once a week, had to work during lunch-hour, stay on after regular hours or take work home.

labour-market recession of the early 1990s more than half a million regular positions disappeared in Sweden, but only some 30,000 of those in the first category, the “overtimers”.<sup>9</sup> The overtimers also had a greater influence on workplace conditions; despite their overtime they had a higher degree of “self-regulated” working hours and access to education and training. They can thus be said to have constituted the “real inner core group of workers”. Among part-timers permanently employed, there was also an “inner category” of voluntary part-timers and an “outer category” of those who wanted to work full-time but were not allowed to do so. Different categories of employees may be distinguished among fixed-term workers too: again an “inner” privileged group of fixed-term employees seems to be contrasted with another, “outer”, less fortunate group. In the inner group are employees (mostly men) in project and probationary employment, in the outer group public-sector substitutes and on-call workers (mostly women). While the proportion of substitutes in the workforce has been more or less stable since 1993, other types of fixed-term work have considerably increased their share of total employment. Project work has the second smallest proportion of low-skilled jobs, after the permanently employed “overtimers” (Wikman et al., 1998, p. 55).

Tight bonds may be the managerial strategy for retaining skilled core labour. However, in the case of the really “employable” people, employee strategies also play a vital role, and more and more workers (whether employees, hired-outs, freelancers, consultants or other self-employed) seem to prefer “new forms of work”. As the restructuring phase of the traditional labour market has passed, it might be that an external or distanced *network* of crucial skills is most attractive to management.

Employability in terms of skill appears to be the crucial quality, regardless of mode of employment, or to quote Gudmundsson: “The basic cleavage in the labour market is between the core of the qualified and flexible and the margin of the unqualified and inflexible,” Gudmundsson, 1998, p. 205. This implies new challenges to labour law. Inadequate qualification is the really weak link in the chain. Employability in the sense of adequate qualification is the key factor. In the

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<sup>9</sup> The overtimers were not a small group but made up 19.9 per cent of all employed in 1989, 19.4 per cent in 1993 and 22.9 per cent in 1997 as compared to 43.6 per cent in 1989, 38.5 per cent in 1993 and 37.3 per cent in 1997 (Wikman et al., 1998).

context of traditional permanent employment, we should study the legal standing of (a lack of) qualifications with regard to dismissal for personal reasons as well as collective dismissal in connection with just-cause requirements, seniority-systems and the like. The “precariousness” of non-core permanent employment of course depends on the job protection offered; but there is no doubt that well-developed job protection has considerable loopholes in cases where the qualifications of an employee do not meet the needs of the business.<sup>10</sup> Here the development of legally defined or negotiated *rights to education and training* is a way forward. And we have to consider such rights, not only as an important part of employment protection in the traditional sense (making continued employment with the original employer possible), but also (to enhance “external” employment) as an important complement to such protection substituting (or as part of) employment-protection, redundancy-payment and unemployment-insurance schemes.

The right to education and training seems to be especially appropriate for negotiated solutions, since financing is such an important part of it.<sup>11</sup> More developed rights to education and training as part of employment-protection schemes would seem to imply a strengthening of employer prerogatives as regards the functional flexibility dimension.<sup>12</sup> However, a right to education and training as part of the more general conditions of employment can also help to “empower” individual employees. Rights to education and training are an increasingly important part of employment protection, but may also be a substitute or a complement to it. Basically, there is “a normative shift” in the employer’s obligation, from a duty to guarantee continued employment, to a duty to guarantee continued employability – in the form of continuous education. Basically, this means that an employer should not be able to contract manpower on conditions that threaten the future employability of the individual.

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<sup>10</sup> For a recent description of developments in Swedish labour law regarding these issues, see Rönnermar, 2001.

<sup>11</sup> How the costs of such educational rights should be distributed is far from obvious. Collectively negotiated solutions may turn out to be the best; but several considerations also favour initial schooling and social security schemes, given the increasing importance of transitional employment as part of the “continuous employment” system.

<sup>12</sup> Legal obligations for employers in these cases are generally constructed as more or less vague rules on “reasonable” adjustments, etc. Such an obligation on the employer’s part also stresses the responsibilities of the employee.

Developments in the field of discrimination law may give other important clues. There has recently emerged a right to non-discrimination for *workers*. When it comes to part-time employment, fixed-term work and temporary agency work, there is reason to pay special attention to the *equal treatment principle* as expressed in community law directives. The comparatively early Council directive 91/383/EEC on the health and safety at work of fixed-term workers and temporary agency workers was already based on the equal treatment principle. In more recent directives, 1997/81/EC concerning the Framework Agreement on Part-time Work (the part-time directive) and 1999/70/EC concerning the Framework Agreement on Fixed-Term Work (the fixed-term work directive), the principle of non-discrimination/equal treatment provides a solid basis for improving the quality of part-time and fixed-term work, respectively. Thus, part-time workers and fixed-term workers must not be treated differently (less favourably) than comparable full-time/permanent workers, unless the differentiation is justified on objective grounds. Without denying the fact that different (but not necessarily “inferior”) working conditions are the object of the comparison, this development within Community law indicates the validity of the argument that the mode of employment is irrelevant to the security (or not) of an employment.<sup>13</sup>

Professor Dore highlights this development in his paper, but stresses the shift from equality of outcome to equality of opportunity. This does not necessarily give a balanced picture of the potential of discrimination law. There is also *the concept of indirect discrimination* offering the possibility to scrutinize the underlying norms of the labour market and thus “bridging the gap” between formal and substantive equal treatment.<sup>14</sup>

Thus, the Atkinson model of the flexible firm is far from accurate in the sense that both peripheral and distanced groups may be “core workers” in the network society, and permanently employed staff may not. If we relate to the normative field, employment protection may be seen as a way to protect the established position; managerial prerogatives as a reflection of the market-functional pattern and fixed-term contracts an expression of freedom of contract. Rights to equal treatment “for

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<sup>13</sup> In cases of equal treatment between the sexes, the ECJ has, through the concept of indirect discrimination, long provided a way for declaring inferior working conditions for (e.g.) part-timers illicit; see for instance case 96/80 *Jenkins v. Kingsgate Ltd* (1981) ECR 911. See also C-189/91 *Petra Kirshammer-Hack v. Nurhan Sidal* (1993) ECR I-6185 and C-167/97 *Regina v. Secretary of State for employment, ex parte Nicole Seymour-Smith and Laura Perez* (1999) ECR I-623 – both on employment protection.

<sup>14</sup> Compare, for instance, Numhauser-Henning, 2001a, p. 2.

workers” increasingly imply that the mode of employment is not the crucial concern. Of course, this does not permit us to believe that there will be no segmentation of labour markets in the future. My point is that rights to education and training – cleverly structured – may turn out to be as effective, both for workers and management, as traditional employment protection once was. They may be a new way to protect the established position. And non-discrimination solutions basically articulate the normative pattern of social justice and may help to deter the increase in inequality predicted by Professor Dore. I will not deny that equality of opportunity may be seen as a new way to establish the position of “the strong” in a market-functional way, but as we have already said, there are also other facets to equal treatment law.

## Developments in social security law

The first function of social security is to complement the wage-work society. The labour market and the social security system interact, the labour market being the dominant system with social security devices designed to fill the gaps. The modern labour market cannot function as a legitimate societal order without a supplementary distributive system which guarantees a reasonable livelihood to those who for longer or shorter periods cannot earn their living in the labour market. Thus the two systems are mutually dependent. Changes in the primary system will affect social security in one way or another. However, this works in the other direction as well. The way social security is shaped affects both the labour market and the family, the latter traditionally being an important entity of social maintenance and, thus, a supporting “distributive order”. Of course, labour markets and family interact not only with social security but also with each other in much the same way (Christenen, 2002).

Modern changes in family structure have made the family increasingly inadequate as a societal distributive order. This development calls not only for a public safety net in the form of state social security schemes but it also calls for the individualization of social security systems. A natural relation, like the family you are born into, contains an inward quality – a status, (Weber, 1983-87). This relationship may be the foundation for a legitimate acquisition, such as an inheritance. The division of property after the end of a marriage is founded on the same kind of principle. Marriage was earlier a lifelong and insoluble commitment. This meant that the common good was prioritized before the man's or the



woman's own interests. The modern marriage – partnership and/or cohabitation – on the other hand, is founded on a contract, where the parties are independent and thus supposed to put their own interests before the common good. The relation may be – and nowadays frequently is – dissolved. The basic normative pattern of community or belonging stands, thus, in conflict with the basic normative pattern of individuality and financial independence, which is also at work in the normative field of family law (Christensen, 1988).

New research questions have arisen at the intersection between studies on the flexibilization of labour law. These questions are prompted by the changing character of the family. The abandonment of the “nuclear family” or “the flexibilization of families” – at least in Sweden – came before the flexibilization of working life. The fading away of the traditional family was not a necessary and unidirectional societal evil.<sup>15</sup> The number of unmarried couples living together was steadily on the increase. But in Sweden fertility rates were much the same as before and statistics showed that a great majority of children were still living with their two biological parents.<sup>16</sup> Separations were increasing, but most children still lived in “families” made up of two adults and, possibly, more children, if not necessarily with both their biological parents. The reconstituted family unit was accepted and no social stigma applied. This is reflected in the fact that adoption is a marginal phenomenon in Sweden. It is generally accepted that everyone has a mother and a father and that biological families do not necessarily live together (Ryrstedt, 2003). There is thus a new practice, the dynamic and flexible family, which has undertaken part of the function of the traditional family as a constituent of society. These social changes call, however, for the swift individualization of family possessions and a well-developed supplementary social security system based on individualized rights, substituting for traditional family schemes built on derived rights, which were not necessarily better, least of all from a gender point of view.

The flexibilization of the family may be seen as a (necessary) complement to economic and labour-market developments. As the flexible family substitutes for the traditional nuclear family with other, new,

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<sup>15</sup> See the JIL Report, 1995 No. 4, *Working life and family life: Policies for their harmonization*.

<sup>16</sup> Whereas about 50 per cent of new mothers were unmarried only some 5 per cent were living as single mothers: 75 per cent of all Swedish children 0-18 years of age lived together with both their biological parents. Figures according to the 1992-93 ULF investigation, SCB Report Series 1994:2, Stockholm 1994.



structures it simultaneously affects women's participation in the labour market and vice versa. This development also calls for the reform of social security systems towards individualized rights, remunerated work being their traditional basis and income replacement its dominant normative anchorage.<sup>17</sup>

As regards flexibilization of the work process, recent developments concerning the legal scope for fixed-term work and part-time work may illustrate a shift from ideological opposition to acceptance of flexible work. This is the position reflected in the two recent Council directives on Part-Time Work (Directive 97/81/EC) and Fixed-Term Work (Directive 99/70/EC), respectively. The two directives, so far, only apply to working life and not to statutory social security. However, the principle of equal treatment is gaining ground very quickly. We should therefore, with regard to atypical employment, expect the equal treatment principle to apply in all areas, including social security, within the near future.

If we try to picture this in the normative field, we have the traditional pattern of belonging (covering established position and social justice) turned into individual property rights and individualized social security benefits.

The Swedish pension-scheme reform illustrates the developments in social security law. Seemingly confirming the thesis of Professor Dore, the reform entails a shift from defined benefits to defined contributions. It even contains a small pre-funded part. Basically, however, it is a pay-as-you-go scheme, built upon solidarity between generations. Moreover, based on average lifelong earnings and actuarial principles it is neutral to "flexible work" and other more heterogeneous careers and does not even contain a fixed pensionable age. The system is extremely flexible and a person who goes on working after the "normal" pension age (65) continues to accumulate pension rights. As a socially justified redistributive element it contains, however, rules on pension rights for other socially valuable uses of time such as child-rearing and study. And as an ultimate safety net there is the basic "guaranteed pension". The scheme is gender-neutral and the rights of surviving spouses have in principle been eliminated. There is, however, the possibility of redistributing pension rights between spouses and/or cohabiting persons on a continuous basis.<sup>18</sup>

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<sup>17</sup> Compare Christensen and Malmstedt, 2000, dividing social benefits into mainly work-based and solidarity benefits.

<sup>18</sup> On the Swedish pension scheme, see for instance Wadensjö, 2000.

## Conclusions

I would agree that technological progress and globalization require more flexible work arrangements than those of the industrialized society and that this development interacts with social changes in family patterns, etc. This requires normative change, but only in the sense that the patterns need to be re-articulated.

The protection of established position and the search for just distribution are finding new ways; from employment protection to employability and equal treatment, from the nuclear family to flexible/dynamic families where old values are respected, but in new forms and in redesigned complementary social security schemes.

If we accept that periods of great societal change typically weaken the position of the individuals who were (hitherto) established, the normative pole is likely to regain force once the positions in society are regrouped.

In the meantime patterns of social justice, such as equal treatment and individual social rights, are likely to strengthen their position, counteracting an “inevitable” increase in inequality. Equal treatment and non-discrimination solutions are typically being used to protect marginalized groups. However, there is an élitist element to it, favoured by the frequent equal opportunities and formal equality approach. The protection of really marginal groups needs positive action – an innovative form to satisfy the social justice pattern.

New flexible “established” workers thus require new solutions to protect their position. Such solutions are in the process of being found. Flexibility *per se* may be a threat, though. Established positions will probably never – or at least not for a long time – be as well-established as in the past, and that goes for work, for families and for social security schemes, too. Whether this is a sign of greater inequality or maybe a chance for those less fortunate and less established to change their situation is not easy to tell. I am not necessarily pessimistic. The logic of developments seems to strengthen the human rights’ approach to employment opportunities and conditions reflected in social rights – this might be a good development! In fact, the decline in the pattern of belonging/community is what paves the way for further integration and participation. And this applies whether we are talking about the European Union or the enlargement process and a global community, or integration at the individual level.

We will find new techniques to solve old problems – and they will be most useful to the established groups and less useful to those who are marginalized. We will never succeed completely – this is a never-ending story!

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# Rethinking social change

*Fumiko Obata*

## Introduction

As Professor Dore asserts, the trend to greater inequality of incomes is more or less universal and inevitable in any market system based on high technology. It is important to ask how far the trend to *tolerating* increasing inequality is the consequence of internal structural changes within every industrial society and how far it is a consequence of one particular aspect of globalization. It is also important to ask about the possible sources of a rethink and to wonder if the trend to tolerating increasing inequality is likely to be reversed, even in the United States. As Professor Dore points out, the trend can be related to globalization, but it is related even more directly to the accumulation of technical knowledge which has made globalization possible. Robert B. Reich, University Professor at Brandeis and Secretary of Labor under President Clinton, has explained how new technologies of communication, transportation, and information have dramatically widened customer choice and made it easier for all customers to shop for, and switch to, better deals. Wider choices and easier switching have intensified competition at all levels and have made it almost impossible for any organization to guarantee a consistent income to anyone working within it. To stay competitive in this

volatile environment, organizations have to turn all fixed costs (especially payrolls) into variable costs that rise and fall according to the choices buyers make. As a result, earnings have become less and less predictable. Income now depends less on formal rank or seniority, and more on an employee's value to customers.<sup>1</sup> Firms no longer compress the wages of people who work for them. On the contrary, firms are competing furiously to attract and keep valuable performers.<sup>2</sup> Talented and ambitious people have vast opportunities. Yet it is also the case that more jobs require unremitting effort, and that all workers are at more risk of a sharp drop in earnings.<sup>3</sup> Annual hours of work are now among the longest in the United States.<sup>4</sup>

The extent to which increasing inequality is accepted can be related to the failure of state socialism as well as to the accumulation of technological knowledge and globalization. The failure of state socialism in the former Soviet Union, Eastern Europe, and many developing countries has renewed appreciation of the economic and political virtues of competitive markets in harnessing the efforts of managers. Managers are expected to respond to the demands of consumers, to promote efficiency in resource allocation, stimulate innovation, and avoid an undue concentration of power. Many nations have taken steps during the past 20 years to dismantle central planning systems, privatize state-owned enterprises, and reduce or transform government control of economic activity.<sup>5</sup>

## What are the possible sources of a rethink?

Professor Dore suggests two reasons for supposing that the trend may be reversed. The first is the possibility that the process of unwinding the imbalances in the world economy will lead to a world depression on a 1930s scale and the comprehensive discrediting of Anglo-Saxon capitalism. The second is another of the "your unrest threatens my peace"

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<sup>1</sup> Reich, 2002, pp. 98-99; Gilpin, 2003; Woods, 1999; Economist, 2001; Sugeno, 2002, p. 201; Araki, 2002, p. 70.

<sup>2</sup> Reich, 2002, p. 101.

<sup>3</sup> Reich, 2002, pp. 106-107; Berberoglu, 2003.

<sup>4</sup> Reich, 2002, p. 112.

<sup>5</sup> Stewart, 2000; Hanami, 2002.

effects. The misery of the poor can spoil the quality of life for the well-off. I would like to add three more grounds.

Three questions arise from the explanation given by Professor Reich.

- i) When customers shop around, are they concerned only with the price and quality of the goods they buy?
- ii) Can American workers endure long working hours and intensive work requiring unremitting effort?
- iii) Isn't it important for future prosperity to give an adequate education to children raised in a poor community?

## Customer choice

When customers shop around, are they concerned only with price and quality?

It is important for firms to attract customers (including other firms). New technologies have widened consumer choice and made it easier for all customers to switch to better deals. That is the reason for the trend towards greater inequality of incomes. In this context, customers are supposed to be concerned with only the price and quality of the goods. But customers may be concerned with the seller's attitude towards society – for example, whether it complies with laws to protect employee safety or to prevent environmental pollution, and whether it cares about a minority group or the community in general.<sup>6</sup> Customers may be environmentally sensitive consumers.<sup>7</sup> They may support family-friendly firms. They may be sensitive to corporate social responsibility. We should remember that social responsibility investment in the United States was over \$2,340 billion in 2001.<sup>8</sup> If most customers are concerned not only with price and quality, but also with the seller's attitude towards society, the seller should change; instead of putting the stress only on economic efficiency social responsibility has to be taken into consideration. Moreover, sellers should pay attention to the choices of customers from all over the world in this globalized situation.

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<sup>6</sup> Summers, 2003; Hepple, 1999.

<sup>7</sup> Mol, 2003.

<sup>8</sup> Social Investment Forum, 2001.



## Karoshi and karo-jisatsu

The second question is whether American workers can endure long working hours and intensive work requiring unremitting effort.

In Japan, famous for long working hours, *karoshi* – mental illness or heart attack as a result of overwork – and *karo-jisatsu* – suicide as a result of overwork – have become serious problems.<sup>9</sup>

The mental illness or heart attack may be caused by work which is too demanding. According to a JIL survey, a large proportion (60 to 70 per cent) of Japanese workers believe that employers are demanding different skills. More specialized skills are demanded from some workers, while others are expected to handle non-routine tasks. Many seem to feel that their employers' skill requirements have been raised or shifted. Many workers also appear to feel that performance standards have increased, both in quantity and quality.<sup>10</sup> The heavier workload and greater mental stress involved are more serious than would appear from the official statistics for working hours. The number of people seeking mental health counseling at one manufacturing company almost doubled in 2001, from the usual 20 to 30 to over 50.<sup>11</sup> Labour cuts and curbs on new hiring prompted by deteriorating business performance clearly mean that the remaining employees must work harder.<sup>12</sup> In December 2001, the criteria for determining whether mental illness or heart attack should be recognized as work-related were relaxed in Japan. Statistics from before and after the criteria were revised show that 85 cases were recognized as *karoshi* in fiscal year 2000, 143 in fiscal year 2001, and 115 from April to September 2002. The number of suicides recognized as work-related has sharply increased since 1999. (There were three cases in 1998, 11 in 1999, 19 in 2000, and 31 in 2001.)<sup>13</sup>

As Professor Dore argues, belief in both the desirability and the inevitability of following the Anglo-Saxon countries along the neo-liberal track has gradually become the dominant doctrine in Japan's economic bureaucracy over the last decade, and in its government since Mr. Koizumi became prime minister. Although long-term employment

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<sup>9</sup> Obata, 2000.

<sup>10</sup> Morishima, 2003.

<sup>11</sup> Genda, 2003.

<sup>12</sup> Genda, 2003.

<sup>13</sup> Japan Labor Bulletin, 2003a.

is still the norm at the majority of Japanese companies, the numbers of non-regular workers and unemployed have increased sharply, and even regular workers are now in a difficult situation.<sup>14</sup> The number of unemployed people increased by 30,000 from 2002 to 2003, reaching 3.63 million, and the number of workers who had been unemployed for one year or longer increased by 90,000 to 1.12 million.<sup>15</sup> In 2001 the number of suicides was 31,042, marking the fourth consecutive year that this figure has topped 30,000. Suicides resulting from economic and/or financial stress totalled 6,845, the highest ever. From 1978, when the National Police Agency began collecting statistics, until 1997, the number of suicides was between 20,000 and 25,000 per year. Since 1998, however, the number has been over 31,000 per year. This represents one out of 4,098 people living in Japan.<sup>16</sup> Of the 9,115 suicide notes, 2,872 referred to economic/financial problems. Among these suicides, 934 had been self-employed, 887 had been unemployed, 786 were company employees and 167 were managers.<sup>17</sup>

Annual hours of work are now among the longest in the world in the United States. More jobs require unremitting effort, and all workers are at risk of a sharp drop in earnings. Most American workers have never experienced this kind of work intensity. If the numbers of work-related suicides and illnesses increase rapidly in the near future, Americans may rethink the way they work. No one wants to see their friends suffering or to be in such a situation themselves. Americans may feel that it is necessary to reverse the trend towards growing income inequality. They may want a shift from indirect taxes to direct taxes. They may want a pension system which is not inequality-enhanced but partially redistributive.<sup>18</sup>

## Human capital

Robert Reich made some interesting points in relation to the third question. He argued that a sorting mechanism can be found in American society.

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<sup>14</sup> Sugeno, 2002, p. 13; Araki, 2002, p. 21; Japan Labor Bulletin, 2002b.

<sup>15</sup> Japan Labor Bulletin, 2003b.

<sup>16</sup> Japan Labor Bulletin, 2002a.

<sup>17</sup> Japan Labor Bulletin, 2002a.

<sup>18</sup> Reich, 2002, p. 197.

Individuals try to get into groups offering them the best deals – not only the best cities or townships and the best private residential communities they can afford, but also the best universities, primary and secondary schools, child-care centres, nursing homes and elder-care centres, insurance pools, professional partnerships, and companies. And such groups compete to attract the most desirable members – those who can contribute the most and demand the least. As a result, the most desirable end up clustering together. And with ever-greater efficiency, they exclude those who are less valuable or more needy. The next most desirable cluster together as well, and exclude those who are more costly than they. And so on, down the line.<sup>19</sup>

Reich pointed out that as Americans self-segregate according to income, the sorting mechanism is undermining communities. Schools, parks, public recreation, libraries, and other amenities in poor and working-class areas are being short-changed because they depend largely on local property taxes. The old reliance on local funding was more appropriate when towns were composed of both rich and poor, but it is generating vast inequalities today, when rich and poor are more likely to live in separate towns. The problem extends beyond financing. The schools that children attend and the communities in which they are raised are critically important to their future. Large concentrations of poor and near-poor are compounding the barriers they must overcome. Socially isolated at a time when career paths are blurring and manufacturing jobs disappearing, bereft of role models and social support in a system that depends on both, young people in poor communities have limited means of gaining a foothold in the new economy.<sup>20</sup> Reich argued that people's best investment in their future prosperity is to improve their store of "human capital." But education takes a considerable time. And education doesn't address social disadvantages, isolation and lack of connections. So he suggested providing every young American, upon reaching the age of eighteen, with a financial "nest egg" of, say, \$60,000, which he or she could then invest in additional education, a business venture, stocks and bonds, or some combination of these. Such endowments would be financed by a small wealth tax on the very richest.<sup>21</sup>

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<sup>19</sup> Reich, 2002, p. 196.

<sup>20</sup> Reich, 2002, p. 239; Zeitlin, 2003.

<sup>21</sup> Reich, 2002, p. 204.

## Conclusion

The trend to tolerating increasing inequality may be reversed if it is true that most customers are greatly concerned with sellers' attitudes towards society, that most American workers do not wish to accept long hours of intensive work, and if they notice that this trend takes career paths away from poor young people who may bring great prosperity in the future.

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# Can Japanese families change their lifestyle?

*Masakazu Yano*

## Introduction: The sleepless society

**W**e have conducted three different kinds of research project in order to identify the ways in which Japanese people allocate their time.

The first was a survey in Matsuyama city, Ehime prefecture, undertaken in 1972 and 1991 to provide comparable data to the Szalai study (Multinational Time-Budget Research Project 1965) and to examine the cross-time difference in the activity patterns of this city during recent decades. The survey site, methodology, data collection and publication were chosen according to Szalai's survey manual.

The second was a cross-national comparison carried out jointly with the Broadcasting Culture Research Institute at NHK (Government-owned broadcasting agency). Six Western countries were selected for this survey: Canada, Denmark, Finland, the Netherlands, the United Kingdom and the United States. NHK compared the results of the country surveys carried out between 1985 and 1987, with those of a 1990 survey.

The third was a 1997 international comparative study on patterns of daily life, which was carried out jointly with the Research Institute for

the Advancement of Living Standards (RIALS) under the Rengo Japanese Trade Union Confederation. The focus was on the employed population in five countries; France, Germany, Japan, United Kingdom and United States.

One overwhelming characteristic of Japanese life was found to be the short night/long day pattern. Japanese people sleep relatively little, irrespective of gender. For example, the NHK project showed that Japanese women sleep for only 7 hours 20 minutes per day, nearly one hour less than the Western average of 8 hours 18 minutes. While Western men sleep for 8 hours and 7 minutes, Japanese men sleep 7 hours 47 minutes, or 20 minutes less. In most countries, women sleep more than men; Japan is the only country where the pattern is reversed.

This holds true for other comparative surveys, which show that the situation has not changed in the last 30 years. Sleeping time has received little attention because it was thought to be governed by physiological needs, but it is a fine indicator of the time pressure of everyday life on the harried working class. The quality of life, particularly the question of well-being (“yutori”) is closely related to the shortage of sleeping time. We shall explore this topic in the following section. Section 2 describes the time allocation for paid work and unpaid work from a cross-national perspective, using the results of the NHK project. Japanese people devote the most time to paid work and at the same time exhibit the strongest gender gap among industrialized countries. These are the two reasons for the lack of sleeping time.

The third section examines what has changed and what has not changed in the way Japanese people have allocated their time during the last three decades. The pattern of the working week is virtually unchangeable but the weekend allows for variability in time allocation. This fact may define the turning point for regaining yutori.

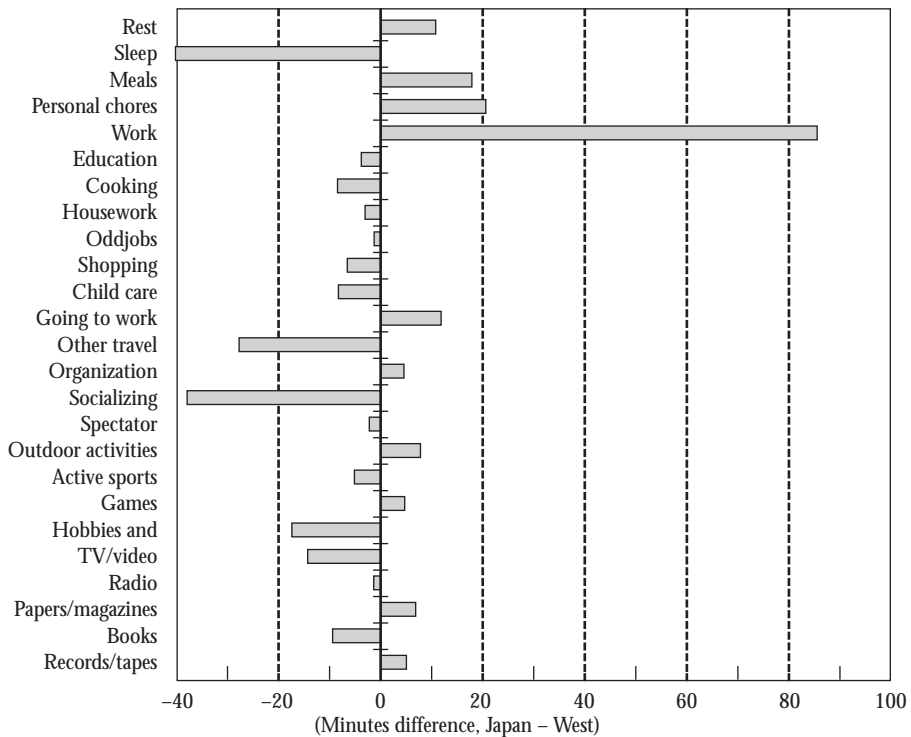
Section 4 assesses the impact of the introduction of a five-day working week, which does not necessarily mean a more comfortable life, while the last section presents some conclusions and considers the loss of yutori in Japan from three perspectives, namely: time use, gender gap and human relations in everyday life. It explores the road to regaining yutori by modifying family lifestyle.

## Uniqueness of Japanese lifestyle and gender gap

This section describes the general characteristics of Japanese time allocation considering the NHK project data from two perspectives: cross-national time use and gender gap. Figure 1 plots the difference between the average daily time allocated to various activities in Japan and the average for six Western countries: Canada, Denmark, Finland, Netherlands, United Kingdom and United States. The survey covered people aged 20 to 59 (Harvey, 1994).

Japanese people work considerably longer hours than people in Western countries. This observation was made in the first comparative time-use study for Japan, using data from the 1972 Matsuyama study. In addition to the extra time allocated to paid work, the Japanese spend longer than their Western counterparts on personal chores, meals, school and work travel. The extra time spent on one activity must be offset by

Figure 1: Comparative time allocation (minutes per day)  
Japan and selected Western Countries (Weekly average)





less time spent on another activity. For Japanese people extra work time is primarily compensated by less sleep, less socializing, less non-work/school travel and less time for hobbies, TV and books. Japanese men and women both work significantly longer hours than their Western counterparts. For men the additional time is wholly devoted to paid work. However, Japanese women spend much more time than Western women on both paid and unpaid work. This also contributes to the short night.

In order to look at time use differences by gender, male-female differences in the major activities are expressed by means of indices. Table 1 show the results in minutes, obtained by subtracting the average time for men from that of women (Yano, 1994). A minus sign indicates that women spend more time on a certain activity than men do.

The total of the absolute values of the difference is the “inequality index”. That is, if the results of the formula below are zero then there is no difference by gender.

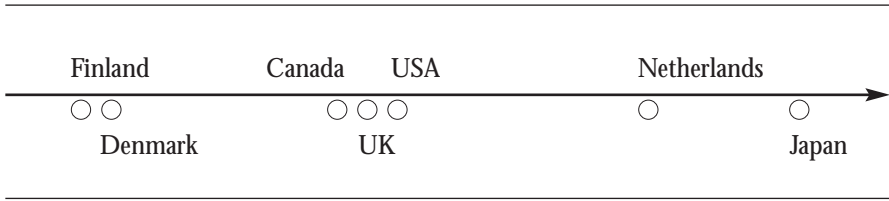
$$\begin{aligned} &\text{Inequality index} = \\ &[\text{Men's time use by activity} - \text{Women's time use by activity}] \end{aligned}$$

The larger the result, the greater the gender difference in time use. As table 1 shows, the result for Japan is 3801 minutes, the largest among the seven countries surveyed, while Finland has the smallest difference of 1792 minutes. Denmark, with comparable sexual equality, ranks close to Finland. The country rankings according to the inequality index are presented in figure 2.

Table 1. Time use differences by gender over a week (in minutes)

	Canada	Denmark	Finland	Japan	Netherlands	UK	USA
Personal care	-175	-189	-42	49	-217	-119	-196
Formal work	959	721	609	1470	1344	945	1085
Domestic work	-1001	-651	-700	-1750	-1190	-1008	-938
Total travel	77	35	70	196	70	91	91
Social activities	-77	70	-112	-154	-126	-119	-147
Leisure activities	0	-49	-42	49	-119	21	35
Mass media	224	91	189	98	245	217	56
Rest	0	-28	28	35	-7	-28	28
Inequality Index	2513	1834	1792	3801	3318	2548	2576

Figure 2. Inequality index



This inequality results from the difference in the time allocated to paid work and to unpaid work. In each country, men devote longer hours to paid work while women spend more time on unpaid work. This accounts for the overall inequality. In Japan, out of the 3801 minutes of gender difference, 1470 minutes result from the difference in time used for paid work, and 1750 minutes from the difference in time allocated to unpaid work. Together they account for 85 per cent of the difference by gender. In Finland, too, 72 per cent of the overall inequality results from these two activities.

The life pattern of men engaging in paid work while women keep house is still common both in Japan and in Western countries. But the small amount of time that Japanese men spend on unpaid work is a notable characteristic; they devote about 3.5 hours to unpaid work every week, compared with 11 to 15 hours for Western men.

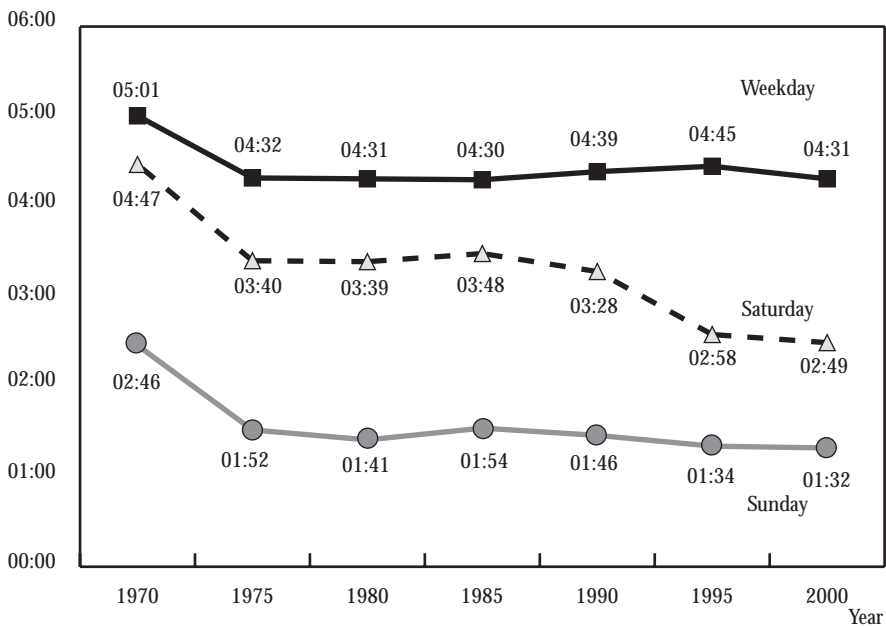
It may seem that Japanese women are more devoted to unpaid work than Western women, especially because they spend the most time on unpaid work and the least on paid work. This, however, is not the case. Average paid work time for Japanese women amounts to 26 hours 43 minutes, the longest of all the selected countries and they spend 32 hours 47 minutes on unpaid work, the second longest.

The data show that Japanese women bear a double burden of unpaid work and paid work. By combining this data with information on the short night, we can see how busy Japanese women are.

## What has changed and what has not changed

It is well known that working hours in Japan are the longest of the industrialized countries, a fact which has caused international trade frictions. In response, the Japanese Government has encouraged companies

Figure 3: Trends in working time during three decades of NHK time use studies



and trade unions to reduce the number of working hours. The five-day week is a major strategy for reducing the number of hours. In fact, the Government has spearheaded the introduction of this system.

According to a Department of Labour survey the percentage of companies with a regular five-day week increased from 5 per cent in 1975 to 33 per cent in 1999; the percentage with an intermittent five-day week (some weeks a month) rose from 43 per cent in 1975 to 91 per cent in 1999.

This change has affected the rhythm of the week, that is, the way that people allocate their time. The reduction of Saturday working has had a special impact. For example, figure 3 shows trends in working time during the last three decades using NHK time studies (NHK, 2002).

Table 2 examines the cross-time differences in activity patterns for 1972 and 1991 using data from Matsuyama (Yano, 1995). It is apparent that changes during the week are insignificant. Free time has increased by only 10 minutes. This is not due to a reduction in either working time or housework time; it is due to a reduction in the time devoted to personal needs (i.e. sleep).

**Table 2. Time use differences in Matsuyama: 1972/1991  
(in hours and minutes)**

	Weekdays	Total	Sunday	Total	Employed	Married men
	1972	1991	1972	1991	1972	1991
Work	5.50	5.56	3.18	1.51	4.51	2.39
Housework	2.08	2.02	2.21	2.15	0.36	0.51
Family tasks	1.25	1.24	1.44	1.55	1.21	1.44
Personal needs	10.12	10.01	10.56	10.56	11.08	11.26
Free time	4.22	4.32	5.39	6.57	6.02	7.16

This means that the structure of the total time allocation on weekdays has not changed in Matsuyama for the past 20 years; it has been extremely rigid. Even though there have been some interesting changes during the past three decades, as reported by the NHK survey, it is important to focus on the rigid time structure of weekdays. This was not the intention of the five-day week policy.

## The paradox of the five-day week

We would like to discuss a result from the 1972 and 1991 surveys in Matsuyama. According to the 1991 results about a quarter of the employed men worked a regular five-day week, a quarter worked an intermittent five-day week, a quarter worked a six-day week and a quarter had an irregular schedule. The six-day week was standard in 1972.

The workers on a five-day week may seem to have “yutori”, i.e. a comfortable way of life. Nevertheless, paradoxically, they are busier than the men working a six-day week. For example, the average working time on weekdays is 9 hours and 31 minutes (including extras) for men working a five-day week, compared to 8 hours and 55 minutes for men on a six-day week. The five-day week has not reduced working time; it has increased the workload on weekdays. As a result, men working a five-day week have less free time than those on other schedules, and have to cut the time allocated to active leisure, especially sports, social life and other activities. Men working a five-day week spend less time with friends than other workers. Of course, on Saturdays, the five-day workers have almost 2.5 hours more free time than six-day workers. This time is spent watch-

ing television (one additional hour) and in sport (one additional hour). The differences in free time on Sundays are insignificant. However, five-day workers had an additional twenty minutes (and sometimes even more) of free time on Sundays.

Table 3 shows time allocation by work schedule, in hours per week weighted by day of the week. Working time per week for the five-day workers was 45 minutes longer than for six-day workers due to longer hours on weekdays.

The way free time is spent differs considerably between five-day workers and six-day workers. Paradoxically, the six-day workers spend more time per week in active leisure (sport, social life) and cultural activities than five-day workers. This does not apply to passive leisure (television, conversation and resting).

We may conclude then, that the five-day week has not made life more comfortable for Japanese workers. Reducing working time on weekdays is therefore the focal point for recovering yutori and hence improving the quality of life.

Table 3. Time use differences by work schedule (in hours and minutes for employed men)

	Five-day week				Six-day week			
	A	B	C	D	A	B	C	D
Working	9.31	4.56	2.59	55.30	8.55	7.29	2.39	54.45
Housework	0.14	0.20	0.36	2.04	0.15	0.13	1.02	2.29
Family tasks	0.53	1.10	1.52	7.27	0.51	1.01	1.49	7.03
Personal needs	10.08	10.44	11.28	72.53	9.53	10.56	11.18	71.38
	3.13	6.46	7.02	29.50	4.00	4.20	7.06	31.28

A = Weekday    B = Saturday    C = Sunday    D = per week, weighted by day of the week

### Conclusion

Cross-national comparisons and historical trends show that Japanese workers have been losing yutori rather than achieving it. The reduction of yearly working time and the introduction of the five-day week have not necessarily improved well-being. The weekday is a better unit of analysis for assessing the social problem of yutori than the year or the seven-day week.

The following three aspects of everyday life seem to explain the loss of *yutori*. The first perspective refers to time use during weekdays and weekends. Weekdays are devoted entirely to work, and weekends serve only to recover from the accumulated fatigue of the week. If people have no opportunity to attend neighbourhood events or community meetings on weekdays, it is even harder for them to do so on weekends. If people have no free time to enjoy social activities with friends and neighbours on weekdays, it is difficult for them to cultivate and expand their personal network on weekends. Long working hours and the lack of free time during the week result in poor time allocation to leisure on weekends. The reason why men are able to work for so long is that they do not always need to spend time on unpaid work.

The second perspective refers to gender and is of great significance. Although divisions might seem to provide a comfortable family gender life, they actually limit the *yutori* of both men and women, especially working women.

The third perspective addresses human relations. The surveys include data on shared activities; with family, with colleagues, with friends, and others. The most important change during the past two decades is that the time spent alone and with the nuclear family has increased, while the time spent with friends has decreased. From the viewpoint of human relations, people's lifestyle has become lonely and/or restricted to the nuclear family: a self-oriented world in which fostering social networks is increasingly difficult.

These three perspectives help qualify the main characteristics of Japanese lifestyle. Taken together they account for the "short-night" society in which the loss of *yutori* is a common denominator. Table 4 provides a summary (Yano, 2002).

Table 4. Weekday, weekend and loss of *yutori*

Time use		Gender roles	Human relations
Weekdays	Long working hours	Strong	Lonely environment
Weekends	TV and rest	Strong	With nuclear family

As these characteristics have become deeply embedded in Japanese family life, it will be difficult to change the pattern in the near future. On the contrary, the phenomenon is closely related to the increasing number

of unmarried people wanting to escape from such stifling and rigid structures.

International trends in this social and economic context, however, have had a strong impact on the Japanese way of life. Specifically, two important movements are apparent all over the world. The first is gender equalization and rising female labour-force participation, as well as the increase in unpaid working time for men. The second trend is the need to establish work sharing for full employment. In the current economic recession, it is necessary to decide whether to introduce work sharing to equalize opportunities or, instead, to face a highly unequal society in terms of income and time allocation.

The better course is gender equalization and equal opportunities, which means changing the structure of the Japanese family lifestyle. In order to adjust to these new trends, it is necessary to reduce the extra workload on weekdays and to recover yutori rather than to reduce annual working time and accept the unreasonable introduction of a five-day week.

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## Comment by Yuji Genda

The theme of Professor Dore's presentation was that an increasing tolerance of inequality coincides with technological change and international competition in the name of globalization. In the Anglo-Saxon countries this inequality takes the form of income discrepancy. Discrepancy in employment opportunity is the experience in continental Europe. In 2003, ILO published a book entitled *Employment stability in an age of flexibility*, which reports that Japan is not suffering so much from income discrepancy or employment discrepancy but from the "fear" that they might happen.

The increasing tolerance of inequality is not just due to technological change or international competition; it has to do with a change in the concept of fairness with respect to distribution. Based on such a conceptual change, Professor Dore talked about market individualism. This type of individualism consists of personal responsibility, freedom of choice, equality of opportunity, and so on. Market individuals cannot help becoming more greedy, thus provoking a collapse of community solidarity. Professor Dore notes: "Institutions form consciousness and consciousness reinforces institutions", and "Those who live and work in reward systems based on market individualism are likely to end up as market individualists".



Professor Dore, however, also suggests that there might be a chance to reverse the trend towards market individualism. Professor Obata has also pointed out that more investment in education could help reverse the trend. I agree with their ideas and would like to propose another way of correcting “excess” market individualism: such individualism would not survive without new social networks, solidarity, and collaboration extending beyond the market.

The IT revolution has expanded individual choice but it is doubtful if individual values have become diverse: many people now can easily access the Internet but they are looking mostly at the same sites. People have a great deal of information, but they cannot be sure that their information is really trustworthy. Individuals cannot judge whether the information is valuable to them or not.

How can one then access information that is valuable? A simple and reliable way is to consult people with different perspectives. Personal collaboration with people who have different ideas helps to show whether the information is going to be valuable or not; they help with benchmarking.

Sooner or later people find it too difficult for individuals to live alone in this complex world. Then they naturally attempt to collaborate with others, thus acquiring new information or new values. A sociologist, Professor Mark Granovetter, has pointed out the importance of “weak ties”. When people are looking for a job, they can use their weak ties to contact persons with different backgrounds and different perspectives. Such ties can help them find the information that they need.

Structural changes in the Japanese labour market have caused many individuals to suffer when they lose good working conditions and they are frustrated because they lack contacts and social networks. Increasing numbers of middle-aged workers have left their jobs involuntarily. It is very difficult for them to find new jobs by themselves if they have no reliable personal connections.

Youths also find it very difficult to get a job and there are 700,000 unemployed people under the age of 25. However, this figure includes 300,000 young persons who do not want to go to school, or to get jobs; these young people are called NEET (Not in Education, Employment or Training) in England. Many NEET have no close friends; they have no one to share their problems with. On the other hand, there are young people who do a hundred hours of overtime in a month. A young worker

in this situation said: "I try to keep opening windows in my heart. Without personal relationships outside business, I would become depressed!" Professor Yano made the essential point that the five-day week rule has deprived people of their social networks.

In the effort to improve women's economic status it is important not to isolate them. Since 1985 when the Equal Employment Opportunity Law was passed in Japan, working women have been the first role model in companies. But they are sometimes so lonely and isolated that they suffer from burn-out. To reduce the gender gap, it is quite important to have networking beyond gender. The Women's Council in IBM says: "Break the old boys' network!" As Professor Yano said, however, Japanese women are too busy to create their own personal networks.

Market individualism demands that people join associations and collaborate with other people. But the opportunity to do so is not always equal. As Professor Numhauser-Henning pointed out, established workers will need flexible stability in the future. The elite workers can set up networks for themselves but peripheral workers in marginal positions find it difficult to create such relationships. Government policy can make a difference here.

To promote collaboration across social classes, for example, the Japanese Government could encourage the activities of non-profit organizations. In Japan very few people work for NPOs. They account for 12.5 per cent of employment in Holland, but only 3.8 per cent in Japan. NPOs can contribute to society and they can draw people together from different backgrounds through their community work.

Young people in their teens should have opportunities to exchange with others in society. In Hyogo and Toyama prefectures, there are well-organized social programmes that give all 14-year old students in public junior high school an opportunity to work with adults in their local communities for a certain period. We need to help young people acquire social skills and Government can assist by creating weak ties among communities and regions.

Firms still play quite an important role in building solidarity between generations. Japanese employment policy has changed since the 1990s, requiring individual employees to create careers and find jobs for themselves more than in the past. That, in itself, is not wrong but it is most important that organizations or enterprises play a part in training new workers; they cannot simply employ mature and qualified persons.

Vocational training and human capital development through on-the-job training within firms is an important basis for solidarity, no matter how the market economy proceeds with technological change and international competition.

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## Comment by Mizumachi Yuichiro

The main theme of the third session was whether we are able to reverse the trend of growing social inequality. I have two questions on this topic. First, what is the key to changing the situation? Second, what is a desirable legal approach to controlling market forces?

### What is the key to changing the situation?

To approach the first question, I would like to refer to the presentations made by three professors.

First, as Professor Ronald Dore says, a worldwide depression can be a moment of opportunity when it is possible to reverse a trend of increasing social inequality. Certainly, the world depression caused by the October 1929 United States stock market crash led to a new policy, namely the New Deal, which greatly contributed to reducing the social inequality which had been widely observed since the end of the nineteenth century. But, we must also remember that the political leadership of notable figures such as Franklin D. Roosevelt, or Robert F. Wagner was crucial in overcoming the structural problems inherent in laissez-faire capitalism (Derber, 1970). In this instance, democracy overcame the problems in the market.

Second, Professor Ann Numhauser-Henning has stressed the importance of normative values/patterns in constituting a legitimate society. France, Germany, Netherlands, Sweden and other countries provide many examples of attempts to control increasing market forces and preserve social justice. At the same time, these nations formed the European Union in order to cope with American market pressure and preserve European values. To realize this union, the governments of European countries devote themselves continuously to political negotiation. As market pressures became stronger, political efforts had to become stronger.

Third, Professor Fumiko Obata has referred to the work of Robert B. Reich. It is true that even in the United States there are government efforts to reduce social inequality, one example being the Dunlop Commission Report in 1994. However, that reform effort was never enacted into law because the Democratic party lost its majority in both houses of Congress after the 1994 elections. To change the market trends, it is very important to change the political situation. Change may be possible even in the United States.

These three examples all indicate the key to change; namely the power of politics/democracy. Especially in this globalized society, it is essential that international organizations play a strong role in order to integrate different values/opinions and to elaborate just rules. The political power of the ILO will be more and more important in the twenty-first century.

## What is a desirable legal framework?

In order to change political trends, democracy can be realized through the power of law. What is a desirable style of law when politics moves into action? In order to look into this issue, I would like to examine trends in labour law around the world.

First, the United States shows a global trend from “collective labour law” to “individual employment law” (Summers, 1988). Anti-discrimination laws to protect the rights of the minority have been developed since the 1960s, most notably in the field of employment law.

Second, in Europe — even though there are different types of law in different countries — there is a steady trend towards respecting the

“collective” instead of settling for individualization as in the United States. The European countries put more weight on “social partnership,” or in other words, they respect the formation of rules based on discussions between labour and management.

Third, Japanese labour law is undergoing two simultaneous movements. One is an increase of individualistic drive. The Japanese Government is trying to improve dispute settlement mechanisms in response to the increasing number of individual disputes. This could be a similar kind of individualization to that seen in the United States. But, on the other hand, there is a second development similar to the European movement. The Labour Standards Law used to be a uniform and substantial body of government regulations. However, it is shifting towards a form of procedural regulation based on discussions between labour and management, such as decisions taken by labour-management committees.

Based on these different trends in the world, we need to pursue a new model of labour law in order to create a just society. That is an international task that we need to address. As the market cannot exist without people it can be changed by people. In other words, democracy can change the market.

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## Chapter IV

### Lecture 4. Global markets and national employment systems

*Ronald Dore*

In discussing the possibility of a reversal of the established trend towards market individualism at the expense of social solidarity I ignored one important factor, namely the effects of globalization. I interpret the term broadly to encompass a wide variety of phenomena which have one thing in common – they have been much facilitated by the easier and cheaper contacts made possible by modern communications and transport. Improvements in this field began in earnest with the voyages of the fifteenth century. One simple measure of the level of globalization of the world or of a particular country – simple in conception that is, but next to impossible in application – is the proportion of interactions between its people or its organizations which involve cross-border contacts. It is quite useful to distinguish between international interactions, as in the WTO or the Olympics, where the people concerned represent their national states, and transnational interactions which involve members of civil society, from migrant workers' remittances, stamp collectors' gatherings and paedophile networks to Médecins sans Frontières or INTELL, the International Network on Transformative Employment and Labour Laws.<sup>1</sup> In both dimensions growth was accelerating in the

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<sup>1</sup> Devoted to "the use of law to construct more just, equal, non-hierarchical, culturally and sexually pluralistic and democratic societies." J. Conaghan, K. Klare and M. Fischl, eds.: *Labour law in an era of globalisation: Transformative practices and possibilities*, Oxford, Clarendon Press, 2002, Introduction, p. xx.



period up to 1913, slowed in the interwar period, grew again within the Western world during the cold war, and has accelerated at a faster rate in the world as a whole with the telecommunications revolution since 1990.

This lecture has two, not clearly related parts; what has come to be known as the social clause issue, but which, for the ILO, is the core labour standards issue; and secondly the question whether societies can sustain very different cultures, institutions and value systems in spite of a high degree of global economic integration. I say “not very clearly related”, but there is a relation nonetheless. I denied earlier that justice was one and indivisible, but caring about justice, being prone to indignation at the sight of unfairness, is perhaps a general personality syndrome. By and large, the people who are upset at growing inequality in their own society, are also disturbed by the grosser inequalities between the rich countries of the north and the poor countries of the south. They are well represented in the anti-global movement, if outnumbered by people whose main emotion is hatred of the rich and powerful, as symbolized by capitalism and the United States. But they are also the unsung heroes of development aid whose work in private voluntary and official international organizations, often at great personal risk, has incrementally contributed, if not to closing the rich world/poor world gap, at least to slowing the pace at which it is widening.

## Imposing standards

The core labour standards issue is in a sense part of a contradiction at the heart of much United Nations work and clearly apparent in the preamble to the UN Charter. On the one hand the Charter proclaims the principle of non-interference in the internal affairs of member States, on the other it proclaims the UN’s mission to do what it could never do if it totally respected national sovereignty, namely “promote social progress and better standards of human life”. In the case of labour standards this basic contradiction is greatly complicated because the humanitarian concern in rich countries with wages and conditions of labour in poor countries gets mixed with, and is often exploited by, self-interested protectionism on the part of those whose jobs or profits are threatened by competition from countries whose only advantage in their attempts to emerge from dismal poverty is their low wages.

I have none but banal comments to make on this issue. There is some truth in the witticism that the only thing worse than being

exploited is not being exploited. If the reality is that the alternative to child labour is not child schooling but the destitution of the child's family, or one more Rio street child, hunted by vicious vigilantes, then who would want to ban child labour? It is entirely sensible that what started as the ILO's International Programme for the Elimination of Child Labour (IPEC) should have evolved to the point at which the first ILO Convention (Number 182) it inspired was called the Elimination of the Worst Forms of Child Labour Convention of 1999.

About the exploitation of employees by employers in a purely domestic context, there is no difference, it seems to me, between labour conditions issues and other human rights questions such as torture and arbitrary arrest. In the end these domestic problems will only be cured domestically. Foreigners pontificating about slave labour and human rights in China may have some restraining effects on Chinese authorities, especially when China is making a bid to win the Olympics or engaged in some other diplomatic effort. But in the long run they are trivial in their effect compared with the increasing detail with which the Chinese press reports instances of worker protests against employer brutality, and the courage of middle-class lawyers in supporting them.<sup>2</sup>

Transnational corporations' outsourcing, however, highlighted by the Nike boycott case, does raise additional issues. The ability of NGOs to inflict damage on multinationals with a bad reputation has induced a large number of companies to adopt, or at least to publish, codes of conduct which, if implemented could indeed result in their changing their practices to leave more of the value-added of their operations in the third-world countries in which they operate, and to ensure that it is more equally distributed. The interest that such decent companies would have in removing the competitive advantage of competitors with less fastidious consciences could, in theory, lead the rich world to agree to regulate its own countries' corporations in their operations in poor countries – a Global Compact with teeth. But we are a long way from that point and the idea of a so-called social clause enacted by the WTO which puts all the onus of improving labour standards on developing countries and makes trade access conditional on certified conformity to such standards is a charter for protectionists and not the way to do it.

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<sup>2</sup> See Anita Chan: *China's workers under assault: The exploitation of labor in a globalizing economy*, Armonk, M.E.Sharpe, 2003.

One cannot alter the fact that, for a developing country, there is a trade-off between imposing regulations which ensure that foreign multinationals pass as much as possible of the value-added of their operations to host-country workers and managers on the one hand, and not deterring the multinationals from investing on the other. What is needed is agreement among developing countries to prevent a race to the bottom. The ILO has always been good at organizing such agreements. The device of the intergovernmental labour convention, pioneered at Bern 14 years before the ILO was born, has proved an excellent way of preventing employers in countries with higher standards of decency from being forced to retreat from those standards by the undercutting competition of countries whose standards are lower.

To be sure, the signing and ratification of conventions can be dismissed, and often justly dismissed, as mere ritual, having no effect on reality. But by various devices countries can sometimes be shamed into living up to their hypocrisy. Students of labour history in Japan will recall that, already in 1922, the government's need to send to ILO meetings people who could plausibly be represented as genuine trade union leaders had a substantial effect in boosting trade unions in Japan. One thing about globalization is that the opportunities for such shaming have increased. There are far more international meetings at which delinquent countries have to explain themselves and sign up to agreements endorsing the four fundamental rights. There is also much more monitoring now that half the ILO's technical assistance efforts are devoted to core labour standards work -- by technical assistants who also write, sometimes frank, reports.

## The cosmopolitan élite

Those technical assistants, frequently highly cosmopolitan men and women, are relevant to the first point I wanted to make about my other topic, globalization and national diversity. I left the "direction of social change" issue by asking whether the people who are lucky enough to have interesting and worthwhile jobs and high incomes will be content to live embattled lives in a dangerously criminalized world, protected by razor wire and ever more sophisticated electronic devices. Or whether the prospect of such a world, and the loss of liberty it might entail, would lead them to reassess the importance of equality and fraternity -- would

make them willing to accept social arrangements for the redistribution of income which would make them poorer.

One plausible answer is: Swedes, maybe yes, but Americans no. An American might say, your lurid picture of the horror future is greatly exaggerated. The threat can be contained. Go to Washington. It is a city with one of the highest murder rates in the world, yet when you get west of Georgetown, the houses in the leafy suburbs do not even bother to have burglar alarms. Zero tolerance works well to suppress the sort of crime that affects the élite. By and large the poor kill each other. And as to the loss of liberty involved in protecting the well-off from crime, since September 11th the United States has shown that the increasing curtailment of liberty by state coercion only means, for the honest well-heeled citizen, having to take your shoes off before you get on an aeroplane. So, they might say, the problem can be contained.

A Swede, on the other hand, who has never been to Washington, and who lives in a much more cohesive society, where some concern for the welfare of fellow-citizens is taken for granted, might well have a very different view.

But the new thing about our globalized world is that an increasing number of the Swedes whose opinion counts most in the formulation and revision of Swedish social norms have been to Washington. An increasing number of the Swedish élite, and the élite of other European and Asian countries, belong to the category of what someone called Davos Man, after that Swiss resort where the good and the great gather annually for the World Economic Forum. Others have called them the “cosmocrats”. A journalist’s definition of a cosmocrat:

Cosmopolitan in taste and Anglo-American in outlook, these are the people who attend business-school weddings, fill up the premium seats on airplanes and provide the officer ranks of most of the world’s companies. They constitute a more meritocratic ruling class than we have ever seen, a much broader one, an uneasy one perhaps, but a ruling class nevertheless.<sup>3</sup>

And, one might add, they all read the same consciousness-forming newspapers: the *Financial Times*, The *Wall Street Journal*, the *Economist* and *Business Week*. They may not yet be a world ruling class, although those of them who work in the World Bank or the IMF or the US Treasury may see themselves that way, but they are certainly influential in shaping opinion in their countries.

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<sup>3</sup> *Financial Times*, 27 May 2000.

## Fear, sympathy and solidarity

There are two ways in which this affects inequality and the tolerance of inequality within countries. The first is the general weakening of a sense of national belonging.<sup>4</sup> Fear alone is not enough for the prospect of increasing social unrest to lead to measures to reduce inequality. It needs to be accompanied by some sense of fellow-citizenship, by that stretch of the imagination, that capacity for empathy, that can prompt the thought, when one sees the poor and unfortunate: “there but for the grace of God, go I”. The Swedish banker who walks foreign streets as much as Swedish streets and talks to more foreign waiters than Swedish waiters is less likely to have that capacity for empathy, or to be influenced by it when he discusses the Swedish taxation system.

Secondly, one of the characteristics of the cosmocrats is that, whatever their native language, much of their time is spent talking English. The intimate relationship between being at home in a country’s language and being at home in that country’s culture is well-known. Anglophony and the Anglo-Saxon mentality – the propensity to accept the institutions of Anglo-Saxon societies as somehow “normal”, a norm from which other countries’ institutions are deviations – tend to go together. Not always. During the cold war, it used to be said in Africa: if you want your son to become a free-market liberal send him to study in Moscow; if you want to turn him into a communist send him to the States. But that kind of disharmony is rarely to be seen at Davos.<sup>5</sup>

And that makes a difference to our question about inequality and the tolerance of inequality. According to the World Values Survey, 70 per cent of West Germans express the belief that people are poor because of imperfections in society, not their own laziness, and 70 per cent of Americans hold the opposite view.<sup>6</sup> The betting is that the cosmocrats even from West Germany lean more towards the American than to the German view.

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<sup>4</sup> See Charles Taylor: “No community, no democracy”, in *The Resonant Community*, 13, iv, Fall 2003.

<sup>5</sup> Disharmonious antipathy can be deeply felt by a sensitive soul brought up in an American leftist family, see Richard Sennet: *The corrosion of character*, New York, Norton, 1998.

<sup>6</sup> Nathan Glazer: “On Americans and inequality” in *Daedalus*, Summer, 2003, p. 113.

## Cultural hegemony

That is the serious meaning of American cultural hegemony, not the Macdonaldization of the world or American soap operas on French television. The mechanisms that underlie it are clear: the global labour market, the global firms that use it and the training institutions that serve it.

The market for executive talent is, indeed, becoming genuinely global. Jurgen Schremp, all within a decade, got Daimler-Benz listed on the New York Stock Exchange, bought Chrysler and became such a respected member of the American financial community as to be appointed to the Stock Exchange council. True, the flow is predominantly one-way; the brain-draining of Europeans and Asians to the United States. But there is backflow, too. Ron Somers, whom Sony made CEO of its Columbia Pictures in the United States, returned to his native Germany to head Deutsche Telecom.

One global firm, IBM, gave Hofstede, the author of *Culture's consequences*,<sup>7</sup> the chance to provide evidence – what I would describe as reassuring evidence – that for all the socialization of its executives in an American-based company culture, national differences in thinking and behaviour could still persist. But the homogenizing tendency is still there.

It is a tendency reinforced by the role of American business schools in preparing this global élite. They have become an important means of providing intellectual training, plus cultural and ideological socialization to a wide range of the world's business community – both directly and indirectly: the two major continental European business schools in France and in Switzerland are Anglophone in language and predominantly American in inspiration. In Japan, the backflow across the Pacific of MBAs, most of whom used to be sent by their large-corporation employers, but who are now mostly paying their own way and preparing to join the growing army of business consultants, explains a lot about the shift of managerial opinion towards greater sympathy with shareholder value doctrines and with neo-liberal ideas – about the welfare system in particular and about the role of the state in general.

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<sup>7</sup> Geert Hofstede: *Culture's consequences: International differences in work-related values*, London, Sage, 1980.

Perhaps even more important are the American graduate schools in economics. An increasing number of the economists teaching in university departments in France and Italy, Japan and China, are men and women who got their PhDs at Chicago or MIT, or even Wyoming and Kentucky. They are the people who train the next generation of businessmen and civil servants. They are the people who, thanks to the prestige of an American doctorate, have a more than proportionate voice in the media and on the government committees and commissions in which policy is formed. They are the people, variously well-informed about the institutions of various countries, but all fully familiar with the institutions of the United States, who are responsible for the fact that the change in labour laws – for example to dilute unfair dismissal restrictions or permit free use of precariously temporary labour – spreads so rapidly from country to country.

## Ideologies and markets

All this stuff about cultures and ideas is all very well, you might say, but people being converted, being persuaded by ideologies, is really a secondary matter, compared with the harsh reality of global markets and competition within them. It is the global integration of the economy, particularly by financial markets, which explains why neo-liberal ideas are changing national structures all over.

This argument can be examined under two heads. First, there are the conscious decisions taken by those whom markets have given power. These decisions force people in other countries to change their economic and social systems, the purpose and the effect of which is to give markets a larger role in allocation mechanisms in the economy at the expense of political and administrative decision. I have in mind, of course, the conditionality lever, the conditions attached to loans from the IMF and the World Bank. These conditions are drafted and imposed in accordance with what has come to be called, because of the close coincidence of view of those organizations and the US Treasury, the Washington consensus – which is, essentially the doctrines of market individualism, as I spelt them out in the last lecture. They are imposed, frequently, with an almost religious conviction, a conviction that they embody principles not just of efficiency but also of justice.

I said that the power which these organizations exert is given to them by markets. Of course it is partly an institutional authority, con-



ferred by states' original agreement to take part in these embryo institutions of world government and sign up to their founding constitution. And those agreements, because of voting structures and financing structures, inevitably give the dominant nation, the United States, power to control their decisions. In some international organizations, like the ILO and UNESCO, US dominance may be less than absolute, and may *in extremis* have to be exercised only by walking out and forcing the organizations to make concessions to get it back in again. But in the organizations which govern the international economy, like the World Bank and the IMF, the power of the dominant economy, the United States, is entrenched and not to be gainsaid.

So the institutional authority is built into the world system, but the occasions to exercise that latent power are given by markets. Sometimes it may be product markets, when it is the collapse of a commodity price – cocoa or coffee or copper – which puts a country in danger of defaulting on its external debt and sends it begging for a loan. But more often it is the workings of financial markets. The Asian crisis of 1997 is the prime example. The flood of international money into Asian countries seeking to cash in on the high returns available in rapidly growing economies, turned into a Gadarene rush for the exits as soon as the market operators sensed the danger of a catastrophic fall in the exchange value of local currencies – thus precipitating just such a catastrophic fall which threatened debt default and forced recourse to the IMF. Even in such well-functioning economies as the Republic of Korea, the IMF was able to impose conditions, not just macroeconomic management conditions like swingeing interest rates, but structural reform conditions like flexibility in labour markets and systems of corporate governance more like those of the United States. President Roh is now suffering from the consequences of the unholy alliance which then developed between the IMF which saw the *chaebol* as unfair to shareholders, and the trade union movement which saw them as unfair to employees.

So that is one force making for the homogenization of a market-individualist world, the exercise of power by identifiable individuals. The other more impersonal market mechanism is through the most integrated of all world markets, the financial market. It is summed up by the title of an OECD report on corporate governance: *Corporate governance: Improving competitiveness and access to capital in global markets*.<sup>8</sup> The idea

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<sup>8</sup> OECD, 1998, the so-called Millstein report.



is simple. The world's savings are now one big pool. There is a large army of clever people engaged in allocating those savings to uses which offer the best balance of risk and return wherever in the world they might be. Countries like the United States, where corporations regularly register a return on equity of 20 per cent, will never lack capital, as the current willingness of the world's savers to lend the US a billion and a half dollars a day attests. But a Japan where 8 per cent is considered a handsome return will eventually be starved of capital. Not only will foreign investors shun it, its own savers will send their money elsewhere. So, the only way to remain a serious competitor is to conform to the market individualism which drives the US economy, to use both labour legislation and corporate governance legislation to shift the balance of negotiating power between workers and their unions on the one hand, and shareholders and their managerial agents on the other – to increase the power of shareholders over managers and the power of managers over workers.

## Possibilities for the future

To sum up, so far, I have spelled out two mechanisms which seem to promise a homogeneously market-individualist globe: American cultural hegemony and the power of financial markets to starve non-conformists of capital. My first point is that at present the cultural hegemony factor is far more important than market forces. Though the mobility of capital is clearly increasing, capital still does tend to stay at home: Japan's 1.4 quadrillion yen of savings is still mostly in yen – what economists call the “home bias paradox”.<sup>9</sup>

My second point is that the globalization of financial markets on which the second mechanism depends is by no means irreversible, and it is not clear that financial protectionism would damage the world trading system for goods and non-financial services. China has never abandoned its control over capital movements which, leaky though it is, remains effective. Its highly cautious controls over the influx of portfolio capital and the activity of American investment banks have not impeded its import of useful direct investment, or proved an obstacle to its getting the trading privileges in product markets conferred by membership in the

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<sup>9</sup> Frederico Asso: “The home bias paradox in economic thought” in J.Lorentzen and M. de Cecco, eds.: *Markets and authorities: Global finance and human choice*, Cheltenham, Edward Elgar, 2002.

WTO. Mahathir in Malaysia showed that the reimposition of capital controls was possible even after they had been abandoned. The *Financial Times*, the *Wall Street Journal* and the *Economist* and Japan's *Nikkei* combine to pour scorn on the notion that a general return to capital controls is even technically possible, given the degree of integration of the world's economies. That judgement is not based on detailed examination of technical modalities because nobody has any interest in trying to work out what such mechanisms might be. What is without doubt, however, is the fact that their most influential readers, the participants in financial markets, would think any such reassertion of financial sovereignty outrageous.

My third point is that for all the erosion of sovereignty on the part of states which sign up to international organizations and have to compete in world markets, they are still capable of a large range of independent choice as to the sort of economic institutions and the sort of income distribution they want to have, even if the imposition of capital controls does prove technically impossible without fatal damage to the world trading system.

And my fourth point is that the disparity between the institutions of different types of capitalism is still large and there is no conclusive evidence in the ups and downs of national fortunes – Japan and Germany up and the United States down in the 1980s, vice versa in the 1990s – that one is superior even in competitive efficiency to the other.

## The diversities of capitalism

Before getting to my final points let me elaborate on those differences with respect to the crucial dimension I have just mentioned – the balance between shareholder and employee interests. Capital versus labour is the classic formulation of that balance, a zero-sum relationship of irredeemable opposition, translated into the inevitably adversarial relationship between management and trade unions.

But there are wide differences in the degree to which the adversarial nature of the relationship is structured and perceived. To categorize somewhat crudely, one can talk of three contrasting systems. There is first the Anglo-Saxon pattern where the adversarial relation is for real: the knives are out. There is a general consensus among managers that the

absence of unions is preferable even to a cooperative union. The only good union is a dead union. Employee cooperation with shareholders is best achieved by making them minor shareholders too, through stock options and profit-sharing schemes. Unions, the only organized countervailing power to the dominance of shareholder interests, seem to be in steady decline.

The second is the continental European pattern; the knives are kept in their sheaths while people play poker according to rules which everybody has a hand in working out. There is no denial of the adversarial nature of the relationship but there are well-established patterns of negotiation to reach compromises which nearly everyone can accept as, if not fair, at least not too unfair. Meanwhile that system which operates in day-to-day decisions at the enterprise level is reinforced at the political level in institutions which allow what are called the social partners – a concept quite alien to the other two systems – to reach similar compromises about fair rules for negotiation whenever circumstances require them to be changed. It is possible to think of strategies by which unions can retain enough power for social partnership to be a stable system.<sup>10</sup>

The third is the Japanese pattern: the rules are well established and not changing much, the knives are locked away in the family cupboard and it is only when the senior members of the family flagrantly break the rules that people lower down the hierarchy start wondering where they put those knives. Nowadays, when they find them, they frequently discover that they are blunt: few enterprise union leaders could imagine circumstances in which they could persuade their members to strike as their fathers and grandfathers did in the 1950s and 1960s. Maintaining the distributive balance between property owners and workers depends, in other words, on the inertia of habit, on the values and the sense of responsibility of the managerial class, not on a legally institutionalized balance of power as in the continental European system. And those inertial habits, those values and the nature of that sense of responsibility, are under greater pressure from the weight of American cultural hegemony than in any other country I know.

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<sup>10</sup> Marino Regini: "Work and labour in global economies: The case of Western Europe" in *Socio-Economic Review*, Vol. 2.

## Final words: Final questions

So my final words: first, to these diverse forms of capitalism I respond with the French slogan about what we used to call sex and now call gender: *Vive la différence!*

Secondly, I would note that the influence of the cultural hegemony factor has been much diminished over the last year by growing criticism, in the crucial intellectual circles of the world – including the American academic world – of the American, or rather the Anglo-Saxon, expedition into Iraq. How those attitudes, or the policies which prompt them, will change, remains problematic.

Thirdly, as the history of the Pax Britannica shows, once a cultural hegemon, not always a cultural hegemon. American dominance of the world economy may one day be eclipsed by China. What balance will it construct between the rights of property and the rights of labour? Is its new president's emphasis on "resolving the excessive widening of the income gap between some parts of society"<sup>11</sup> of long-term significance? And will the cultural influence which naturally accrues to economic success be exercised by making us all learn Chinese, or will China too have to seek cultural hegemony through the English language?

Even the licence given to those unlikely to be around to be proved right or wrong, does not make me venture to predict.

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<sup>11</sup> The communiqué of the "third plenum" meeting of the party's Central Committee, 14 October 2003, *Financial Times*, 18 October 2003.



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## The dynamic of the European social model

*Manfred Weiss*

From an economic point of view globalization may be considered to optimize the mechanisms of innovation. The effects on labour standards, however, are rather doubtful. The worldwide network of capital, production and markets tempts those nations with a less developed infrastructure to use the strategy of “social dumping”, that is, to reduce their labour costs in order to remain competitive. This not only has negative effects for the working population of the respective countries. It also endangers the achievements of highly industrialized countries, where the trade unions are more and more exposed to the employers’ threat to transfer production to countries with lower labour costs. This threatens the level of social protection all over the world. The notorious “race to the bottom” seems to be inevitable. National governments are becoming increasingly helpless in this process, even if Professor Dore is correct in saying that there is still significant leeway for alternative options.

It is true that “social clauses” in trade are suspected of being used as a means of protectionism. However, this is only partly the case. If, for example, social clauses merely refer to respecting trade union rights they cannot be denounced as protectionist. Therefore, it is necessary to make careful distinctions and to develop a more sophisticated approach.

The most promising strategy to counteract the “race to the bottom” is contained in the ILO’s Declaration on Fundamental Principles and Rights at Work. From a standard-setting perspective the innovation lies not only in the fact that member States have to respect these four core rights irrespective of any mechanism of ratification. The more important innovation in my view is embedded in the Declaration’s follow-up strategy, which is a significant step away from the traditional approach to implementing standards. It substitutes promotion for sanction. The Declaration recognizes the ILO’s obligation to assist its members and to support their efforts by “offering technical cooperation and advisory services to promote the ratification and implementation of the fundamental Conventions”, by “assisting those Members not yet in a position to ratify some or all of these Conventions in their effort to respect, to promote and to realize the principles concerning fundamental rights which are the subject of those Conventions” and by “helping the Members in their efforts to create a climate for economic and social development”. In short: the focus is on assistance and technical cooperation, based on an awareness that the mere application of this core of fundamental rights might lead to unbearable difficulties in a number of countries. The goal of the Declaration is not to push the member States into a situation which they cannot handle. It is rather intended to promote a better understanding of the problems, to develop a fruitful dialogue and to develop, in cooperation with the respective countries, an infrastructure which allows the application of core fundamental rights. In the meantime – as Professor Dore stresses – technical assistance in this area has grown immensely. However, the question remains of whether it will eventually be successful. Success will only be possible if the rich industrialized countries are ready to redistribute wealth and to make a much bigger financial contribution to the creation of a decent infrastructure in the developing countries. Or to put it differently: the strategy will only be successful if the industrialized countries begin to understand that a decent infrastructure in poorer countries is in their own best interest.

In the effort to promote international labour standards the codes of conduct established by multinational enterprises (MNEs) should not be underestimated. There is a wide range of such private codes, not following a specific pattern but providing a heterogeneous set of obligations and standards. These codes differ in content but also in the ways they came into existence and the ways they are implemented. Most of the codes were established voluntarily and unilaterally by the management in order to improve the MNE’s image. Others were negotiated with trade unions

and/or NGOs. Evidently the latter are more likely to provide proper sanctions in the case of violation, due to the pressure exerted by trade unions and/or NGOs. In any case, such private codes are not legally binding. The main problem is implementation. However, it has to be stressed that some progress can be observed. External monitoring (by NGOs, trade unions and other bodies) is on the move. Therefore, it would be wrong to underestimate these private “soft law” instruments. They have a complementary function in strengthening the standard setting efforts of international institutions such as the ILO; most of the codes refer to ILO standards, in fact.

The majority of private codes only cover the relationship between the MNE and the employees, although some also cover the employment relationships of subcontractors and even clients. In these cases, according to most codes, the contractual relationship is to be terminated if subcontractors or clients violate the codes. For the employees concerned this often means the loss of their jobs and thus a worsening of their situation. Therefore, it is doubtful whether such a sanction is appropriate. On the other hand, it has to be admitted that including subcontractors and clients in codes would be pointless without efficient sanctions in case of violation.

International labour standards only cover the formal sector. In many developing countries, however, the informal economy is much bigger than the formal one. This means that the majority of the working population in those countries is not protected by any regulatory framework. Strategies (actors, instruments and institutions) need to be developed so as to extend minimum standards to the informal sector.

I strongly agree with Professor Dore’s assessment that “the degree of difference between the institutions of different types of capitalism is still large” and I would like to stress his perspective of “Vive la différence !” However, I doubt whether individual states in the long run will be able to live up to this goal in the context of global markets. I rather count on the strength of regional arrangements in this respect. The European Union (EU), a supranational entity with legislative, judicial and executive powers of its own to which the member States have transferred a significant part of their sovereignty, may illustrate the potential of such a development. The EU is on the move to construct what is called the “European social model” whose final appearance is still very vague but whose basic features can now be traced. The “European social model”, will cover not only the Western part of continental Europe but also



Anglo-Saxon countries such as the United Kingdom as well as former Communist countries in Central and Eastern Europe which are still in a process of transition. In spite of the evident differences between the social systems of these countries they are all involved in the effort to “Europeanize” industrial relations and social policy.

The first important feature in this context is the EU Charter of Fundamental Rights. After a long and very controversial debate the Charter was adopted in 2000 as a legally non-binding declaration, expressing the consensus of all existing member States. In the meantime a specific body (the so-called Convention) presented a draft Constitutional Treaty, replacing and amending the old treaties on the EU and on the EC. This draft is under discussion in the Governmental Conference which started in October 2003. There is no doubt that the Charter in its present form will be integrated in the Constitutional Treaty and thereby become legally binding.

The Charter devotes a specific chapter to fundamental social rights under the title “solidarity”. But even outside this chapter there are many rights of the utmost importance to the social context. To give only a few examples: the prohibition of forced labour (Art. 5); freedom of association, which implies the right of everyone to form and to join trade unions for the protection of their interests (Art. 12); the right to education and access to vocational and continuing training (Art. 14); the right to engage in work and to pursue a freely chosen or accepted occupation (Art. 15). The chapter on “solidarity” as such contains twelve core rights, including the workers’ right “to working conditions which respect his or her health and dignity” (Art. 31, para. 1), the right to collective bargaining and collective action, which is guaranteed as a subjective right either for workers and employers or for their respective organizations (Art. 28), and the right for either workers or their representatives to timely information and consultation in reference to management’s decision making (Art. 27).

In evaluating the content of the chapter on “solidarity” it has to be stressed that it includes collective rights, it insists on the Community’s and the member States’ responsibility for providing job security, for providing working conditions which respect the worker’s health, safety and dignity and for protecting young people at work. It furthermore insists on measures to make family and professional life compatible and to provide social security as well as social assistance. Taken all together this is evidently a concept which is incompatible with mere deregulation, decollectivization and deinstitutionalization. Or in broader terms: it is

incompatible with a strict neo-liberal approach. The chapter on “solidarity” outlines the structure of the European social model and the values on which it is based. It serves to orient the process of Europeanizing labour law, industrial relations and social policy. The European Court of Justice (ECJ), as guardian of the Charter once it is incorporated in the Constitutional Treaty, will guarantee the effective monitoring of all legislative and executive measures taken by the EU in the light of these fundamental rights.

The second element is to include the social partners in the process of Europeanization. Trade unions and employers’ associations in Europe have umbrella organizations at EU level: the ETUC on the trade union side and UNICE (for the private sector) as well as CEEP (for the public sector companies) on the employers’ side. These actors are not involved in collective bargaining but are considered to be a lobby for the interest groups that they represent. These actors have cooperated with the Commission for a long time on an informal basis. The social dialogue was first formalized by the Treaty in 1986. In the meantime it has gained a very elaborate structure by Arts. 138 and 139 of the present EC Treaty.

The above-mentioned actors are now integrated into the legislative machinery. Before submitting a legislative proposal the Commission has to consult them “on the possible direction of Community action”. If the Commission still wishes to draft a proposal there then has to be a second consultation “on the content of this proposal”. On this occasion the social partners can take over each Commission initiative and try to regulate the matter by agreement. They have nine months to draw up an agreement which then – without the involvement of the European Parliament – can be transformed into a legally binding Directive by the Council. The Directives on parental leave, on fixed-term contracts and on part-time work are the result of such a procedure. If the social partners cannot reach an agreement within nine months, the Commission has to draft a proposal.

The social partners, however, do have an alternative possibility. They are free to conclude agreements – even in matters where the EU has no legislative power – to be implemented “in accordance with the procedures and practices specific to management and labour and the member States”. Such agreements are not legally binding. It is for the social partners at EU level to convince the respective actors in the member States to take measures to apply the principles contained in the agreement at national level. A recent example of such a strategy is the 2002 agreement

on tele-work; its possible impact is the subject of lively discussion in the different member States.

In addition to the cross-sectoral social dialogue there are more and more sectoral dialogues. They are not integrated into the legislative machinery. Their objective is to represent the specific interests of their sector within the EU and to conclude legally non-binding agreements.

The third element in the process towards a European social model are the attempts to improve the coordination of collective bargaining throughout the EU. For a long time to come collective bargaining will continue to be a matter of policy within the member States. The legal patterns of collective bargaining and collective agreements differ very much. Therefore, it would be totally unrealistic to think in terms of a European Collective Agreement as an instrument to promote uniformity.

The task consists of improving transnational coordination. Cross-border cooperation in the different sectors has been established, guidelines for different bargaining issues (wages, working time, vocational training, etc.) have been developed by the European trade union federations at sectoral level, collective bargaining information networks have been established and cooperation between European and national actors at cross-sectoral and sectoral level has increased. Even if the structures are still at a rudimentary stage, they are an important element in developing a transnational perspective and thus in shaping collective bargaining in the national context.

Recent developments in the transnational coordination of collective bargaining within the EU are very promising. The aim is to build a multi-level system with specific articulation at each level, feedback from one level to the other, and possibilities for mutual learning (bench-marking). Actors at lower levels are to have bargaining autonomy but at the same time it puts pressure on them to cope with the frameworks established at higher levels. This "open method of coordination" refers to a soft and flexible strategy for balancing the needs for centralization and decentralization in a multi-level system of collective bargaining throughout the EU.

The fourth important element in the process towards the European social model is enshrined in EU legislation. It refers to employee involvement in management decision making. The situation in the member States was characterized by extreme diversity. There were not only different systems but also countries with no philosophy of cooperation. In order to guarantee at least a minimum of worker influence on manage-

ment decision making European legislation prescribed patterns of information and consultation in case of collective redundancies and transfer of undertakings during the 1970s. During the 1980s this was extended to issues of health and safety. However, this was only a beginning: the programme has become much more ambitious. In the meantime worker involvement was established at the transnational level and the minimum level of participation in the national context was raised significantly.

The first step in this direction was the Directive on European Works Councils (EWCs) in 1994. Instead of regulating matters precisely it only stipulates a procedural arrangement which establishes a special negotiating body representing worker interests. This body negotiates with the central management of a transnational undertaking or group of undertakings. Fall-back clauses apply if the central management refuses to commence negotiations within six months of receiving a request or if the two parties are unable to reach an agreement after three years. Since 1994 slightly over a third of the undertakings covered by the Directive have implemented it in practice.

The pattern of the EWC Directive was followed in the Directive of October 2001 on employee involvement in a European Company. The Directive has to be read together with the Statute on the European Company which contains the rules on company law. The main goal of establishing a European Company as an option is to save transaction costs, to increase efficiency and transparency. It should no longer be necessary to create complicated structures of holding companies in order to overcome the problems arising from national company law. A European Company can only be registered if the requirements of the Directive are met, which means that the provisions on worker involvement cannot be ignored. The structure of the Directive is similar to the Directive on European Works Councils: it provides for a special negotiating body, lists the topics for negotiation and leaves everything to the negotiators. There is a fall-back clause in case the negotiations fail.

The Directive contains two different topics which have to be distinguished carefully. The first refers to information and consultation. Here the structure is very similar to that developed in the Directive on European Works Councils. The crucial and interesting topic of the Directive refers to worker participation, which is defined as «the influence of the body representative of the employees and/or employees' representatives in the affairs of a company by way of (i) the right to elect or appoint some of the members of the company's supervisory or administrative

organ, or (ii) the right to recommend and/or oppose the appointment of some or all members of the company's supervisory or administrative organ». Normally the details of the scheme are worked out in the negotiations. Only in cases of transformation does the agreement "have to provide at least the same level of all elements of employees' involvement as the ones existing within the company to be converted into a European Company». In other cases, if the result of the negotiations would be to reduce the participation level, qualified majority requirements apply which ensure that the existing highest level cannot be easily reduced. If no agreement is reached the standard rules apply. They guarantee that in cases where worker participation already existed prior to the establishment of a European Company, the level of this scheme is maintained. However, no participation scheme is needed if none of the participating companies has been «governed by participation rules prior to the registration of the European Company».

The third and perhaps most important step, the Directive of March 2002 on the minimum framework for information and consultation at national level, is shaped by the same philosophy. It sets some minimum conditions and leaves everything else to the member States. The Directive applies to establishments of at least 20 employees and to undertakings of at least 50 employees.

The purpose of the Directive is «to establish a general framework setting out minimum requirements for the right to information and consultation of employees in undertakings or establishments within the Community». The Directive defines the structure of information and consultation in a much more comprehensive way than other Directives. The definitions contain important procedural requirements. Timing, content and manner of information have to be such that it corresponds to the purpose and allows the employees' representatives to examine the information and to prepare for consultation. Consultation has to meet several requirements: (i) it has to ensure that the timing, method and content are effective; (ii) information and consultation have to take place at the appropriate level of management and representation, depending on the subject under discussion; (iii) the employees' representatives are entitled to formulate an opinion on the basis of the relevant information to be supplied by the employer; (iv) the employees' representatives are entitled to meet with the employer and to obtain a response, and the reasons for that response, to any opinion they may formulate; and finally (v) in case of decisions within the scope of the employer's management powers

an attempt has to be made to seek prior agreement on the decisions covered by information and consultation. Unfortunately the Directive does not lay down any procedures in cases where the employer fails to implement an agreement.

Information has to cover the recent and probable development of the undertaking's or the establishment's activities and economic situation in its broadest sense. Information and consultation has to take place on the structure and probable development of employment within the undertaking or establishment and on any anticipatory measures envisaged, particularly where there is a threat of unemployment. Finally information and consultation has to take place on decisions likely to lead to substantial changes in work organization or in contractual relations, including those covered by Community provisions.

On the whole the Directive remains very flexible and generally leaves the structural framework and modalities to the member States. Since the Directive only provides for a minimum framework it does not affect any more favourable arrangements in member States. In addition the Directive cannot be used to justify the reduction or destruction of existing patterns.

The mere existence of these Directives leaves no doubt that the promotion of employee involvement in company decision making has become an essential part of EU strategy in its social policy agenda. It has definitely passed the «point of no return». This has an important implication: countries with a tradition of exclusively adversarial structures have no choice but to restructure their systems in such way as to encourage partnership and cooperation.

All these Directives have their weaknesses: they are unnecessarily complicated, not always consistent and above all very vague in their terminology. The Directive supplementing the Statute of the European Company as well as the Directive on a national framework for information and consultation have been watered down during the legislative process. However, in assessing the importance of these measures for the future of industrial relations in the EU such deficiencies should not be overstated. The decisive element is the fact that these instruments, taken as a whole, force all the actors involved – trade unions and worker representatives, employer associations, employers and employees – to discuss and reflect on the potential of employee information and consultation and in the case of the Directive supplementing the Statute on the Euro-

pean Company even on worker participation in company boards. Finally it has to be stressed that the EU approach does not focus on specific institutional patterns but simply stimulates and initiates procedures for employee involvement in management decision making. The focus is not on institutional uniformity but on diversity. Negotiations will lead (and in the case of the European Works Council already have led) to very different patterns, thus shaping and transforming institutional arrangements which already exist in the member States.

This short description of the basic elements in the process leading to the European social model is intended to demonstrate that it has its own dynamic, that it is defined by specific goals and by underlying values contained in the Charter of Fundamental Rights of the EU, that it is characterized by close interaction between social partners and EU authorities, that it is shaped to a great extent by the “open method of coordination” and that it focuses on employee involvement in management decision making as a core element of industrial relations. A multitude of actors are continuously involved in a mutual learning process whose final outcome is still uncertain. However, it is already clear that common ideas and approaches will be expressed by very diverse institutional arrangements. These common ideas and approaches may prevail in a world of global markets due to their institutional flexibility and thereby form an interesting competitive element in the process of globalization. Or to close on a very optimistic note: it might even be an element to – in the long run – turn the “race to the bottom” into a “race to the top”.



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# Labour law and policy in an era of globalization: A Japanese report

*Ryuichi Yamakawa*

## Introduction

The globalization of national economies has influenced Japan in many respects. Since more and more Japanese companies are relocating portions of their business abroad, it is often said that the Japanese economy is «hollowing out». If such companies close their plants and discharge workers in Japan, globalization could have a serious impact on the domestic labour market. In addition, while such foreign direct investment may create jobs in the host countries, foreign companies are sometimes criticized for “sweatshop” problems or violation of local labour law.

Even apart from foreign direct investment, the global economy may influence the labour market in Japan. Japanese companies are faced with increasingly fierce competition from foreign companies, under the regime of free trade. Also, as financial or capital markets become more globalized, foreign money or investors may exert more influence on the management of Japanese corporations, requiring them to be more efficient and competitive. In this sense, globalization may be one of the reasons for changes in the employment practices of Japanese corporations.



Furthermore, the issue of foreign workers is often discussed in the context of globalization. While Japan's immigration law does not admit unskilled foreign workers, the liberalization of such policy, if carried out, could influence the domestic labour market. Thus, globalization is likely to have a considerable impact on the labour market as well as employment practices in Japan, and create new issues regarding labour law and policy. This paper briefly describes the present situation and considers several issues, particularly questions relating to labour law and policy.

## **Present state of globalization: The Japanese situation**

It is often said that globalization has three aspects: the free movement of people, products and capital. From the viewpoint of labour studies, however, «people» can be divided into two groups, i.e. employers (enterprises) and workers. This paper focuses on the movement of enterprises, products, and capital (Koseil Rodo Sho, 2002).<sup>1</sup>

## **Foreign direct investment: Movement of enterprises**

When a company based in one country sets up an establishment to do business in another country, the transnational movement of an enterprise takes place. Following the lead of multinational enterprises in Western countries, more and more Japanese companies have been going abroad. As of 2001, the ratio of overseas production of Japanese manufacturing companies was 16.7 per cent, more than three times the 1988 figure (Keizai Sangyo Sho). Overseas production has increased steadily during the last ten years, especially in Asian countries. We may ask whether such foreign direct investment has caused any loss of jobs in the domestic labour market.

It is difficult, however, to answer this question, since the loss of jobs can occur for various reasons, some of which may not be related to

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<sup>1</sup> Many foreign nationals have come to work in Japan since the late 1980s, when Japan's economy experienced a bubble and the yen was highly appreciated in the currency market. Even after the decade of recession, such a tendency has not changed. In 2001, about 300,000 foreign nationals were legally working in Japan. Moreover, there are 200,000 «illegal» foreign workers.

foreign direct investment. Nevertheless, the rise in the ratio of overseas production appears to have a negative impact on the domestic labour market. According to the Ministry of Health, Labour and Welfare, the decline in the number of employed persons is generally large in those industries with a significant increase in the ratio of overseas production (Ministry of Health, Labour and Welfare, 2003).

At the same time, Japanese firms employ more and more workers abroad. In 2001, about 3.14 million workers were employed by local subsidiaries of Japanese companies (Keizai Sangyo Sho). In the last decade, the number of local employees working for Japanese companies has more than doubled.

## Free trade: Movement of products

The global economy has influenced Japanese companies through worldwide competition. Such competition has become more intense as a result of the international free trade system as well as the development of transport and telecommunications. One of the disadvantages of Japanese companies in worldwide competition is the high labour costs compared with enterprises in other developing countries, where the cost of labour is relatively low. Competition from developing countries is quite serious in manufacturing industries, particularly in labour-intensive industries such as textiles. This is one of the main reasons for the increase in foreign direct investment in recent years.

Even if Japanese companies do not go abroad, trade may have a negative impact on the domestic labour market, since firms may be required to reduce their labour costs in order to compete with foreign companies that have lower labour costs.<sup>2</sup> Indeed, the Ministry of Health, Labour and Welfare reported that the decline in employment tends to be large in industries where the import penetration rate is high (Ministry of Health, Labour and Welfare, 2003, p. 24).

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<sup>2</sup> Japanese labour costs for all industries are higher than those in France, Germany, Republic of Korea, United Kingdom and United States. For manufacturing alone, however, labour costs are higher in Germany and the United Kingdom (Keizai Sangyo Sho, p. 23).

## Global financial market: Movement of capital

Even when neither people nor products move beyond borders, globalization may affect a worker's life indirectly, yet sometimes seriously, through the financial markets. Today, foreign investors and customers play a very important role in the domestic Japanese stock and bond markets. In 2002, for example, the ratio of foreign shareholders in stock exchanges was 17.7 per cent, more than three times the 1990 figure (Zenkoku Shoken Torihiki Jo, 2003).

Due to cross-stockholding, Japanese stockholders in Japanese joint-stock companies have not been enthusiastic about exercising their legal rights to control their corporations. This is because the main purpose of stockholding for these companies is to stabilize the management by preventing takeovers rather than to raise short-term profit (Okabe, 2002). However, foreign stockholders are generally outside the cross-stockholding, and tend to be more active in controlling corporations. Thus, it is likely that foreign stockholders would put pressure on corporate directors to cut costs, including labour costs.

Enormous sums of money are traded every day in the foreign exchange market. In addition to the scale of trading, the speed of the movement of capital is astounding. In such a situation, the fate of a company or even a nation depends on the global capital markets. For example, Yamaichi Securities Co., which was one of the four largest securities companies in Japan, suddenly decided to close its business and discharge its employees in December 1997, largely because it could not obtain short-term loans in the money market after a steep plunge in its stock price. In a sense, the stock market handed down a death sentence to Yamaichi. After that, many Japanese banks were in crisis because of the low rating of their financial situation in the global markets.

The situation was once much more serious in other Asian countries. Their economic crisis in 1998 was triggered by the exodus of foreign money from their currency markets. Although they had their own economic problems, such domestic problems quickly turned into a crisis because of the globalization of capital markets.

## Policy issues arising from globalization

### Free trade and labour policy

The free trade system creates competition between businesses worldwide. Since low labour costs are one (but only one) of the important factors in competitiveness, developing countries have an advantage in this respect. However, if low labour costs are based on inhumane labour standards, the issue of «social dumping» arises. Trade law may respond to such a situation by unilaterally establishing barriers such as higher tariffs. However, this approach has been abandoned because such unilateral action may be regarded as protectionism and cause protests from other countries.

Thus, industrialized countries generally turn to international organizations such as the WTO and ILO. Even so, it is not clear whether this should be treated as a labour matter or a trade matter. As a result of discussions about the role of WTO, it was agreed in 1996 that ILO should mainly handle this issue (see Hepple, 2000). However, it was difficult to reach an agreement except on certain fundamental labour rights such as the prohibition of forced labour. There is a sharp difference of opinion about what constitutes «fundamental» or «internationally recognized» labour standards. The difficulty is, at least in part, based on the conflict of interest between developing nations and industrialized countries. In 1998, the 86th Session of the International Labour Conference adopted the Declaration on Fundamental Principles and Rights at Work. This Declaration states that member countries of the ILO have an obligation to respect, promote and realize fundamental labour rights and principles such as freedom of association, freedom from forced labour, abolition of child labour, and elimination of discrimination. However, this Declaration is a result of a compromise and does not impose any new obligations.

Most Asian countries are opposed to the idea of «social dumping» or the idea of linking labour standards to trade through a «social clause». In Japan, although there has not been much discussion on this issue, it is pointed out that the concept of «universal» rights or standards came from a Western tradition and is not necessarily universal (Hanami, 1997). On the other hand, the Japan Trade Union Confederation (Rengo: JTUC) supports the idea of incorporating a social clause into WTO agreements, (Rengo), while at the same time pointing out the necessity of regulating international financial markets and establishing safety nets in developing countries (Rengo Sougou Kokusai Kyoku, 2000).

In any event, the achievement of international regulation depends on consensus among developed and developing countries. As shown above, however, the diverse interests of each country may make a consensus difficult to achieve. In order to establish a consensus, it is important to search for common interests shared by many countries so that they can achieve a “win-win” situation. The first step in this effort is to analyse each country’s interests as well as those of various stakeholders within each country. When it is difficult to reach a consensus regarding the substantive contents of the «fundamental human rights,» one of the practical alternatives is to focus on the procedural aspect of fairness such as the workers’ right to be involved in employer decision making on working conditions.

Furthermore, the question of enforcement becomes important if we turn to international agreements. Again, it may be difficult to reach a consensus on enforcement measures. Also, it is not easy to establish a direct and rigid enforcement system across borders, since law enforcement is closely associated with sovereign power. One example of a measure to deal with this problem is a monitoring system in which a neutral organization checks whether each member country effectively enforces its own labour law.<sup>3</sup> Although such monitoring does not function as direct enforcement in most respects, the results of monitoring (such as recommendations) are likely to have at least a political impact.

A degree of scepticism has been expressed concerning a legalistic approach to the enforcement of international labour standards. In view of the difficulties of direct enforcement systems, a non-legalistic approach is an attractive alternative. Measures independent of (inter) governmental regulation are another alternative. The code of conduct voluntarily established by multinationals or international organizations such as the OECD and ILO is an example in this area.<sup>4</sup>

In this respect, one of the notable developments in recent years is the movement towards establishing “corporate social responsibility”. The International Standards Organization (ISO) is planning to standardize the forms of desirable conduct for corporations from the viewpoint of social responsibility by 2007. Under this scheme, if a corporation does not respect the standards, it may not be eligible to participate in certain

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<sup>3</sup> A supplemental agreement to NAFTA has established such a cross-border monitoring system.

<sup>4</sup> E.g., OECD Guidelines for Multinational Enterprises (revised 2000); ILO Tripartite Declaration.

international transactions. Respect for fundamental labour rights, whatever they may mean, may be among the standards. In Japan, Nippon Keidanren (Japan Business Federation) and eight Japanese Companies including SONY and NEC announced in October 2003 that they were planning to formulate a Japanese version of corporate social responsibility (Nippon Keizei Shinbun, 2003).

## Domestic labour policy in a global economy

### Changes in employment practices and policies

It is necessary to consider how domestic labour policy should respond to globalization, in light of the fact that foreign direct investment, free trade and the global financial market appear to influence the domestic labour market and employment system in Japan.

The Japanese Government has promoted deregulation in many areas of the domestic economy including the financial and labour market, so that Japanese industries can be more efficient and competitive. The Worker Dispatching Law and the Employment Security Law have been relaxed so that the business of worker dispatching and employment placement services can be carried out more easily.<sup>5</sup>

On the other hand, although employers and economists advocated relaxing the restriction on dismissal, the recent amendment of the Labour Standards Law merely codified the doctrine of abusive dismissal established by case law, providing under Article 18-2 that: "The exercise of the employer's right to dismiss shall be null and void as an abuse of right, if the dismissal is not based on reasonable cause or is viewed as improper from the general viewpoint of society." In addition, the Equal Employment Opportunity Law was strengthened in 1997, so that gender discrimination in recruiting, hiring, the assignment of jobs, and promotion came to be prohibited by law, abolishing the so-called "good-faith effort" provisions. Thus, the nature of recent labour policies is different from one-sided deregulation. It could well be called re-regulation.

The next area of concern is the influence of globalization outside the area of labour law. Inspired by Professor Dore's (2002) outstanding

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<sup>5</sup> See Araki, 2002. In 2003, the Worker Dispatching Law was further revised so that the ban on dispatching workers to manufacturing sites was lifted.

work and the contributions to this conference, I will focus on corporate governance and employment policies. The employment policies of a corporation are closely related to the function of corporate governance, since the latter determines the relationship between stockholders, directors, and other stakeholders including workers. In many large Japanese corporations, where stockholders do not actively exercise their right, directors tend to find common interest with workers rather than with stockholders. This may be one of the reasons why directors adopt employment policies to respect long-term employment and why case law has created the doctrine of abusive dismissal (Yamakawa, 1999). However, we have two issues now. First, does globalization make national corporate systems converge into one type, i.e. the Anglo-Saxon model? Second, as a normative question, should Japan adopt a policy to promote the Anglo-Saxon model of corporate structure? Since the first question is beyond the competence of a labour law researcher, I will simply describe the current situation.

As stated above, the capital market in Japan is becoming more and more global, and the ratio of foreign stockholders is increasing. Also, the structure of cross-stockholding, which has long characterized the corporate ownership of Japanese companies, is changing. As of 31 March 2003, cross-stockholding stood at 7.4 per cent (Nissei Kiso Kenkyu Jo). This is less than half the 1987 figure, which was 18.4 per cent. This tendency has accelerated since 1997, when the financial situation of Japanese banks and other financial businesses became a serious concern.

At the same time, Japan has revised the Commercial Code almost every year, mainly in order to enhance stockholder power. Most notably, the 2002 amendment of the Commercial Code made it possible for large companies to adopt the American style of corporate control. Formerly, corporations had to appoint auditors in addition to the board of directors. Although this could be characterized as a dual supervision of corporate management, i.e., supervision by auditors and the board of directors, it did not function as intended, mainly due to the low level of independence of auditors and board members.

Now, under the amended Commercial Code, certain large companies may dispense with auditors, if they establish three committees (auditing, appointment and compensation committees) within the board of directors and more than half of the committee members are appointed from outside the corporation. Moreover, the corporation must appoint “officers (shikkouyaku)”, including the chief executive officer, who are



not directors. Thus, under this scheme, supervision and day-to-day management of the corporation can be separated.

However, Japanese corporations are very slow or reluctant to adopt this new system. According to a survey made by the Japan Auditors Association in May 2003, only 2.5 per cent of the respondent corporations chose to do so (Nihon Kansayaku Kyokai, 2003). Many corporations reasoned that they could achieve transparency and efficiency of management under the traditional system. Thus, with respect to the organization of corporations, it is unlikely that the Anglo-Saxon model will prevail, at least in the near future.

In addition, many stockholders still do not actively exercise their right to control corporations. Although presidents and directors are beginning to recognize the importance of the «sovereignty» of stockholders, there have been no drastic changes in the reality of corporate governance in Japan (Nitta, 2000). According to a recent survey of directors of large corporations, 85.8 per cent of the respondents thought that management decisions should reflect the views of various stakeholders, not only of stockholders.

So, what is happening to Japanese employment practices? It is often said that the traditional practices have already gone. To be sure, the unemployment rate rose to 5.4 per cent in 2002. Many corporations have taken measures to make them more efficient and competitive, including a reduction in force and new wage determination systems that emphasize performance rather than seniority. Traditionally, large companies have tried to avoid dismissals even when they are required to reduce labour costs, by resorting to other measures such as reduction of overtime work, transfer of employees, attrition, and so forth. Recent years have seen more drastic measures, however, such as the inducement of voluntary resignation and dismissals. (Ministry of Health, Labour and Welfare, 2003, p.137). Moreover, atypical employees such as part-timers have been increasing: atypical employees accounted for 27.2 per cent of employment in 2002 (Kosei Rodo Sho, 2003).

Nevertheless, it is not clear whether this trend is the result of changes in employment policies. According to a 2003 survey conducted by the Japan Institute of Labour, 36.1 per cent of the respondent corporations took the view that they would basically maintain the policy of long-term employment, and 40.0 per cent stated that its “partial modification” would be inevitable. In contrast, only 15.3 per cent felt the need



for a radical change in long-term employment policy. Thus, although Japanese corporations are trying hard to reduce labour costs, many of them still maintain a policy which respects long-term employment.

## Comments on policy issues

What then are the policies which Japan should adopt to cope with problems arising from the global economy? Fierce competition in the global economy is sometimes said to force each country to weaken worker protection and to allow a deterioration in working conditions, a situation described as a «race to the bottom.» Such a problem surely exists, and it is necessary to contemplate measures to avoid it. However, one might ask a question, “Is participation in the race always necessary?” In fact, there is plenty of room for different kinds of economic race. For example, in the area of information technology, cheap labour cannot produce competitive goods and services. If a national labour market is highly qualified, that country can focus on the IT race and withdraw from other races in which cheap labour countries are more competitive.

Of course, it is not always easy to abandon one race and concentrate on another. Therefore, a nation is required to provide the conditions under which its industries can switch from one race to another as easily as possible. This is essentially a matter of economic and industrial policy, but it can be connected to labour law. Individual workers need to obtain new skills to survive the changes in industrial structure. As such, the government should encourage training or take other measures so that workers in declining industries will be able to move to more competitive industries.

Moreover, as the influence of the financial market on the labour market becomes strong, a new issue arises, i.e. regulation of the function of the financial market. As regards the currency market, the actions of Malaysia in the 1997 crisis indicated that national regulation of the market could prevent a devastating impact on the domestic economy. In addition, there may be a need to evaluate enterprises per se as a subject of investment in the capital market. One of the most famous examples here is the grading of Toyota Motors. In 1998, Moody's downgraded Toyota's debt rating on the grounds that the company maintained a policy of lifetime employment. Toyota Motors being one of the most excellent companies in the world, Mr. Okuda, Toyota president at that time, criticized such a rating.

This incident indicates that evaluation in the financial market is largely dominated by American standards which, in turn, are probably influenced by the American model of corporate governance. However, even if we assume that market mechanisms can lead to maximum efficiency, it does not necessarily follow that the American standard is the best way to evaluate the efficiency of business activities. To the extent that there remains some room for different types of corporate governance or capitalism, it is worth establishing a new model index for ratings in the financial market.

Although the so-called Japanese style of management has lost its power nowadays, it is still generally recognized that the Japanese production system, such as Toyota's, is one of the most efficient methods of production. The system has a close relationship with the employment system including the development of intellectual skills. The new model index may reflect the value of the method for developing human resources and, ultimately, the value of models of capitalism other than the Anglo-Saxon model. A theoretical effort has just begun for establishing such an index (Takeuchi, 2003).<sup>6</sup>

Of course, it is not certain whether a new model index will enjoy credibility among investors. Moreover, the effort is not directly linked to government regulation, since the creation of the index is basically left to the private sector rather than the Government. Still, in view of the fact that the current index for the evaluation of enterprises appears to reflect the value system of Anglo-American capitalism, it must at least be worthwhile to provide for various competing indexes based on different ideas of capitalism.

## Conclusion

We are facing a number of issues arising from globalization. Although these issues have different natures and dimensions, there is one common aspect: each country has its own interest in dealing with these issues, though based on different economic, cultural, and historical back-

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<sup>6</sup> Even under the traditional model of index based on the stockholder-centered notion of corporate governance, corporations that obtained higher evaluation showed an increase in the number of employees. See Nippon Coporeto Gabanansu Indekkusu Kenkyujo (Japan Corporate Governance Research Institute), 2002 Nendo Coporeto Gabanansu Indekkusu Chosa Hokoku (Research Report on Corporate Governance Index 2002) 10 (2002) [<http://www.jcgr.org/jpn/survey/>].

grounds. In fact, many of the issues regarding globalization derive from the fact that there are many borders in the world, despite the cliché of a “borderless economy”. Even if the market is the most efficient basis for a national economy, each country’s economy has its own background or conditions that may affect the market mechanism. Apart from theoretical correctness, one must also take into consideration such conditions in formulating national policy. Since such conditions are numerous and it is difficult to weigh one against the other, decision making is inherently difficult, and often there is more than one correct answer. Thus, political diversity will continue even in a global economy.

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## Comment by Keisuke Nakamura

I will begin by commenting on some of the points made by Professor Dore. The third session focused on the theme of increasing inequality. I would like to adopt these words as key words. People are becoming more tolerant of inequality in society. This must mean that their concept of justice or fairness is changing. In my understanding, this may be the starting point to fully understand Professor Dore's lectures, which can be divided into three aspects:

1) Rising inequality, especially economic disparity, and the causal factors are discussed in the first two lectures. Among the factors, Professor Dore seems to emphasize the prevalence of neo-classical economics, neo-liberalism, technological change, and of course, globalized competition.

2) The changes in ideology or morality that define fairness, and the increasing tolerance of inequality that stem from these changes are discussed in the third and fourth sessions. The existence of inequality does not necessarily mean that it is accepted. Professor Dore's point is that people are less likely to regard the existence of inequality as a problem that should be tackled. What are the factors behind such trends? He insists on market individualism and the American cultural hegemony. In his fourth lecture, Professor Dore points out the sharp contrast between

the position of ILO technical experts and the Davos business élite. The contrast is very striking although they are both considered cosmopolitan élites. I think that one of the symbols of the growing tolerance of inequality lies here.

3) The third aspect is a warning against the growing tolerance of inequality and suggestions for ways to curb it. The former, the trend towards tolerating inequality, was witnessed in all the lectures and the latter was specifically discussed in the fourth session.

I would now like to summarize the paper prepared by Dr. Accornero, who was unfortunately unable to attend this meeting. Professor Accornero maintains that labour protection is being undermined by the prevalence of the market mindset. His arguments focus on labour changes, which is a different approach from that taken by Professor Dore.

According to Professor Accornero, if we look at the history of labour, there have been three major transformations. The first took place in the United Kingdom in the nineteenth century, and led to the birth of the labour market and wage earners. The second transformation took place in the twentieth century, and was brought about by Taylor's scientific management and mass production i.e. Fordism. And now the third transformation is underway. The present situation can be described as post-Fordism; it is represented by the Toyota production system.

These changes have their roots in changing models of production and consumption. Labour changes occurred first and foremost because companies changed their structures and functioning in order to cope with changes in production and consumption. Professor Accornero believes that labour changes have their roots in production and consumption, rather than in ideology, technological innovation or market expansion.

The third transition, which is taking place now, has had two results. One is positive and the other negative. The positive side appears in the slogan, "Quality depends on you". The skills required of workers are sophisticated and the content of jobs requires more knowledge, more collaboration and more versatility. However, there is a negative aspect. Companies are using atypical, non-regular jobs to respond to market changes. Non-regular jobs make employment more precarious. Workers' rights are undermined and their self-esteem is threatened.

Professor Accornero looks at these negative results specifically because they generate new concerns. Because of this flexibility of alloca-

tion – external flexibility and flexibility of allocation – workers are more likely to experience periods of unemployment. This prevents them from building a career. It becomes more difficult to find a job. Career paths become tortuous and life plans are virtually impossible. Workers may regret the past, when jobs were more stable.

Labour protection must definitely take this flexibility of assignment into consideration. Workers who are more mobile cannot be less protected or more penalized. Workers who are mobile give suppleness to the production system. They should be rewarded highly and given legal protection. This is the substance of Professor Accornero's paper.

I would now like to present some comments on Professor Dore's lecture and to incorporate some of the panellists' opinions. I have three points to make: i) Professor Dore's fears are unfounded ii) they are well-founded – reason number one: iii) they are well-founded – reason number two.

Professor Dore fears that the tolerance of inequality is expanding. Professor Weiss discussed the ILO's performance and the European social model within the EU; he described the building and the structuring of this model within the EU, and the labour management consultation scheme designed to spread this trend in all the EU countries. I believe that Professor Dore's fears are being addressed by these moves. And Professor Yamakawa has reported that Japanese labour law – the law on dismissal and the regulations on gender differences – amounts to re-regulation, not deregulation. There are only a few cases of American style corporate governance and very few voices advocating the abolition of long-term employment practices. These will curb the trends that the Professor fears, so I believe that his fears are not justified.

There are some journalists and some economists who are whipping up the idea of market individualism and enthusiasm for maximizing the shareholders' interest. However, when you look at reactions to these opinions, there is a huge gap. For most citizens these ideas are remote from their own experience. For example, at the last general election in Japan, the mass media were not correct and the turnout was even lower than in the previous general election. Although the mass media try to advocate market individualism, new capitalism and maximization of shareholder interests, there may be a huge gap between their advocacy and the public consciousness.

In addition, Professor Dore maintains that performance-linked rewards amount to bringing the principles of the market into personnel



management. However, it may be that such rewards serve to curb the overhead costs of baby boomers in Japan, and I believe that his fears are not justified here.

Now we consider the possibility that his fears are well-founded — reason number one. Let us look at the example of a supermarket where there are part-time assistants and full-time workers. The regular full-time workers are in managerial jobs. For them, it is important to minimize the costs of the store so that it can make profit. The regular employees need cheap part-time workers. Part-time workers' pay has to be kept down, even if they belong to the same trade union; this is the dilemma.

A small number of young people find full-time jobs today; the rest cannot set out on the path to regular employment. How should we interpret the low rate of full-time employment among young people? Young people do not want full-time jobs. That is one way of thinking. The second way of thinking is that they are forced into atypical employment by the bad labour market situation. If we take the voluntary argument, the discussion goes as follows. Young people do not have future prospects, but it is not a problem because it is their own choice. They should not be helped. If that is the general view, then I think Professor Dore's fears are justified.

Lastly, his fears may be well-founded—reason number two. I would like to ask Professor Weiss if the European social model can eliminate market individualism. If the market-mindset, market individualism, and the tolerance of growing inequality are spreading in Europe, the system will collapse. Can we be happy just because the system has had impressive accomplishments in the past? In that case, Professor Dore is correct.

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## Chapter V

### Summary of the discussion

Comment by Susan Houseman,  
summarizing Session II

In the session on *The concrete meanings of labour market flexibility* speakers: 1) outlined different concepts of flexibility as represented in the different industrial relations systems of Japan, Europe, and the United States; 2) documented how flexibility is increasing and industrial relations practices changing within these industrialized countries; 3) discussed why we are seeing these changes; and 4) considered whether the changes constitute a positive or adverse development.

#### Concepts of flexibility

Professor Dore began the session by reviewing the distinction between “internal” and “external” flexibility and trade-offs in the types of efficiency they represent. In traditional industrial relations practices characterizing large Japanese firms, and, with some modifications, many continental European firms, external flexibility is low. Workers are given job security in the form of protection from layoff and income security. Particularly in large Japanese firms, pay scales are tied to seniority and need, rather than to productivity, and the pattern of pay follows the so-called the “male breadwinner” model. Workers develop strong attachments to

firms and firms absorb economic risks. The *quid pro quo* for low external flexibility is high internal flexibility. Workers acquire multiple skills and companies enjoy considerable discretion in the deployment of workers within the firm. In addition, firms benefit by the fact that turnover, and the resulting loss of human capital, is low.

Proponents of this industrial relations model argue that the efficiency gains from internal flexibility can more than compensate for the inefficiencies of external “inflexibility”. Or, to the extent that internal flexibility does not fully compensate, companies use peripheral workers to absorb fluctuations in demand, to reduce labour costs, and thereby absorb economic risk.

## The increase in flexibility and changing industrial relations practices

This industrial relations model gained a following in American and British business schools and even among some companies in these countries in the 1970s and 1980s. The idea of providing workers with job security was appealing on the grounds that it was more humane and possibly even more efficient. But the model never took hold in Anglo-Saxon countries. Moreover, this model seems to be breaking down in Japan and continental Europe.

Speakers pointed to an array of evidence. In virtually all of the countries, the fraction of the workforce in non-standard employment, such as part-time, temporary, and contract arrangements, is growing. Companies are using these arrangements to adjust workforce levels more easily; to facilitate the dismissal of workers for poor performance or to better screen workers before offering them regular positions; to reduce wage and benefit levels; and to weaken union power. Professor Gaudu also pointed to deteriorating conditions for regular full-time workers in many countries: intensification of work; reduction in job security; and greater variability in wages and working hours. Thus, companies in Japan, Europe, and the United States are increasing flexibility by hiring more workers in peripheral arrangements and by increasing the flexibility of those remaining in core i.e. regular, full-time jobs.

## Why are these changes occurring?

While there was consensus among speakers as to what has been happening to industrial relations practices within these countries, there was little consensus as to why these changes are occurring or whether they represent a positive or negative development.

One view is that such change is inevitable. The notion that internal flexibility can fully compensate for the lack of external flexibility is flawed. As companies face more intense competition in a globalized economy, they simply need to be more efficient. They need to increase their flexibility and shift some risk onto workers.

An alternative view, expressed by Professor Dore, is that the growth of labour market flexibility and the decline of security for workers is due to American hegemony and the influence of neo-classical economics in policy circles. As an American who was trained in neo-classical economics, I must say that I think he gives us too much credit. Nevertheless, I believe there is an element of truth in his argument, which I paraphrase (and I hope do not distort) as follows:

During the 1970s and 1980s, Japan and many European economies such as Germany were doing well vis-à-vis the United States. There was great interest in the United States in copying labour market institutions from other countries. The concept of internal versus external flexibility was very popular in American business schools and even among some prominent businesses.

Fortunes changed, however. During the 1990s, the US economy performed much better than the Japanese and European economies. The cynical view is that no one really understands why fortunes reversed, but neoclassical economics had an answer: with their strong protections for workers Japanese and European labour markets introduce rigidities which impede efficient market function. Reform was needed.

As an aside, I must note that Professor Dore uses the term “neo-classical economics” much more narrowly than economists themselves use it. Most economists recognize the existence of imperfections in the functioning of various markets, the imbalance of power that results, and thus the need for policy intervention in various circumstances. Indeed, virtually all theoretical models developed by neo-classical economists in recent decades have explored the consequences of market imperfections. A good example is the development of mathematical theoretical models in the

1980s and early 1990s showing that under various assumptions about market failures that give employers monopsony power, an increase in the minimum wage can increase employment. Empirical tests by economists at Princeton and Harvard Universities found support for these theories, and this evidence played some role in the passage of the last minimum wage increase in the United States.

Nevertheless, the view that market imperfections are generally small and that usually markets work efficiently without government intervention dominates conservative policy circles in the United States and international agencies such as the IMF and World Bank. It remains to be seen whether the swing toward more free-market policies will continue or whether the pendulum will swing back in the other direction if and when US economic performance worsens vis-à-vis that in other advanced economies.

### **Are the growth in flexibility and related changes to industrial relations practices desirable?**

Professor Dore was quite pessimistic about these developments. He connected the increased risk borne by workers to a decline in their bargaining power and the growth of inequality.

Others dissented from this pessimistic view. Professor Lee raised the issue of gender. She questioned whether the system prevailing in Japan is fair to women. Female workers in Japan comprise the overwhelming majority in non-standard arrangements and buffer the primarily male core workforce.

Several other speakers even questioned whether the system of strong attachments between workers and firms and the male breadwinner model intrinsic in Japan and some European countries was good for men. Professors Nakakubo and Weiss spoke of a need for work-family balance. The notion that an extreme division of labour in work and family matters was not healthy for either sex was the topic of much discussion. And while the attachment of workers to firms in Japan is often characterized as beneficial for workers by lowering their risk and increasing their security, Professor Hanami likened it to servitude. Here the argument is that the freedom to change jobs or careers and, more broadly, to have greater control over one's life is greatly valued by workers.

Given the growth, and perhaps the desirability, of job mobility, Professor Gaudu discussed an alternative way of providing economic security for workers that is gaining popularity among European, Japanese, and US policy makers. Rather than having “job security” – i.e. security or entitlements to a job with a specific company – workers have “employment security” – i.e. the security of being employable in some (presumably well-paid) job. Proponents of the concept of “employment security” argue that workers must continually update their skills and be prepared to change jobs and even employers to remain competitive in a global economy. Employment security is gained not by restricting companies’ ability to dismiss employees but rather by developing human capital in lifelong learning. By supporting lifelong learning, proponents argue that government policy can increase worker security and at the same time preserve the labour market flexibility needed to compete in a global economy.



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## Comment by Ann Numhauser- Henning summarizing Session III

In his initial lecture Professor Dore indicates one single direction of social change: a direction marked by market individualism and a movement towards ever-increasing inequality. One factor behind this unidirectional trend is the ever-greater complexity and depth of the cumulative body of scientific and technical knowledge; another is cultural diffusion manifested in an increasing tolerance of inequality and the global hegemony of the market mindset. But Professor Dore also explores the possible sources of a global rethink, he tells us of different notions of justice or fairness and its ethical dimensions – liberty, equality and fraternity – and also of its power dimension.

Now, liberty and the market are the supreme values and Professor Dore finds a consensus for “the market individualistic” notion of justice, though norms have not yet tipped decisively. Professor Dore is not too optimistic with regard to the direction of social change. One of his more optimistic visions is the possibility of a world depression like that of the 1930s! Another possibility is a change of direction according to the maxim “your unrest threatens my peace”, but to get there things would first have to get considerably worse.

In my own intervention, although I am basically in agreement with Professor Dore’s analysis of these complex developments, I chose to take



a somewhat more optimistic position – typically Swedish, Professor Dore would argue.

Basically I argued that developments are not unidirectional. Instead I pictured normative societal development as a balancing act between enduring normative values or patterns in a “normative field”.

In the framework of this argument I was able to give some examples of how, in periods of change, old normative values are able to “reshape” new institutions replacing the ones we now take for granted. Examples include enhancing employability when we now speak of employment protection, replacing traditional family with more flexible families, individualized social security schemes, and basic social benefits. Another example is the potential of non-discrimination regulation, which goes beyond formal equal treatment.

My basic normative patterns could be called different notions of justice in Professor Dore’s terms, he himself being a normative relativist with regard to conflicting principles of fairness. My theory that normative patterns are balanced in the normative field does not really answer Professor Dore’s question about the power dimension of justice: which justice is going to win? My answer is that in the long run they will all survive. However, in the short run the well-established middle class will suffer more inequality, but perhaps this will not benefit only the top percentile; there could also be some benefits for those who are now worse off.

A question that was widely discussed after the presentations was the potential of education and training for overcoming inequalities. Professor Dore was sceptical here.

Professor Dore is of course right in saying that there will always be some people with less intellectual capacity than others. In a world where knowledge is a decisive factor this is likely to result in inequalities. Therefore, it is even more important to guarantee decent working conditions and a social safety net. In discussions the problem of creating dignity was raised, which goes beyond ensuring a basic income for everyone.

Professor Obata considered that increased inequality was a consequence not only of intensifying technology and global competition but also of the failure of state socialism.

She, too, however, dwelled on the possibility of a rethink, introducing three new arguments for a more positive evolution that that predicted by Professor Dore: (i) the importance of customer choice and

public attitudes towards social injustice; (ii) the fact that American workers are not likely to accept increased stress and more working hours in the long run; and (iii) the necessity to invest in “human capital”, an argument in the line of social peace.

Professor Yano – reflecting on existing inequalities and the possibilities of change – dwelled on the characteristics and changes (or lack of changes) in the Japanese lifestyle.

Investigations show that Japan is a land that never sleeps. The short night is a dominant characteristic, and women sleep less than men. This intervention also showed that Japan had a considerably higher inequality index with regard to gender than other countries. And changes in the working-time regime (the five-day week) had made little difference.

Although I myself believe that the gender inequality index will change in the near future, this gave us a rather negative impression of the implications of Professor Obata's second argument. American workers may not be able to endure longer working hours – but they may react as the Japanese do: with stress diseases and suicide, not with demanding a change in the normative conceptions of work.

In his commentary Professor Genda also gave a rather disappointing view of the possibilities of Japan – despite a traditional concept of justice closer to continental Europe than the United States – in that he noticed a greater toleration of inequality in Japanese society today. He strongly emphasized, as did Professor Yano, the degree of isolation and loneliness in Japanese society. Perhaps this is a characteristic of the market-individual work society as such?

Only the comments of Professor Mizumachi reintroduced some optimism; he stressed European Union policies and efforts to build “the European social model” to cope with US competition. He believes that the neo-liberal market trend may be reversed by the power of politics and democracy, again referring to the European experience but also to Japan and the increased role of the social partners in procedural regulation.

Nevertheless, I must admit that after our discussions I am somewhat less optimistic. Maybe Professor Dore's prophecy is the most likely one. However, a more optimistic view is the only acceptable attitude if there is to be any possibility of a better outcome.

I would rely on change being stimulated by the argument “your unrest threatens my peace” but – because I am Swedish – I hope that this

mechanism will work without a prior disaster. It is also my opinion that we have underestimated the gender issue and not least in relation to this argument. Intellectual capacity is a key market value and women are as intelligent as men, so women are indispensable for future labour markets, from a market functional point of view. This fact makes the reconciliation of work and family an increasingly crucial question and also paves the way for social values other than market efficiency.

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## Comment by Manfred Weiss summarizing Session IV

Professor Dore has made it perfectly clear that he is not only discussing the impact of globalization on the new world of work but that he is also discussing the impact of technological developments and the knowledge society, which have made globalization possible. In other words: he is not only focusing on globalization but also on the factors which have brought it about. He has taught us to keep in mind the interface between those two levels.

Professor Dore began his lecture with a sobering thought. He went back to the Utopians and looked at people like Karl Marx and John Maynard Keynes, pointing out that none of their Utopian ideas has materialized. The content of work, the length of working hours and the distribution of income today bear no relation to their Utopian predictions.

Professor Dore identified four questions, which were the main theme of his four lectures. The first question referred to the meaning of work in this new world of globalization. What are the criteria which we use to understand work and the driving force behind it? Secondly he asked how far flexibility is a necessary consequence of technological development and what its consequences are. Thirdly he considered the normative question of justice. In essence he asked how and why the new

developments lead to inequality and how this situation might be changed. The fourth session discussed the question of promoting greater equality and social security in a global context. This led to a number of other questions, such as those about the role of national governments and of other actors.

When Professor Dore talked about the meaning of work he described several parameters which are characteristic of today's labour market. Thus he explained that there is no way of preventing large-scale unemployment without economic growth, and no economic growth without consumer demand. This is a dilemma which has never been solved. To take another example, he pointed out that the poor work hard, if they get a job at all. And – to take a last example – he mentioned the situation where people are trapped in the cycle of lousy job or no job and lousy income or no income. In short, Professor Dore provided a splendid analysis of the trends in today's labour markets.

The main focus of the lecture was on the criteria for job satisfaction. Professor Dore talked of intrinsic rewards and extrinsic rewards. His deliberations ended in a clear message: the driving force nowadays is the neo-classical ideology. All concepts, be they intrinsic or extrinsic, focused on social usefulness or personal satisfaction, are shaped by one single value, and that is market efficiency. Market efficiency is the decisive criterion and it is doubtful whether this can be changed in the near future.

On the question of flexibility, Dr. Lee's report led us to the question of linking work and family commitments and making the two compatible. We learned that it is not sufficient to focus simply on the organization of work. We have to discuss the structure of society as a whole. We have to reflect and most probably to change the roles of men and women in the family.

The fourth lecture considered how it might be possible for national governments and/or other actors to promote more equality and minimum standards on a global scale. The first part of the lecture dealt with core labour standards and discussed the different strategies by which they are to be promoted globally. On this subject, Professor Dore sounded rather sceptical. The second part of the lecture reflected on whether different approaches to social policy can be developed and maintained in a globalized world. Here Professor Dore was rather optimistic. In his view there is no need for uniformity. He quoted the French slogan: "Vive la différence!", supporting competition between different forms of capital-

ism. Nevertheless he is doubtful whether the race to the bottom can be stopped.

In the statements made by the panellists and in the discussion afterwards, two questions were highlighted. The first referred to the efforts of international institutions to promote core labour standards. Here, of course, the focus was on the ILO. However, an additional dimension was brought up: the many codes of conduct set up by multinational enterprises. It became clear that there is no alternative to a public-private-policy mix. And there will be no alternative to a combination of hard law and soft law. However, it is not clear whether the codes of conduct established by multinational enterprises are a temporary or a lasting phenomenon. Different speakers held different views on this issue.

Professor Dore identified three types of capitalism: the Anglo-Saxon model, the continental European model and the Japanese model. Further discussion centred on the Japanese model and the European Union model which is identical with neither the continental European one nor with the Anglo-Saxon one. The point was made that regional arrangements might have a better chance to survive and remain competitive than national efforts.

In the discussion much attention was given to the Japanese model. It was agreed that the Japanese pattern and the European project are both very different from the United States concept. But the controversial question of course was whether and how these models can survive in the face of the pressure of financial markets and of intense competition in a globalized world. Participants discussed whether these models help to reduce the market individualism which was mentioned so often by Professor Dore. The answer was slightly optimistic, although market individualism will not be eliminated in this way .

The written text submitted by Professor Accornero made a very important contribution to the discussion. He reconstructs from a historical perspective the basic transformations in the labour market. The first transformation began in the nineteenth century in England in the context of industrialization, the second transformation being linked to Taylorism and to the development of Fordism, and the third transformation being linked to Post-Fordism and to the Toyota concept. The message of this historical reconstruction is to be stressed: each of these transformations brought different types of work and different challenges for workers, including serious risks. But the challenges and the dangers could be

contained to a certain extent due to collective factors and to other strategies which were available. In view of this history he asks himself – and I think that is one of the basic questions we are left with in this seminar – what kind of labour will emerge from the great transformation which is taking place now. Professor Accornero believes that this time as ever before, it will depend on how workers succeed in defending their interests. If we review the last two days, we must say that the defence of worker interests, particularly of those groups who are at the bottom, seems not to be overwhelmingly strong and there are many doubts whether the kind of inequalities we identified during these two days will be reduced in the future.

What conclusion can be drawn from the seminar? I think it would be too simple to go away with any easy answers. We are confronted with all kinds of factors which play a role in globalization. But we also became aware that what we are discussing is speculative. It is not grounded in safe soil. Even if we refer to different theories, they all have their weaknesses. And reality – as Professor Dore indicated in reference to the Utopians – does not necessarily follow theory. Therefore, it is not surprising that we had a mixture of pessimists and optimists. Different attitudes cannot be overcome by rational arguments. Therefore, it is not surprising that no consensus was reached on the future of work in view of technological change, the knowledge society and globalization. We are still confused, but on a much higher level.

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## Concluding remarks by Kazuo Sugeno

We have now come to the end of the three-day conference. First of all, on behalf of the organizing committee, I wish to express my sincere gratitude to all who actively participated in this symposium. Our plan to combine the ILO Nobel Peace Prize Social Policy Lectures with panel discussions has proved extremely successful.

I have no doubt that the success of this meeting owed much to Professor Dore's lectures which analysed the issues we are facing from a wide variety of viewpoints. His penetrating analysis was partly based on a series of oppositions: membership motivation v. market motivation; personal satisfaction v. social usefulness; internal flexibility v. external flexibility; market mind-sets v. organization mind-sets. Professor Dore outlined the rise of "market individualism" and discussed the trend towards greater inequality which is a consequence of such marketization. Then he asked whether globalization means that this trend is irreversible or if it may be reversed by national policies. Professor Dore believes that even in a globalized market, each country is still able to make a large range of independent policy choices. There are various models of capitalism and we cannot tell which is superior. Although Professor Dore stresses his belief in diversity he is concerned that Japan is now under greater pressure from American hegemony than any other country.



From my position as a labour-law academic who is involved in Japan's labour and employment policy, I would like to comment briefly on the core issues raised at this symposium.

One of the key issues was the role of law in an increasingly globalized world. Concern was voiced over the race to the bottom in a globalized market. However, various counter-measures to cope with this negative side of globalization were also mentioned. The first was international norms, which range from legally binding ILO Conventions or core labour standards to norms which are not legally binding, such as codes of conduct. The emerging notion of "corporate social responsibility" in the ISO (International Standards Organization) is also attracting attention.

The second measure is to drastically enlarge a common market which has social values different from those embraced by Anglo-Saxon societies. An example is to be found in the European Union (EU), in which the Charter of Fundamental Rights spells out important elements of the European social model.

A third way to avoid a race to the bottom is to pursue a different type of race, where participants resort not to cheap labour or lower working conditions but to high technology or added value in order to be competitive. Such a choice will be enabled through systematic industrial and labour-market policies..

These examples indicate that there is plenty of room for national policies to control the demerits of globalization and marketization. The need to install a new safety net to assist workers in the increasingly individualized labour market was also pointed out.

This leads us to another key issue: will the big super power hegemony prevail, and will the various forms of capitalism converge into the market-driven Anglo-Saxon model? Or will divergence remain in the future? I agree with a number of panellists that divergence will continue, at least in the case of Japanese labour law.

It is true that during the 1990s, arguments for the deregulation of employment relations gained momentum and triggered revisions of Japanese labour law. However, labour law reforms during the last ten years have not introduced one-sided deregulation or marketization. While deregulation has occurred in some areas, Japan has also seen the introduction of new norms designed to protect workers. For instance, in 1991 and 1995 the Child Care and Family Care Leave Law was enacted

to provide workers with “family leave” in order to harmonize work and family life. In 1997 the Equal Employment Opportunity Law was revised to strengthen measures for counteracting discrimination against women. The 1999 revision of labour market regulations introduced new protection of personal data and workers’ privacy. In 2000, to protect workers’ rights in the event of corporate reorganization, the Labour Contract Succession Law was enacted. In 2003, a revision of the Labour Standards Law made any abusive exercise of the right to dismissal null and void. It should be noted that these statutory developments are generated through the mechanism of labour management corporatism. Therefore, what really occurred in Japan during the last decade was a reshaping of labour law which included “deregulation” to bring outdated norms up-to-date, and “re-regulation” to cope with new problems caused by social changes.

Japan was successful in achieving a balance between security and flexibility in the past. Unlike the United States, the Japanese system respecting employment security did not rely heavily on external flexibility but mainly utilized internal flexibility. What we are experiencing is not a revolutionary change to the marketization model, but evolutionary changes to rebalance internal and external flexibility.

The relationship between market and law, namely, to what extent and in what manner law should intervene in the market, is a controversial issue. It raises doubts on which we lawyers can live for ever. Lawyers joke that we know the right answer, but we keep it secret to maintain our jobs. To be serious, we must pursue an adequate solution through political, social and intellectual efforts. This conference has made a real contribution to that effort.

At the conclusion of the conference, on behalf of the organizing committee, I would like to thank various people and organizations. First of all, I am grateful to the Norwegian Embassy and Labour Research Center for their generous support. Second, our appreciation goes to the team of interpreters for their excellent work. Third, I wish to thank the young volunteers of the operation team of the ILO Japan Office and the University of Tokyo, in particular, Ms Yuko Tamura and Atsuko Nagano. Without their dedication and hard work, it would have been impossible to bring the symposium to a successful conclusion.

Finally, let me repeat my sincere thanks to Professor Dore, all the panellists, commentators, moderators, and the audience. Thank you very much indeed for your ardent participation. I now declare the symposium closed.



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# Appendix I

## Agenda of the Meeting

University of Tokyo/ILO Nobel Peace Prize Social Policy Lectures  
and Symposium “New forms and meanings of work in an increasingly  
globalized world”

**1-3 December 2003, Tokyo, Japan**

**Venue:** Sanjo Hall, The University of Tokyo, Hongo Campus

***Monday, 1 December 2003***

10:00-10:30

Moderator:

Addresses by:

### **Opening Session**

Professor Michio Nitta (University of Tokyo)

Professor Takeshi Sasaki, President of the University  
of Tokyo

Mr. Odd Fosseidbraten, Ambassador, the Royal  
Norwegian Embassy

Mr. Jean-Pierre Laviec, Director, International  
Institute for Labour Studies, Geneva

Professor Kazuo Sugeno, Dean, Faculty of Law, the  
University of Tokyo (Chairperson of the  
Organizing Committee)

10:30-12:00

Opening Lecture:

Lecturer:

Moderator:

### **Session I**

***The pains and rewards of work in the twenty-first  
century***

Professor Ronald Dore (University of London)

Professor Takeshi Inagami (University of Tokyo)

14:00-17:00	<b>Session II</b>
Lecture and Panel Discussion:	<b><i>The concrete meanings of labour market flexibility</i></b>
Lecturer:	Professor Ronald Dore (University of London)
Panellists:	Dr. Susan Houseman (Upjohn Institute, USA)
	Dr. François Gaudu (Paris-1, France)
	Dr. Joohee Lee (Korea Labour Institute, Korea)
Commentators:	Professor Hiroki Sato (University of Tokyo)
	Professor Hiroya Nakakubo (Chiba University)
15:30-15:45	Coffee break
17:30-19:30	Reception hosted by the ILO

***Tuesday, 2 December 2003***

09:30-12:30	<b>Session III</b>
Lecture and Panel Discussion:	<b><i>The direction of social change</i></b>
Lecturer:	Professor Ronald Dore (University of London)
Panellists:	Dr. Ann Numhauser-Henning (Lund University, Sweden)
	Professor Fumiko Obata (Kyoto University)
	Professor Masakazu Yano (University of Tokyo)
Commentators:	Professor Yuji Genda (University of Tokyo)
	Professor Yuichiro Mizumachi (Tohoku University)
11:00-11:15	Coffee break
14:00-17:00	<b>Session IV</b>
Lecture and Panel Discussion:	<b><i>Global markets and national employment systems</i></b>
Lecturer:	Professor Ronald Dore (University of London)
Panellists:	Professor Manfred Weiss (Frankfurt University, Germany)
	Professor Ryuichi Yamakawa (University of Tsukuba)
	Professor Aris Accornero (University of Rome, Italy)*
Commentators:	Professor Keisuke Nakamura (University of Tokyo)
	Professor Hiroyuki Chuma (Hitotsubashi University)
15:30-15:45	Coffee break

\* Professor Aris Accornero was unable to attend the symposium.

***Wednesday, 3 December 2003***

9:30-12:30

Topic:

**Roundtable discussion*****New forms and meanings of work in an increasingly globalized world***

Panellists:

Professor Ronald Dore (University of London)

Professor Manfred Weiss (Frankfurt University, Germany)

Dr. Susan Houseman (Upjohn Institute, USA)

Professor Ann Numhauser-Henning  
(Lund University, Sweden)Mr. Shinichi Hasegawa (Assistant Minister for  
International Affairs, Ministry of Health, Labour  
and Welfare)Mr. Yuji Kato (Vice President, JTUC-RENGO,  
President, Confederation of Japan Automobile  
Workers' Unions)Mr. Takeo Katoh (Co-Chairman, Committee on  
Labour- Management Relations, Japan Business  
Federation, Chairman and Director, Fuji Electric  
Holdings Co., Ltd.)

Coordinator:

Ms. Mitsuko Horiuchi (ILO Office in Japan)

10:30-10:45

Coffee break

Concluding remarks:

Kazuo Sugeno (University of Tokyo)



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## Appendix II

### Profiles of panellists and commentators

#### Keynote Speaker

##### **Ronald Dore**

Ronald Dore learned Japanese during the war and has spent most of his life studying Japanese society and economy. He has taught in London, UBC, Harvard and MIT and had research positions in centres of development studies and studies of technical change. His *Stock market capitalism, welfare capitalism: Japan and Germany versus the Anglo-Saxons* was published by Oxford University Press in May 2000. The Japanese translation received the Ekonomisuto Prize 2002. There are two recent collections of his writings, *Social evolution, economic development, and culture: What it means to take Japan seriously* (paperback, Edward Elgar, 2001) and *Collected writings of Ronald Dore* (Synapse, 2002). He is an Associate Researcher at the Centre for Economic Performance, LSE, London.

#### Session 2: Panellists

##### **Susan Houseman**

Senior Economist, Upjohn Institute for Employment Research, and Research Affiliate at the National Poverty Centre, University of Michigan. She received her Ph.D. in economics from Harvard University. Previously, she was an Associate Professor, School of Public Affairs, University of Maryland and Visiting Scholar, the Brookings Institution.

##### **François Gaudu**

Professor of Law and Director of the Department (UFR) of General Legal Studies (Dean), University Paris I (Panthéon-Sorbonne). Doctor of Law, University Paris I



(Panthéon-Sorbonne), also graduate (agrégé) of history. He teaches labour law, civil law and comparative law. In Japan, he has participated in the Symposium of Japan Productivity Centre (1999), the Japan Institute of Labour Tokyo Seminar (2002), and lectured at Waseda University (1999, 2002).

### **Joohee Lee**

Research Fellow, Korea Labour Institute. She received her Ph.D. in sociology from the University of Wisconsin-Madison in the USA. She was a visiting fellow at the Centre for Labour Market Policy Evaluation, research fellow at the Institute for Social Developmental Studies in Yonsei University, and lecturer at Korea University.

## **Session 2: Commentators**

### **Hiroki Sato**

Professor at the Institute of Social Science, University of Tokyo. Graduated from the Faculty of Sociology, Hitotsubashi University, in 1976. Research interest in human resource management. Publication *Japanese labour and management in transition* co-edited with Mari Sako, Routledge, 1997.

### **Hiroya Nakakubo**

Professor, Faculty of Law & Economics, Chiba University. Mr. Nakakubo is an expert on labour law, specializing in American labour law. He has an LL.M. from Harvard Law School and LL.B. from the University of Tokyo. He served as research fellow at the University of Tokyo, lecturer and associate professor at Fukuoka University, and associate professor at Chiba University, before taking up his current position in 1997.

## **Session 3: Panellists**

### **Ann Numhauser-Henning**

Professor, Faculty of Law, Lund University, Sweden. She obtained her Ph.D. from Lund University, Faculty of Law. She is now president of the Norma Research Programme on "Normative Development within the Social Dimension" and the Swedish legal expert to the European Commission's network of legal experts on equality between men and women as well as the European Commission's European Observatory on social security for migrant workers. She is also the Pro-Vice-Chancellor of Lund University.

### **Fumiko Obata**

Associate Professor, Graduate School of Global Environmental Studies, Kyoto University. She obtained her Ph.D. from the University of Tokyo, Faculty of Law.

### **Masakazu Yano**

Professor, Graduate School of Education, University of Tokyo. He obtained his Doctorate in Engineering from Tokyo Institute of Technology.

## **Session 3: Commentators**

### **Yuji Genda**

Associate Professor, Institute of Social Sciences, University of Tokyo. Obtained a Ph.D. in economics. He was formerly a professor at Gakushuin University.

**Mizumachi Yuichiro**

Associate Professor, Tohoku University, School of Law. He was an invited professor at the University of Paris X, and a visiting scholar at New York University, School of Law.

**Session 4: Panellists****Manfred Weiss**

Professor, Faculty of Law, J.W. Goethe University of Frankfurt/Germany. Dr. Weiss was visiting professor in many universities in Belgium, France and the United States. From 1990 to 2002 he was member of the executive board of the German Law Association. He is currently President of the International Industrial Relations Association.

**Ryuichi Yamakawa**

Professor of Law, University of Tsukuba. He obtained his Ph.D. from the University of Tokyo as well as an LL.M. from the University of Washington. He was a visiting professor at the University of Frankfurt.

**Session 4: Commentators****Keisuke Nakamura**

Professor, Institute of Social Science, University of Tokyo. Graduated from the Faculty of Economics, University of Tokyo. Acquired a Doctorate in Economics from the University of Tokyo. Research areas are: production systems, industrial relations, personnel administration.

**Hiroyuki Chuma**

Professor at the Institute of Innovation Research (IIR), Hitotsubashi University. Ph.D. (Economics) SUNY at Buffalo, B.A. Hitotsubashi University. Before IIR, he was professor of economics at Hitotsubashi University, Tokyo Metropolitan University, SIU at Carbondale, or visiting professor at Yale University. Specializes in labour economics and economic theory.

**Roundtable: Constituents****Shinichi Hasegawa**

Assistant Minister for International Affairs, Minister's Secretariat, Ministry of Health, Labour and Welfare. Graduated from the Faculty of Law, University of Tokyo in 1972. Joined the Ministry of Labour the same year. First Secretary, Permanent Delegation of Japan to OECD in Paris in 1984. Has held posts such as Director, Labour Legislation Division, Labour Relations Bureau, Director, Trade Union Division, Labour Relations Bureau, and Director, Personnel Affairs Division, Minister's Secretariat. He was the Director-General, Employment Measures for the Elderly and Persons with Disabilities Department in 1998, and was appointed to his current post in 2002.

**Yuji Katoh**

President of Japan Automobile Workers' Unions (JAW), Vice President, IMF-JC, and Vice President, JTUC-RENGO. Graduated from the Department of Law, Waseda University, and joined Toyota Motor Corporation in 1975. Appointed General Secretary of

the Toyota Motor Workers' Union (TMWU) in 1988. Became Assistant General Secretary of the JAW in 1992, and General Secretary of JAW in 1998. Has held his current posts since 2001.

**Takeo Katoh**

Chairman and Director, Fuji Electric Holdings Co., Ltd., and Co-Chairman, Committee on Labor-Management Relations, Japan Business Federation. Graduated from Faculty of Law, University of Tokyo in 1961, and joined Fuji Electric Co. Ltd the same year. General Manager, Personnel Department 1989, appointed Executive Vice President and Representative Director in 1998. He has held his current post since 2000.