

# *Japan* Labor Review

Volume 8, Number 4, Autumn 2011

## Special Edition **The Professional Labor Market**

### Articles

Physicians' Career Building and Their Shortage in Some Specialties

*Atsushi Yoshida*

Problems with the Legal Professional Training Mechanism:  
From the Perspective of Economics

*Tomio Kinoshita*

The Ph.D. as a Professional: Current Status and Issues concerning  
the Early Careers of Doctorate Holders

*Shinichi Kobayashi*

Career Transitions in the J-League: Theories and Practices of Career  
Support for Professional Football Players

*Kiyoshi Takahashi, Kozaburo Shigeno*

The Legal Issues Surrounding Professionals in Relation to Labor Law

*Ikuko Mizushima*

### Article Based on Research Report

Action Research in Career Counseling: Development of Effective Training  
in Career Counseling

*Jun Kayano*

### JILPT Research Activities



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The *Japan Labor Review* is published quarterly in Spring (April), Summer (July), Autumn (October), and Winter (January) by the Japan Institute for Labour Policy and Training.

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Printed in Japan

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## CONTENTS

### The Professional Labor Market

#### Articles

- 5 Physicians' Career Building and Their Shortage in Some Specialties  
*Atsushi Yoshida*
- 22 Problems with the Legal Professional Training Mechanism:  
From the Perspective of Economics  
*Tomio Kinoshita*
- 46 The Ph.D. as a Professional: Current Status and Issues concerning  
the Early Careers of Doctorate Holders  
*Shinichi Kobayashi*
- 67 Career Transitions in the J-League: Theories and Practices of Career  
Support for Professional Football Players  
*Kiyoshi Takahashi, Kozaburo Shigeno*
- 83 The Legal Issues Surrounding Professionals in Relation to Labor Law  
*Ikuko Mizushima*

#### Article Based on Research Report

- 99 Action Research in Career Counseling: Development of Effective Training  
in Career Counseling  
*Jun Kayano*

120 **JILPT Research Activities**

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NEXT ISSUE (Winter 2012)

The winter 2012 issue of the Review will be a special edition devoted to **Labor Relations in Japan.**

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## Introduction

### **The Professional Labor Market**

The word “professionals” has a broad meaning, but in this issue, it refers to people with highly specialized knowledge in the specific fields in which they earn a living. Examples that come to mind include people with advanced certifications, such as doctors and lawyers, as well as researchers, chefs, musicians, and athletes.

Rather than being restricted to working only in a specific organization or company, professionals show a strong tendency to make their way by the specific skills they have acquired. Though it has often been regarded that a substantial number of Japanese firms have highly developed internal labor markets, Japanese people have begun to show a deeper interest in working as professionals and in the process for producing these professionals. The following points can be put forth as the reasons behind this.

Firstly, the number of people involved in specialized and technical professions has increased. Among these are a number of people who make their way not by using the same kind of skill as the craftsmen of the past, but by using specialized skills that not everyone can easily acquire.

Secondly, since Japan’s economy is not in good condition, there has been a visible change in what people are asking of their firms. Because of this, many workers are now studying toward acquiring the qualifications they will need to protect themselves when they leave their firms, and the “qualification fad” has continued among college students who are preparing for finding a job after graduation. These seems to be due to the notion that gaining such qualifications is highly valued in the society as proof that a person has acquired a high level of specialized knowledge.

Thirdly, it is now widely recognized that serious problems have arisen related to training physicians, legal professionals, and researchers (in the broad sense of the word), all of whom could be called representatives of the “specialized-knowledge professional.” Typical problems are the issue of doctor shortages, confusion concerning the law school system, and the problem of the highly-educated working poor, or those who cannot find regular work even with a Ph.D.

The current issue covers some of the problems in today’s professional labor market.

First, Atsushi Yoshida’s “Physicians’ Career Building and Their Shortage in Some Specialties” introduces career formation among doctors in Japan, and also attempts to shed light on the causes of the doctor shortage that has become a significant social issue. In the past, in the medical field, *Ikyoku*, or divisions of universities’ schools of medicine, exerted their monopolistic power over the allocation of doctors to private hospitals. However, when the postgraduate clinical training system was introduced in 2004, hospitals became able to directly recruit new graduates, and since that time there has been an increasing tendency for newly graduated physicians not to join *Ikyoku*. The role that the *Ikyoku* alumni network plays in physicians’ career formation is predicted to continue diminishing into the future as well. Additionally, if the shortage of doctors comes from the fact that the total number of physicians falls short of the demand, the internal rate of return should be higher for doctors, but no such tendency is observed. Rather, Yoshida points out, the recent

growth in the number of female doctors, who tend to prefer certain specialties and begin to move from hospitals to clinics at an early stage in their careers, could aggravate the shortage of doctors in the specialized fields of surgery, obstetrics, pediatrics, and anesthesiology.

Another profession that requires an extremely high level of qualification is the legal professional. Tomio Kinoshita's "Problems with the Legal Professional Training Mechanism: From the Perspective of Economics" emphasizes that the legal professional training system and the law school system need to be looked at as the framework to ensure that students who aspire to be involved in the justice system make an investment in their human capital. Currently, there are far too many law schools and the pass rate for the bar examination has fallen below 30%, and behind this is the issue that little attention was paid to the situation of law school students, who were to play the principal role in the recent reform of the legal professional training system, while the justice system (the Bar Association and the Ministry of Justice), the Ministry of Education, Culture, Sports, Science and Technology, and each university were trying to pursue their own independent benefit. The article draws the conclusion that pursuing a career in the legal profession has become increasingly risky for students, and that these issues are hindering the realization of optimum human capital investment. In conclusion, Kinoshita argues that three reforms would be effective, namely (i) limiting the total enrollment at law schools, (ii) consolidating smaller schools, and (iii) maintaining the number of passing bar examinees over the medium to long-term.

Kinoshita's article also argues that, looking at the distribution of examinees' scores on the national bar examination and assuming that the test takers' average levels of ability remained the same from 2007 to 2009, the criteria for passing the examination must have been raised during these three years. The suggestion that the bar examination, which should of its essence be a qualifying examination, may actually be turning into a competitive examination, provides interesting perspective in considering how qualifications in general should function.

In "The Ph.D. as a Professional: Current Status and Issues Concerning the Early Careers of Doctorate Holders," Shinichi Kobayashi looks at establishing a position for doctoral graduates within the labor market as "doctorate holders." There is a strong tendency to explain the fact that doctorate holders are facing worsening employment conditions in university faculty and other research positions as coming from excess supply of doctoral students and post-docs. However, this article argues that an aspect of this is that the actual situation of "doctorate holders" is not necessarily being appropriately reflected in current statistics. Further, Kobayashi points out that rather than the narrow former way of looking at doctoral programs, which saw them as having the ultimate goal of training a small number of academic leaders (the "pipeline model"), a new image of the Ph.D. is coming to the forefront, with a new perspective expressed as "one profession, multiple careers," focusing on the variety in careers for scientists (the "tree model"). It is clear that even now, graduate schools that nurture academics as human resources are also functioning to produce human resources for society as a whole, and this article treats the necessity of reexamining the post-doctorate issue, based on this perspective.

The articles up until this point focus on the professional in terms of highly intellectual, specialized professions. Artists and athletes are another type of professional, ones who make full use

of human artistic sensibilities and physical capabilities. People who work in professional sports, in particular, must inevitably face retirement at a comparatively early stage in life, as most of these abilities reach a peak while the athlete is still young.

Takahashi and Shigeno's "Career Transitions in the J-League: Theories and Practices of Career Support for Professional Football Players" deals with this issue, focusing on professional football (soccer) players. In 2002, the Career Support Center was established within Japan's professional football league, the J-League, and has been working actively to give various kinds of support to both players who are currently active and players who are about to retire in finding employment and schooling. In addition to undergoing the psychological damage of losing their identities, many players who are facing retirement have no vision for their long lives after retirement, and they often lack preparation for this part of their lives. Accordingly, the Career Support Center's activities are highly valued by the players as providing a valuable service. At the same time, this article points out, no matter how much support they have around them, nothing can move forward unless the players themselves are willing to make it happen, and Takahashi and Shigeno stress the importance of providing them the opportunity to do so.

It has long been discussed how to position professionals in labor laws. Ikuko Mizushima's "The Legal Issues Surrounding Professionals in Relation to Labor Law" first examines the "worker characteristics" of the professional. "Worker characteristics" are usually judged not on the type of profession in which a person works, but on his/her working relationship with his/her employer. Additionally, Mizushima takes up the two issues of the working hours of physicians and the dismissal of professionals, from the perspective of labor law concerning professionals, who are also workers. One point often at issue is that hospital physicians have working hours that put them on duty day and night. Moreover, in determining the social appropriateness of reasons for dismissing them, as well, this article cites cases in which doctors' employment was effectively terminated when they showed a lack of the high levels of ability and qualifications expected of them, and asserts that this reflects what society asks of people in such highly specialized professions.

I very much hope that the articles contained in this issue will be of use in helping our readership's understanding of Japan's professional labor market.

Souichi Ohta  
Keio University

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# Physicians' Career Building and Their Shortage in Some Specialties\*

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Physicians have built their careers based on a network composed of a division of schools of medicine to which physicians belong (called *Ikyoku* in Japanese) and *sitz* hospitals which are closely tied to the *Ikyoku* in the supply of physicians. They enhance their treatment skills by gathering work experience in many hospitals and moving from one to another nearly every five years. The network benefits both the *Ikyoku* and the *sitz* hospitals. However, the network has come to play a smaller role for physicians' career building since the post-graduate clinical training system was introduced in 2004, because more than half of the graduates take courses provided by non-university hospitals rather than university hospitals. This new training system has nothing to do with the shortage of physicians or their misallocation among specialties or workplaces. Decline of physicians' wages and low rates of return of being a physician means no shortage of physicians. The misallocation is partly caused by preferences for female physicians in some specialties and clinics.

## I. Introduction

In this paper, we review first how physicians have built their careers and are associated with the career systems. We then discuss whether the total number of physicians is too small compared to the total population, whether physicians are misallocated between clinics and hospitals, and whether physicians are mismatched among specialties.

We have three points to be discussed in physicians' career building. First is the job-information network system based on the *Ikyoku*. An *Ikyoku* is a division of a school of medicine in a university composed of one or a few full professors and other staff such as associate and assistant professors, researchers and graduate students. Alumni of an *Ikyoku* are also its members. A physicians' network based on the *Ikyoku* (*Ikyoku* alumni network hereafter) is different from an alumni network or a simple job-information network. As Ikai (2000) indicates, the *Ikyoku* plays a role similar to a personnel division of a company that makes decisions on who works in which hospital for how many years. The hospitals that accept physicians preferentially from an *Ikyoku* are called *sitz* hospitals. The term *sitz* originated from the German term meaning "a seat" in English. Yoneyama (2002) called the relation between *Ikyoku* and *sitz* hospitals "Rule of Academic Cliques." We will discuss what maintains such a relation and what rationale exists in the relation.

Second is how the *Ikyoku* alumni network has changed after introduction of the post-graduate clinical training system (PGCTS) in 2004. New graduates can take training courses provided in any teaching hospitals other than a university hospital. Then the points of inter-

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\* This research is supported by the Ministry of Education, Culture, Sports, Science and Technology (MEXT) grants #14530029 and #17330045 and funding through the New Research Initiatives for Humanities and Social Sciences from the Japan Society for the Promotion of Science (JSPS).

est are which hospitals the graduates choose, and whether or not they return to the school they graduated from and join an *Ikyoku* after completing the training course.

Third is at what age physicians quit their jobs in hospitals and start their own clinics. In the United States, physicians are mostly concerned with what specialty they choose and in which hospitals they perform clinical cases. This is because income is determined by specialty (Arcidiacono and Nicholson 2005). This is also true for other professions. Graduates in law schools decide at which law firms to apply by considering pecuniary or non-pecuniary rewards, possibility of dismissal and applicability of their human capital to other law areas (Sauer 1998). Professionals establish specialties and the rewards depend on the specialty so that the selection of a specialty is crucial for professionals' career paths.

In Japan, there is no formal accreditation system in medical specialties. After obtaining a physician's license, a physician can publicize her/his specialty, although she/he never took enough courses and lacks experiences for the specialty. Even a physician specializing in a specific organ or disease can start a primary care clinic. It is inefficient medical resource allocation that drives a skilled specialist to become a general physician. Quitting a hospital and working in a clinic is also a critical decision for specialists themselves. We discuss at what age physicians quit their jobs at a hospital and start a clinic, whether or not they do so now at a younger and whether or not there are differences in the likelihood between male and female physicians.

We also discuss the so-called problem of physician shortage. This is argued from the following three points of view: first, the total number of physicians to total population is too small; second, physicians are misallocated between clinics and hospitals; and third, physicians are mismatched among specialties. The first argument states that physicians are actually in short supply, while the second and third arguments state that misallocation of physicians is more important for the problem.

In the long run, redundancy or shortage should be solved by price adjustment even for goods like housing supply for which requires a lot of time. Redundancy lowers price and shortage hightens price. If the first argument is true, there must be an excess demand for medical services so that physicians' incomes are expected to become higher. Then, one of the ways to judge if physicians are in short supply is to see if the internal rate of return (IRR) is higher than for other occupations. If the IRR is relatively high, physicians are actually in short supply.

When misallocation of physicians between hospitals and clinics or among specialties really matters, increasing the number of physicians does not necessarily solve the physician shortage problem. The introduction of PGCTS may enhance possibilities of misallocation of physicians, in particular the mismatch caused by female physicians' likelihood to choose clinics and specific specialties. This is because female physicians are likely to go into dermatology or ophthalmology, quit a hospital at a younger age and find a job in a clinic.

This paper is organized as follows. In section II, a typical career path of a physician is explained and then it discusses how graduates have changed their career choices after

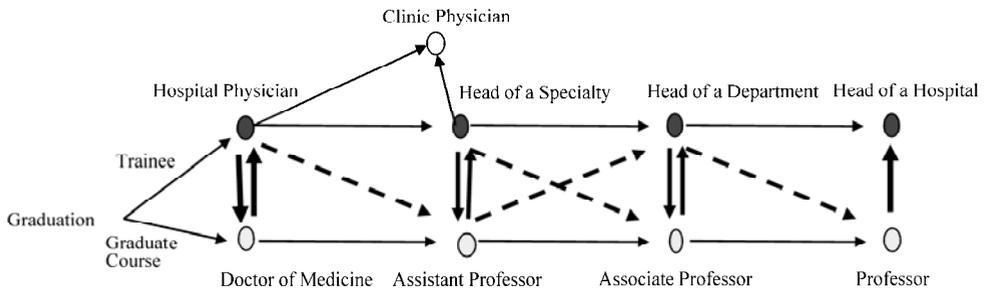


Figure 1. Physician's Career Path

introduction of PGCTS, gender differences in how long they work for a hospital and what functions the *Ikyoku* alumni network has taken. In section III, I introduce studies of physicians' income changes, the IRR of being a physician and discuss if female physicians' preferences matter in the mismatch.

## II. Physician's Career Building and *Ikyoku* Alumni Network

### 1. Physician's Career Path

Figure 1 depicts a physician's career path. A physician moves from one *sitz* hospital to another of the *Ikyoku* alumni network including academic posts at a school of medicine. In fact, a physician in the network is a dispatched worker from an *Ikyoku*, although legislatively she/he is employed by the hospital.

Before introduction of PGCTS, graduates took training courses for almost two years in the university hospital from which they graduated and then were dispatched to *sitz* hospitals until they were in their mid-30s. Meanwhile most of them obtain the title of Doctor of Medicine. The first turning point for physicians is when they are around 40 years of age; that is, whether to become an assistant professor. Being an assistant professor of a university is important for the physician's career building and an MD title is necessary for it. Even though she/he is not promoted to an associate or a full professor, she/he can find a good post at a prestigious hospital of the network. The second turning point is in their late 40s. Some of the alumni compete for better posts like becoming an associate professor or a head of a division at a prestigious hospital. The others have to decide whether to work for a hospital of the network or quit to start their own clinics.

Those who start clinics are still tied to the *Ikyoku*. In many cases, their clinics tend to be located near the hospital they worked for, since their hospital patients become their clinic patients, as indicated by Yoshida and Kono (2007). Not only are new patients transferred to their clinics from the hospital but also serious patients from a clinic can be easily admitted to the hospital because the key physicians of the hospital are members of the *Ikyoku*. Key persons of a local medical association or of a local government health division are also

sometimes graduates of the same school of medicine, so the network benefits them.

## 2. Postgraduate Clinical Training System

The Postgraduate Clinical Training System (PGCTS) was started in 2004. Graduates have to take two-year training courses to learn all-round basic treatment skills in a teaching hospital. Graduates and hospitals are matched by a matching program as in the United States or United Kingdom. They have monthly earnings ranging from 200,000 to 400,000 yen at the hospital. In general, monthly earnings at a non-university teaching hospital are higher than a university hospital.

One of the purposes of introducing PGCTS is to let the graduates study primary care in all fields of medicine. It was alleged that graduates were likely to learn the specific field of medicine or organs that their *Ikyoku* was mainly concerned with, so that there were few opportunities for the graduates to learn general skills.

Although PGCTS does not aim to weaken the power of the *Ikyoku*, graduates come to be independent of the *Ikyoku* because teaching hospitals offering attractive courses can recruit physicians by themselves. As a result, the number of graduates taking courses provided by university hospitals has decreased. In 2003, about 6,000 out of 8,000 graduates took postgraduate training programs in university hospitals. In 2004, about 6,000 graduates took programs in non-university hospitals. Now the ratio of the number of trainees in non-university to university hospitals is 3 to 1.

Then what characteristics of a hospital will attract the graduates? Kawamura (2009) shows that the graduates prefer hospitals that have many diagnosis and treatment departments, many beds and many ER patients, but they do not value high salary or advisory systems as much. This is also confirmed in the survey by the Ministry of Health, Labour and Welfare (MHLW 2005).

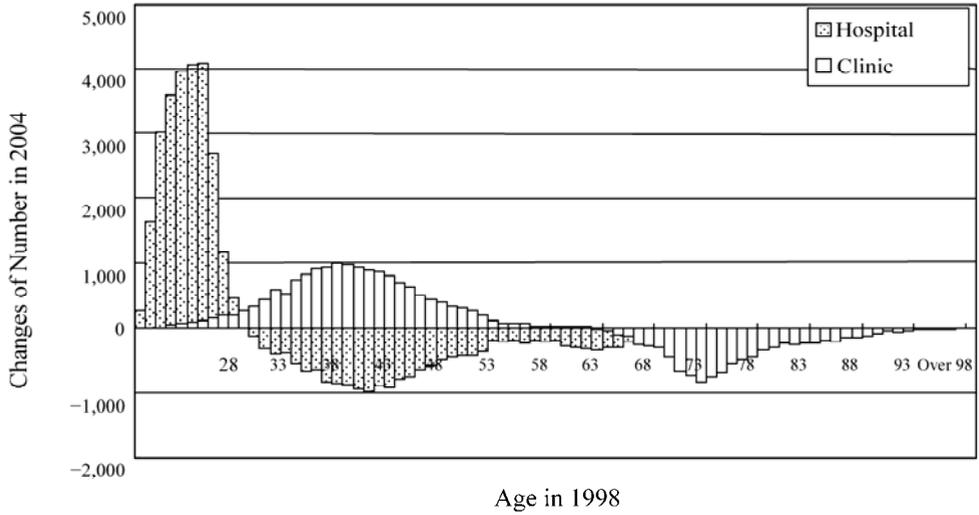
After the two-year training under PGCTS, where do the trainees go next? Another survey by the MHLW (2007) indicates that 75% of the graduates trained in university hospitals want to stay in the hospitals as members of an *Ikyoku*, but only 50% trained in non-university hospitals do. In total, 61% want to be members of an *Ikyoku*. Thus, the power of the *Ikyoku* has been generally weakened under PGCTS.

## 3. Change of Career Path

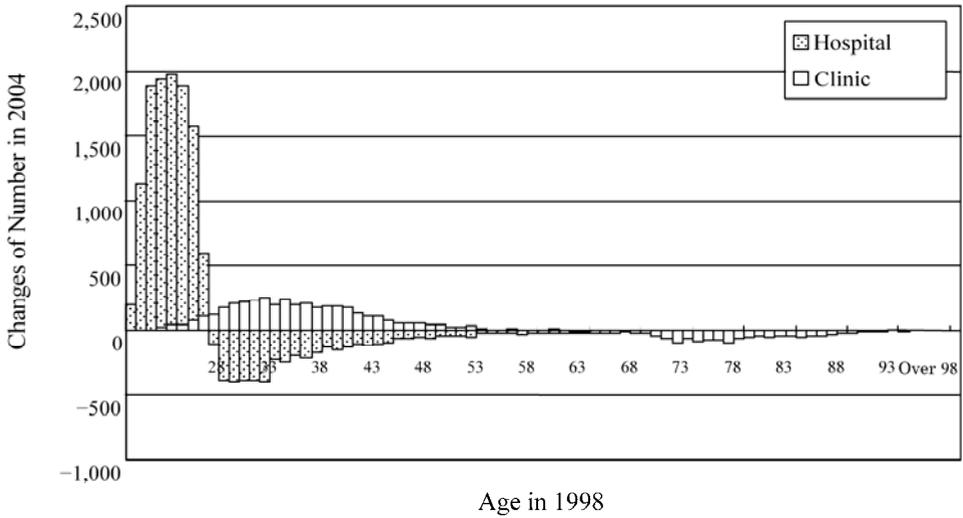
Quitting a hospital and starting an own clinic is an important decision for a physician's career path. Honda (2008) and Kawamura (2008) examine at what age hospital physicians start clinics using the Survey of Physicians, Dentists and Pharmacists conducted every two years by the MHLW. Honda (2008) examines the validity of the assertion that the physician shortage in hospitals is caused by an early switch to clinics and finds that it is invalid.

On the other hand, Kawamura (2008) makes it clear that female physicians are likely to quit earlier than male physicians. Figure 2 tracks physicians of the same age cohort in

Panel A: MALE



Panel B: FEMALE



Source: Kawamura (2008).

Figure 2. Changes of Number of Physicians in Hospitals and Clinics

1998 and where they are working in 2004, depicting increases in the number of physicians at hospitals or clinics. For physicians who were in their 20s in 1998, both male and female physicians were still working in hospitals in 2004. The biggest drop in number of male

Table 1. Average Frequency of Turnover and Current Workplace by Cohort

	Number of Graduates	Average Frequency of Workplace Changes after Graduation	Current Workplace			
			University Hospital	Non-University Hospital	Clinic	Others
<u>1981 graduation</u>						
Total	103	3.6	8	51	24	20
Male	90	3.6	8	44	22	16
Female	13	4.2	0	7	2	4
<u>1986 graduation</u>						
Total	92	4.5	20	40	16	16
Male	69	4.7	13	33	12	11
Female	23	4.2	7	7	4	5
<u>1991 graduation</u>						
Total	93	3.6	27	30	6	30
Male	68	3.5	23	22	2	21
Female	25	3.8	4	8	4	9

Source: Author's calculation from lists of graduates in a school of medicine.

physicians working in hospitals is for those hospital physicians who were in their early 40s in 1998, which implies that male physicians in their mid-40s or early-50s quit their jobs at hospitals and start clinics. On the other hand, the peak for female physicians is for those who were in their early 30s in 1998, suggesting that female physicians leave the hospital 10 years earlier than male physicians.

We also find that a part of the female physicians quit their full-time jobs in their 30s. The negative sum of the increase of female physicians in clinics and their decrease in hospitals in 2004 implies that they quit their full-time jobs temporarily. The reason may be for childbearing or child care as is likely for female workers in other occupations.

There is a study making use of individual data of the MHLW survey. Once a graduate obtains her/his physician's license, she/he has a physician registration number that enables us to pursue individual physicians' career paths, whether or not and where she/he is working, and what specialty she/he is in charge of. Koike et al. (2008) accumulated individual data using the survey from 1972 to 2004 and find that the age at which physicians quit their job at a hospital and start a clinic used to be higher.

Focusing on three cohorts of graduates from a school of medicine, namely graduates in 1981, 1986 and 1991, Table 1 shows how many times they change workplaces and where they are working now, namely, university hospital, non-university hospital, clinic or other. Since 1981 graduates and 1986 graduates are more than 50 and 45 years old, respectively, it

is not expected that they will change workplaces several times in the future. On the other hand, since the 1991 graduates are more than 40 years of age, they are likely to change workplaces. The average physician turnover at hospitals is 3.6, 4.5 and 3.6 for graduates in 1981, 1986 and 1991, respectively, which implies change in workplace every 7.5 years, 4.9 years and 7.5 years, respectively. There is no critical difference between genders.

One-quarter of the 1981 graduates are working in clinics and half of them in hospitals. One-sixth of 1986 graduates are working in clinics, more than 40% in non-university hospitals and more than 20% in university hospitals. More physicians among 1991 graduates are working in hospitals than the other cohorts. These data are consistent to the findings of Koike et al. (2008). Female physicians are also found to be working in various workplaces, while male physicians are likely to work in hospitals.

The results are summarized as follows: (1) Graduates work in hospitals with turnover every five years. (2) Male physicians decide in their 40s whether to quit their jobs at a hospital and start a clinic, while female physicians decide in their 30s. (3) Physicians are starting their own clinics at an older age.

#### 4. Competition between Schools of Medicine

In the 1970s, schools of medicine were founded in national or public universities located in prefectures where there was no school of medicine. At the same time, private schools of medicine were also allowed to be founded. Before their foundation, each hospital in the prefectures without a school of medicine was a *sitz* hospital of a major school of medicine located in a neighboring prefecture. Then in the mid-1980s when the graduates of newly founded schools had to find workplaces, the *Ikyoku* of the schools tried to make connections with hospitals which were already tied to the other schools.

Let us look at the case of Ibaraki prefecture. Major hospitals were tied to schools of medicine in Tohoku, Tokyo, Tokyo Medical and Dental or Niigata Universities before the school was founded in the University of Tsukuba. Graduates of the school are now physicians in charge of middle management in most major hospitals of Ibaraki prefecture and the proportion of the graduates to total physicians is growing.

Table 2 shows the number of hospitals by strata of the number of physicians who graduated from the same school and by school. The University of Tsukuba is at the top in the number of graduates working in hospitals, Tokyo Medical University second, Tokyo Medical and Dental University third and the University of Tokyo fourth. The number of hospitals where no less than 11 alumni are working is 17 for the University of Tsukuba, 1 for Tokyo Medical University, 3 for Tokyo Medical and Dental University and 2 for the University of Tokyo. Since the number of graduates implies the strength of the tie between a school and a hospital, it can be said that the University of Tsukuba has the largest number of *sitz* hospitals.

On the other hand, there is no other school than the top ten schools which has no less than 11 alumni working in a hospital. In the row for the other schools, the average number

Table 2. Number of Alumni Physicians and *Sitz* Hospitalst

Rank	School of Medicine	No. of Alumni in Ibaraki Pref.	Number of Hospitals by Number of Alumni Physicians Working in the Same Hospital		
			No. of Alumni: 0 to 5	No. of Alumni: 6 to 10	No. of Alumni: 11 and above
1	Univ. of Tsukuba	786	80	25	17
2	Tokyo Med. Univ.	151	38	1	1
3	Tokyo Med. & Dent. Univ.	118	26	4	3
4	Tokyo Univ.	77	27	3	2
5	Nippon Med. School	73	37	2	0
6	Tohoku Univ.	72	25	4	1
7	Keio Univ.	63	24	3	2
8	Chiba Univ.	63	28	2	1
9	Showa Univ.	58	31	1	0
10	Niigata Univ.	51	18	1	1
	The other 90 Universities	898	7.6	0	0

Source: Author's calculation from List of Hospital Physicians in 2004.

of hospitals is listed. The average number of hospitals is 0 where no less than six alumni are working, while it is 7.6 hospitals where no more than five alumni are working, which is smaller than the number of Niigata University that has the tenth largest physicians' alumni network in Ibaraki prefecture.

Table 3 presents how stable the relation is between a school and hospitals. For example, more than 11 alumni of the University of Tsukuba were working in seven hospitals from 1995 to 1998. The number of hospitals of that category is stable in the other periods, while the number of hospitals where there are no more than six alumni is likely to change. Taking the hospitals where more than 11 alumni are working as the *sitz* hospitals, the University of Tsukuba has five to eight *sitz* hospitals.

### 5. Merits and Demerits of the *Ikyoku* Alumni Network

There is a reciprocal relationship between schools of medicine and hospitals. I have interviewed a manager of a hospital which has 1,001 beds, located near the University of Tsukuba but closely tied to Tokyo Medical and Dentist University. The hospital had 700 beds in 1984, then increased the number of beds to 865 to open an ER in 1988, and to 893 in 1995 to provide beds for AIDS patients, and to 1,001 to expand ER facilities and organ transplants.

The hospital has requested the school to dispatch physicians who can provide treatment to accommodate the increased demand for medical services associated with the new

Table 3. Number of Hospitals Where Number of Alumni Physicians Are Stable Over Time

Rank	School of Medicine	Number of Alumni								
		Year: 1995-1998			Year: 1998-2000			Year: 2000-2004		
		0-5	6-10	11 and above	0-5	6-10	11 and above	0-5	6-10	11 and above
1	Univ. of Tsukuba	36	11	7	48	11	5	46	13	8
2	Tokyo Med. Univ.	27	2	1	24	2	1	20	1	1
3	Tokyo Med. & Dent. Univ.	13	2	2	20	3	3	16	3	3
4	Tokyo Univ.	26	2	1	24	1	1	15	1	1
5	Nippon Med. School	21	2	0	23	1	0	16	1	0
6	Tohoku Univ.	20	2	0	24	5	1	17	3	0
7	Keio Univ.	14	2	1	12	0	0	13	1	1
8	Chiba Univ.	28	1	1	28	1	1	15	1	1
9	Showa Univ.	20	0	0	23	0	0	22	1	0
10	Niigata Univ.	15	1	1	15	1	1	14	1	1

Source: Author's calculation from Lists of Hospital Physicians in 1995, 1998, 2000 and 2004.

beds. Physicians' abilities are assured by the school so that the hospital can keep the quality of treatment at a high level. When a physician's ability is low or she/he causes trouble with patients or the other staff of the hospital, the hospital can ask for a substitute for the doctor. There is little legal risk in dismissal. On the other hand, the school has merits to have a *sitz* hospital with more than 1,000 beds because the hospital preferentially accepts the graduates of the school as trainees and provides proper posts for assistant or associate professors of the school.

The network is also useful for individual graduates. The graduates can experience various cases and obtain necessary knowledge and skills by moving from one hospital to another of the network. It is also useful for the *Ikyoku* to select capable physicians for the staff of the university hospital or as a professor because the *Ikyoku* can obtain sufficient information of an individual graduate from the hospitals of the network.

On the other hand, the *Ikyoku* alumni network has demerits. First, it may cause inefficiency in management. Since alumni of a specific school of medicine decide the personnel matters of the *sitz* hospital, the hierarchical seniority system based on age and graduation year is likely to decide promotion without referring to ability or performance of treatment. Second, it may cause deferral of accepting superior treatment developed by other schools. Instead, a specific combination of pharmaceuticals and treatment learned in the school of medicine is used regardless of the cost and benefits for the patients, thus prolonging the days in hospital compared to other treatment.

Phelps (2000) indicates that there are clear differences in practice pattern between

physicians, but he did not mention the reason. Epstein and Nicholson (2005) say that young physicians are likely to accept their mentor's practice pattern and do not change for a long time. Ikegami and Campbell (1996, 196-97) suggest that there is no standardized curriculum for medical practices and students in schools are expected to learn their mentor's style in Japan. Introduction of a new reimbursement scheme called Diagnosis Procedure Combination (DPC) clarifies how different treatments for the same disease are between hospitals, but how different they are between physicians is still veiled. It is an important viewpoint for examining the *Ikyoku* alumni network to see how the network plays a role in transmitting treatment practices and medical technology.

### **III. Supply and Demand of Physician—What Causes Physician Shortage?**

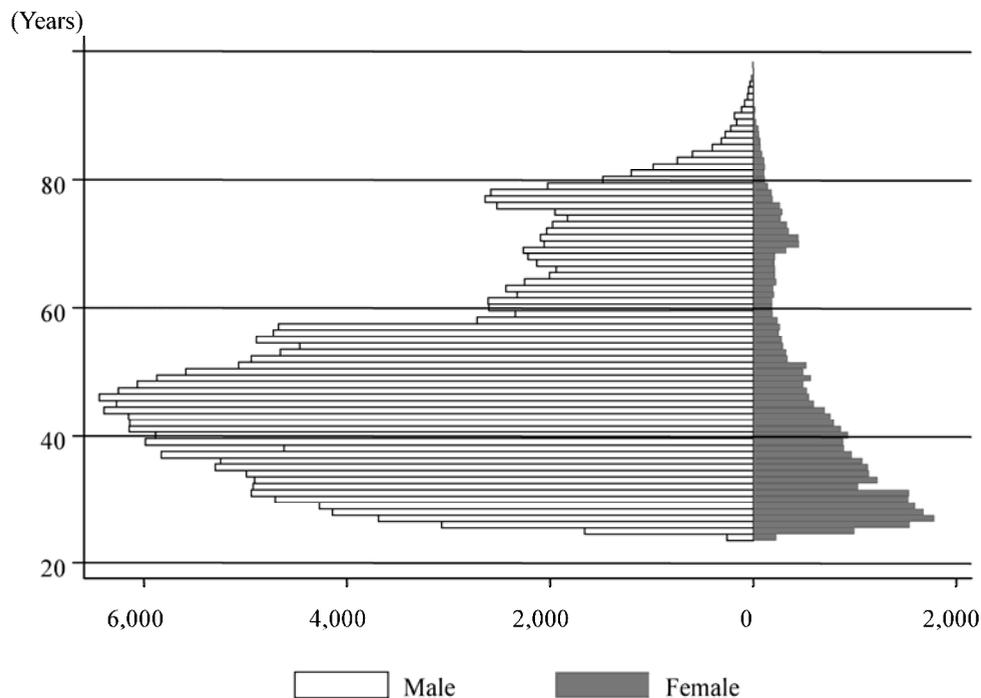
It is often alleged that physicians are in short supply, but what are the reasons for it? First, I discuss whether the total number of physicians to total population is too small; second, whether physicians are misallocated between clinics and hospitals; and third, whether physicians are mismatched among specialties.

#### **1. Are Physicians in Short Supply?**

The newest prediction of demand and supply of physicians is reported by the committee on supply and demand for physicians established in the MHLW. The prediction of this committee is based on Hasegawa's (2006) study. He calculated the total demand for medical services and the corresponding number of physicians necessary to provide these services. He then concludes that we are in a situation where physicians are in short supply if the feasible supply of physicians based on the current quota of students in schools of medicine is smaller than the number of required physicians.

Prediction of future supply of physicians is simple because there is no migration of physicians and the quota of students is rigid. Therefore, we can correctly predict the age distribution of physicians so that the total supply of medical services is obtained by the numbers of physicians by age multiplied by the working hours by age. Prediction of demand is based on the current in-patient and out-patient ratios to population by age strata and on the assumption that the ratios will be unchanged in future. We can obtain the total future demand following the changes of age structure. Note that changes of the number of necessary physicians or medical staff due to the development of medical technology or changes of demand caused by relevant price changed of medical services are not taken into consideration. Hasegawa (2006) reports that there is a shortage of physicians of 10,000 in 2004, but supply of physicians will exceed demand in 2022. He also suggests that there is much room for improving productivity in medical service provisions so that the shortage of physicians would be solved by the productivity improvement before 2022.

Reviewing the past discussion on this matter briefly, the first turning point of policy change from increasing physicians' supply to restraining it was in 1984, when the



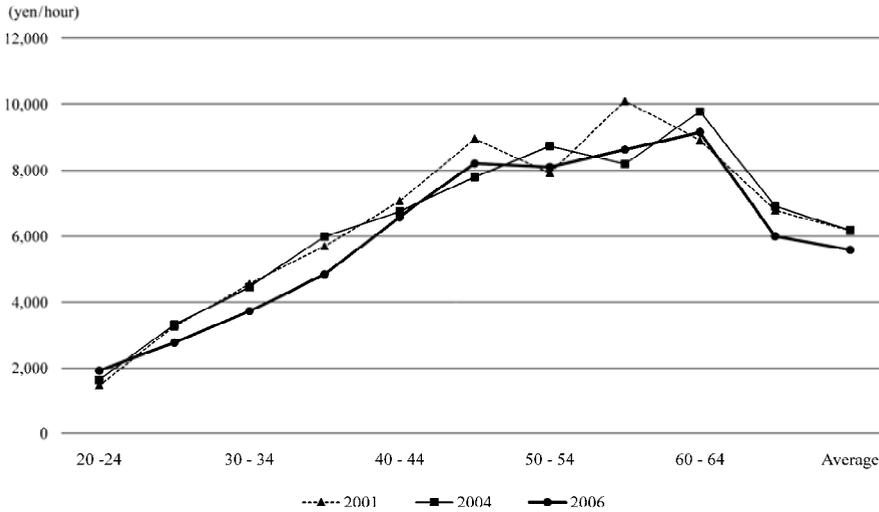
Source: Author's arrangement from Survey of Physicians, Dentists and Pharmacists in 2004.

Figure 3. Number of Physicians by Age and Sex in 2004

intermediate report was published by the committee examining future demand and supply of physicians established in the MHLW. The report proposed that new entrants of physicians should be decreased by at least 10% by 2000. Following the report, the MHLW slashed the quota of students in schools of medicine from the mid-1980s onwards. Note that the number of physicians per 100,000 population is 201 in 2004 and this ratio is regarded as a 10% decrease of physicians compared to the prediction in the report, so the committee's proposal was followed through.

Figure 3 shows a population pyramid of physicians in 2004 disaggregated by gender. Male physicians who graduated in the mid-1980s are decreasing, while female physicians are increasing for the same periods. Their sum total, however, has been decreasing since the late-1980s.

When physicians were in short supply, wages of physicians would increase. In reality, however, the wages have been decreasing. Figure 4 shows wage rates of employed physicians by age based on the Wage Census in 2001, 2004 and 2006. They have changed downwards. In particular, wage rates of those in their 30s have been decreasing. In terms of annual income, it decreased from 10 million yen to 8.2 million yen for those in their early



Source: Author's calculation from Wage Census in 2001, 2004 and 2006.

Figure 4. Wage Rates by Age Strata

30s, and from 12 million to 11 million yen for those in their late 30s, while it was unchanged for those in their 40s. Even taking the deflation economy into consideration, these decreases are large. These facts do not support that physicians are in short supply.

One of the economic approaches to examine if physicians are in short supply is to look at the social rate of return of being a physician. If the marginal rate of return obtained by social benefits and costs of marginal increase of a physician is greater than the proper social rate of return, for example, long-term real interest rate, then there exists a shortage of physicians and it would thus be advisable to increase the number of physicians.

Weeks et al. (1994) compare estimated internal rates of returns (IRRs) of five professionals, namely primary care physician, specialist physician, dentist, lawyer and MBA graduates to high school graduates. The IRR of primary care physicians is lowest, namely 15.9%, while it is 29.0% for MBA graduates, 25.4% for lawyers, 20.9% for specialist physicians and 20.7% for dentists. The IRRs of physicians, in particular that of primary care physicians, is relatively lower than that of the other professionals, which implies that primary care physicians are abundant and their number may decrease in future.

Arai (1995) estimated the IRR of the graduates from private schools of medicine and private dental schools in 1982 as 8.7% by considering the income of high school graduates as opportunity costs. He compared their IRR to that of male graduates of private university, namely 6.7%, and concluded that being a physician or dentist was a good investment opportunity. On the other hand, Yoshida (2009) estimates the rate of return roughly as around 3% by taking income at one of the largest banks as an opportunity cost. Since such estimates represent private rate of return, we have to include external economies into the return

and subsidies to the cost terms in order to estimate the social rate of return. It would be expected, however, that external economies and subsidies per physician are negligible in private schools of medicine so that social rate of return is nearly the same as the private rate. Since the real long-term interest rate in the early 2000s was nearly 3%, we cannot say that physicians are in short supply from this viewpoint.

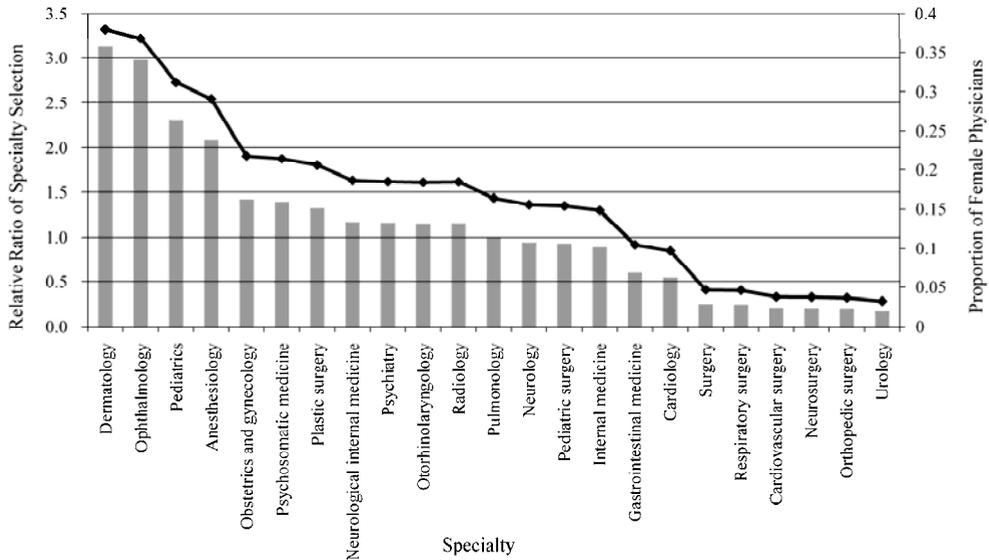
## 2. Increase of Female Physicians

Now let us look at the shortage of physicians from the viewpoint of misallocation or mismatch in the specialties of medical care. It is also alleged that there is no shortage of total physicians but physicians are in short supply in hospitals and in some specialties of medical care, in particular in surgery, obstetrics and anesthesiology. There are two reasons for thinking that the increasing number of female physicians leads to the shortage. First, female physicians are likely to change workplace from hospital to clinic in their 30s, leaving physicians in hospitals in short supply. Second, female physicians are less likely to select the department of surgery for their specialty, leaving surgeons in short supply. They tend to become specialists of dermatology, ophthalmology and pediatrics.

The proportion of female physicians has increased rapidly from 10% in 1980 to 16% in 2004. The number of female physicians is 42,000 out of 257,000 total physicians in 2004. Let us look at Figure 3 again. The number of male physicians by age is the largest around their mid-40s, while the number of female physicians is the largest in their late-20s. Thirty-five percent of physicians less than 30 years of age are female. In the age strata younger than 30 years, male physicians decrease by 752 but female physicians increase by 506 from 2002 to 2004. That is, in 20 years from now, nearly one-third of physicians of 40 years of age will be female and a proportion of them will be working in clinics or as part-time physicians as we see in Figure 2.

Figure 5 presents proportions of female physicians by specialty of medical care (represented by the line graph with scale on the right axis) and the relative ratio of specialty selection (represented by the bar graph with scale on the left axis). As of 2004, more than 30% of physicians in dermatology and ophthalmology are female but no more than 5% in surgery or urology, while 16% of physicians overall are female. The relative ratio of specialty selection is defined as the female proportion in a specialty, namely (number of female in a specialty)/(number of female in all specialties), divided by the male proportion, namely (number of male in a specialty)/(number of male in all specialties). When the value of the relative ratio is greater than 1 in a specialty, it implies that female physicians are likely to select that specialty. We find that it is three or more times more likely for female physicians to select dermatology and ophthalmology than male physicians. On the other hand, surgery is selected only one-fifth as often as male physicians. If the increasing trend of female physicians and of their diminished likelihood to select surgery as a specialty remains unchanged, the supply of surgeons will be short in the near future.

It is not only for Japan that the number of female physicians has been increasing.



Source: Author's calculation from the Survey of Physicians, Dentists and Pharmacists in 2004.

Figure 5. Specialties Preferred by Female Physicians

McKinstry (2008) indicates that the increase in female physicians is a worldwide trend that is observed in the United Kingdom, the United States, Canada and Australia. The proportion of female students has become larger than that of male students in all medical schools in the UK from 2002 to 2003 with more than 65% of students in some medical schools being female. He also indicates that female physicians in the UK are likely to select family-friendly fields of medical care such as primary care or psychiatry and that they prefer a part-time job. They have high communication skills and tend to spend longer time on care of a patient than do male physicians. Arcidiacono and Nicholson (2005) also point out that female students in medical schools tend to select primary care in the US, which is the same as in Japan. We have to examine if the tendency of female physicians is based on female-specific preferences or on cultural background of male dominance in physicians' circles.

#### IV. Conclusion and Discussion

Physicians have built their careers based on a network composed of a division of schools of medicine to which physicians belong (*Ikyoku*) and *sitz* hospitals which are closely tied to the *Ikyoku* in supply of physicians. They enhance skills by changing hospitals nearly every five years. A proportion of male physicians quit their job at a *sitz* hospital to start a clinic in their 40s, while female physicians quit in the 30s. Of recent, the age of leav-

ing the hospital has tended to be on the rise. The network is beneficial both for the *Ikyoku* and *sitz* hospitals: the former can select capable physicians to be a professor by monitoring the performance in the hospitals, while the latter can decrease cost and uncertainty in ability when recruiting new physicians. The network, however, has come to lose its importance in physicians' career building since the Postgraduate Clinical Training System was introduced in 2004. Nearly 75% of newly graduated physicians take training courses in non-university hospitals rather than university hospitals, though nearly three-fourths took postgraduate courses in schools from which they graduated before the introduction. Only 60% of physicians select university hospitals for post-PGCTS residency now. It is alleged that the PGCTS accelerated the shortage of physicians. However, it has not been verified that physicians are actually in short supply. Decline of physicians' wages or the low rate of return of being a physician would imply their abundance. There could be misallocation or mismatch of physicians among specialties or between hospitals and clinics. It would certainly be partly caused by female-specific preferences for some specialties and clinics.

The most effective way to amend the misallocation of physicians among specialties is to set quota for each specialty. In fact, quota systems have been introduced in many countries. We also have to examine why female physicians prefer specific specialties, whether or not females feel uneasy working in some male-dominated workplaces, and whether or not females have comparative advantages in some specialties due to female-specific characteristics.

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# Problems with the Legal Professional Training Mechanism: From the Perspective of Economics

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Under the new national bar examination system, the pass rate dropped below 30% in 2010. With such a low pass rate, going to law school is now a very risky choice of investment in education. This phenomenon has been caused by (i) the contradictory recommendations made by the Justice System Reform Council, and (ii) the poor administrative coordination between the Ministry of Education, Culture, Sports, Science and Technology and the Ministry of Justice. Viewed from the supply side, the new system involves the following problems: (i) the law school industry as a whole is more than double the necessary size, holding a great deal of surplus capacity; (ii) half of the subsidies granted by the government to law schools are wasted; (iii) most law schools are small and therefore inefficient. The possible solutions may be to consolidate small law schools so that all law schools will have 200 or more enrollees, and to reduce the total enrollment at law schools to 3,500 or less, while raising the pass rate to 70% or more.

## I. Introduction

In Japan, a new legal professional training system started in 2004 through the introduction of the law school system. The recent reform of the legal professional training system, which has been pushed forward by the globalization of the economy and the advancement of deregulation in Japan, has unavoidably led to a drastic increase in the number of practicing attorneys. This paper analyzes this new legal professional training system from the perspectives of labor economics and human capital theory.<sup>1</sup>

The most serious problem found with the new legal professional training system is the low pass rate of the national bar examination, which stood at 27.6% in 2010 and 25.4% in 2011, respectively. In order to graduate law schools, students need two to three years of studying and approximately 100,000 dollars to cover school expenses. Such a low pass rate indicates that students are in a harsh environment, taking great investment risks in their education. On the other hand, viewed from a perspective of industrial structure, this situation suggests that the law school system is an industry that holds an enormous amount of surplus production capacity. Haley (2005, 12) expressed his concern that law schools could result in the huge waste of resources.

The basic design of the current legal professional training system was drawn by the Justice System Reform Council (JSRC). In its recommendations (June 12, 2001), the JSRC

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<sup>1</sup> For the recent justice system reform, refer to Rokumoto (2006) and Miyazawa (2007). H. Tanaka (1976) explains the Japanese justice system more systematically. For human capital theory, refer to Becker (1975) and Rosen (1992).

put a particular emphasis on the importance of the cultivation of human resources, declaring that “It is people who manage a system.” It further stated, “the aim should be increase the number of successful applicants for a new national bar examination to 3,000 per year in about 2010,” and “productive educational programs should be provided so that a certain ratio of those who have completed the course at law schools (e.g., 70 to 80%) can pass the new national bar examination.”

The numerical goal of the pass rate targeted in the JSRC’s recommendations, 70 to 80%, was the essential prerequisite for the operation of the law school system. However, the JSRC was self-contradictory on this point. While billing the pass rate of 70 to 80%, it allowed free entry to the law school industry. As a result, as many as 74 schools were accredited as law schools, and the total enrollment ballooned nearly to 6,000. As if to put additional hardship on students, in these few years, the number of passing test takers of the national bar examination has been kept around the 2000 level, far below the target level of 3,000. The former situation has resulted from the administration by the Ministry of Education, Culture, Sports, Science and Technology (MEXT) and the latter from the administration by the Ministry of Justice (MOJ). To put it plainly, due to the self-contradictory recommendations by the JSRC, coupled with the poor administrative coordination between the MEXT and the MOJ, the pass rate of the national bar examination has fallen below the 30% level and the legal professional training system has run into an extremely difficult situation.

The recent reform of the legal professional training system involved interests of various groups, namely, the MOJ, the MEXT, the Supreme Court, the Public Prosecutors’ Office, the Japan Federation of Bar Association (JFBA), and universities with a faculty of law, and the opinions that these groups stated from their respective stances were incorporated into the current system. What should be stressed here is that little attention was paid to the situation of law school students (candidates for the national bar examination), who were to play the principal role in the legal professional training system.

The composition of this paper is as follows: Section II compares the old and new versions of the national bar examination, and gives a brief outline of the law school system and the preliminary examination. Section III analyzes the industrial structure of the law school system, which comprises 74 schools, and investigates the percentage of passing test takers of the national bar examination among all law school graduates. Section IV recommends that the selection process (national bar examination) be implemented for students at the youngest possible age, while comparing the timing of selection in various countries. Section V and Section VI give a critical review on the MOJ administration and the MEXT administration, respectively. At the end, Section VII sums up the discussion in the paper.

## **II. Comparison of the Old and New Versions of the National Bar Examination and the Outline of the Law School System**

### **1. Old National Bar Examination (1949–2005)**

In the age of the old national bar examination, the number of practicing attorneys was strictly limited. While the population of Japan was 130 million and the GDP was 4.6 trillion dollars, there were only 17,000 practicing attorneys in total (2000). This made the attorney's fee 1.3 to 2 times higher than that in a competitive environment.<sup>2</sup>

At that time, there was no limitation to the qualification for taking the examination; any person having completed the lower-division course at university (usually aged 20 or older) was eligible to be a candidate for the examination. Successful candidates who passed the examination were required to receive judicial training at the Legal Training and Research Institute (LTRI) for two years, and having completed the training course, they were granted qualifications as judges, public prosecutors, or practicing attorneys. Students who were particularly excellent would pass the examination while in the fourth grade at university (aged 21 at the youngest), and after the two-year period of judicial training, they would be appointed as judges or public prosecutors or would practice law as attorneys at the age of 24. Legal apprentices engaging in training at the LTRI were paid a salary basically on a par with the starting salary of national public employees. Since the 19th century, the customary policy that the State should take charge of training legal professionals as needed (particularly judges and public prosecutors) has remained until recently.

Every year the national bar examination attracted a number of candidates, amounting to between 20,000 and 25,000, but among them, only about 500 candidates, or 2 to 3 %, successfully passed the examination. On an average, those successful candidates were 28 to 30 years of age, and had taken the examination six to seven times before succeeding. Such a situation lasted more than half a century. The number of passing test takers started to increase in the 1990s, surpassing the 1,000 level in 1999, and reaching 1,500 in 2005.

### **2. New National Bar Examination (Since 2006)**

As the qualification for taking the new national bar examination, candidates are required to graduate law schools or pass the preliminary examination. There is also a limitation on the allowable number of times one may sit the examination, three times within five years following the graduation from law school (or the passing of the preliminary examination). Those who have passed the examination are required to receive the judicial training at the LTRI for one year.

The new national bar examination sets no quota for the number of passing test takers. As it is officially said to be a qualifying examination, all those who possess the knowledge

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<sup>2</sup> For the details of legal education and the national bar examination under the old system, refer to Rokumoto (2006). Kinoshita (2000) indicates empirical analysis of the monopolistic price level of attorneys' fees.

and capabilities beyond the level required of legal professionals are allowed to pass the examination. Yet, the number of candidates who actually pass the examination is 2,000 or so, which means that the new examination is in effect a competitive examination with a quota. The number of passing test takers is determined by the National Bar Examination Commission, which is subordinate to the MOJ.<sup>3</sup>

### 3. Law School System (Since 2004) and Preliminary Examination (Since 2011)

According to the standards for establishment, 74 law schools were accredited by the MEXT. The total enrollment in 2004 was about 5,800. Most law schools were established by universities with a faculty of law. Law schools provide two types of courses, the three-year course for students with no experience studying law and the two-year course for those with experience studying law. This arrangement was made based on the idea that those who have not majored in law as undergraduates would need three years of study to master law. However, in reality, most students enrolled in the three-year course are graduates in law. The annual amount of school expenses is about 10,000 to 20,000 dollars.

As is explained, the preliminary examination has been created for the purpose of providing the opportunity to take the national bar examination for people who have economic difficulties in going to law school, and for those who have acquired various experiences through their occupations or other activities in society. However, this explanation is not convincing, because it would be far more economical to set up a scholarship for study at law school. Presumably, the substantial purpose of this system is to create a bypass for fostering judges and public prosecutors by allowing them to skip the stage of study at law schools. (Jones [2009] assumes that this might be a means for the Supreme Court or the MOJ to recruit excellent personnel of a younger age.)

## III. Industrial Structure of the Law School System

The law school system started in 2004, and its overall picture has mostly come to light. This section looks into the industrial structure of this system.

### 1. Size of Law Schools

Table 1 is a list of law schools in the order of size (the number of enrollees in 2009). It shows that most law schools are in small size, more specifically, among the total 74 schools, 36 schools have no more than 50 enrollees, and only 6 schools have over 200 enrollees (Column [a]). Thus, there are a number of small schools, which suggests that the law school system is quite an inefficient industry.

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<sup>3</sup> The MOJ (the government) has the authority to determine the quantity of new entrants to the legal profession under both the new and old systems. Kent and Trevor (2010) compare the method of determining the supply of new legal professionals by country.

Table 1. Enrollment Quota of Law Schools and Number of Passing Test Takers of the National Bar Examination

Law School	Number of enrollees		Number of passing test takers			Enrollees/ passing test takers
	(a)	(b)	(c)	(d)	(e)	(f)
	2009	2010	2008	2009	2010	%
1 Shinshu	30	18	0	4	5	10.0
2 Himeji-dokkyo	30	20	0	2	0	2.2
3 Kagoshima	30	15	1	2	0	3.3
4 Shizuoka	30	20	2	4	6	13.3
5 Hakuoh	30	25	2	4	2	8.9
6 Hokkai-gakuen	30	30	2	7	3	13.3
7 Kagawa-Ehime	30	20	3	3	10	17.8
8 Ryukyu	30	22	3	4	5	13.3
9 Shimane	30	20	4	1	3	8.9
10 Kanto-gakuin	30	30	4	7	3	15.6
11 Kumamoto	30	22	7	5	7	21.1
12 Chukyo	30	30	8	6	6	22.2
13 Fukuoka	30	30	10	7	8	27.8
14 Aichi-gakuin	35	30	0	4	3	6.7
15 Kanazawa	40	25	4	11	17	26.7
16 Kurume	40	30	5	5	6	13.3
17 Tsukuba	40	36	5	3	11	15.8
18 Yamanashi-gakuin	40	35	7	12	14	27.5
19 Aichi	40	40	16	20	14	41.7
20 Ohsaka-gakuin	50	45	1	2	3	4.0
21 Seinan-gakuin	50	35	2	10	8	13.3
22 Tokai	50	40	4	3	2	6.0
23 Kokugakuin	50	40	4	6	5	10.0
24 Toyo	50	40	4	5	7	10.7
25 Kanagawa	50	35	5	4	8	11.3
26 Meijo	50	40	5	7	10	14.7
27 Daito-bunka	50	40	6	3	2	7.3
28 Tohoku-gakuin	50	30	7	4	2	8.7
29 Hiroshima-shudo	50	30	7	6	7	13.3
30 Dokkyo	50	40	8	5	3	10.7
31 Komazawa	50	50	11	5	9	16.7
32 Sohka	50	35	13	12	18	28.7
33 Nanzan	50	50	15	18	10	28.7
34 Seikei	50	50	17	14	11	28.0
35 Yokohama-kokuritsu	50	40	24	20	17	40.7
36 Chiba	50	40	34	24	30	58.7
37 Ryukoku	60	30	2	5	8	8.3
38 Kyoto-sangyo	60	40	4	1	4	5.0
39 Kinki	60	40	4	9	8	11.7
40 Kobe-gakuin	60	35	6	3	4	7.2
41 Niigata	60	35	9	14	9	17.8
42 Okayama	60	45	11	13	8	17.8
43 Surugadai	60	48	11	4	7	12.2
44 Konan	60	50	12	17	11	22.2

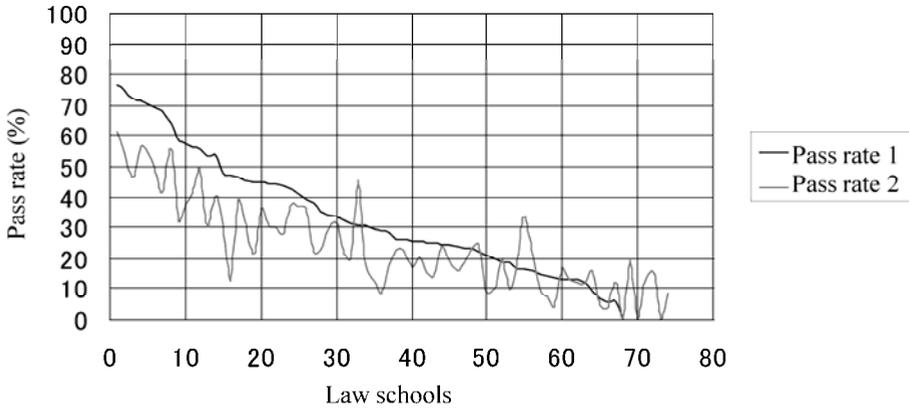
Law School	Number of enrollees		Number of passing test takers			Enrollees/ passing test takers
	(a)	(b)	(c)	(d)	(e)	(f)
	2009	2010	2008	2009	2010	%
45 Aoyama-gakuin	60	50	15	8	3	14.4
46 Hiroshima	60	48	19	21	16	31.1
47 Senshu	60	60	20	17	19	31.1
48 Gakushuin	65	50	20	21	19	30.8
49 Shuto-Tokyo	65	65	39	34	30	52.8
50 Toin-yokohama	70	60	8	8	6	10.5
51 Rikkyo	70	70	21	25	24	33.3
52 Ohsaka-shiritsu	75	60	33	24	31	39.1
53 Meiji-gakuin	80	60	16	9	9	14.2
54 Nagoya	80	70	32	40	49	50.4
55 Ohmiya-houka	100	70	16	12	12	13.3
56 Nihon	100	100	26	20	21	22.3
57 Hosei	100	100	32	25	24	27.0
58 Hokkaido	100	80	33	63	62	52.7
59 Kyushu	100	80	38	46	46	43.3
60 Ohsaka	100	80	49	52	70	57.0
61 Johchi	100	100	50	40	33	41.0
62 Tohoku	100	80	59	30	58	49.0
63 Kobe	100	80	70	73	49	64.0
64 Hitotsubashi	100	85	78	83	69	76.7
65 Kansei-gakuin	125	125	51	37	37	33.3
66 Kansai	130	130	38	35	32	26.9
67 Dohshisha	150	120	59	45	55	35.3
68 Ritsumeikan	150	150	59	60	47	36.9
69 Meiji	200	170	84	96	85	44.2
70 Kyoto	200	160	100	145	135	63.3
71 Keio-gijuku	260	260	165	147	179	62.9
72 Waseda	300	300	130	124	130	42.7
73 Chuoh	300	300	196	162	189	60.8
74 Tokyo	300	240	200	216	201	68.6
Total	5,755	4,904	2,065	2,043	2,074	

Sources: Ministry of Justice, *Survey on the New National Bar Examination, by Law School*.

Ministry of Education, Culture, Sports, Science and Technology, *Selection of Enrollees at Law Schools*.

Note: (f) = (c + d + e)/(3a)

Another fact seen from this table is that passing test takers of the national bar examination are distributed widely among many law schools. In 2008, there were 34 schools producing less than 10 passing test takers, 27 schools producing 10 to 49 passing test takers, eight schools producing 50 to 99 passing test takers, and five schools producing 100 to 201 passing test takers (Column [c]). In terms of efficiency, the optimal size of a law school will be roughly 500 enrollees. Under the old system, the LTRI trained about 500 apprentices,



Note: Pass Rate 1 is the ratio of law school graduates in 2006 who passed the examination in 2007 or 2008. Pass Rate 2 is the ratio of candidates to passing test takers in 2008. Data are taken from *Diamond Weekly* (August 29, 2009) for Pass Rate 1, and *Nikkei Career* (“Complete Guide of Law Schools,” June 19, 2009) for Pass Rate 2, respectively.

Figure 1. Pass Rate, by Law School

and law schools in the United States mostly have 500 to 600 enrollees.

The third point indicated by this table is that there are only 11 schools where the ratio of passing test takers to enrollees (Column [f]) exceeds 50%. Among them, only five schools achieved a pass rate of over 60%. The pass rate is low among small schools, 20% or lower among 36 schools.

Figure 1 shows the distribution of law schools in the descending order of the pass rate of the national bar examination, with two pass rate indicators. Pass Rate 1 is the rate of law school graduates in 2006 who passed the examination in 2007 or 2008. Pass Rate 2 represents the ratio of passing test takers to candidates in the examination in 2008. This graph signifies that (i) among most law schools (40 schools), only one-third or less of the graduates successfully passed the examination, and (ii) there are only five schools where 50% or more of the graduates passed the examination on their first try.

Figure 2 is a graph of Pass Rate 1 in descending order, showing the cumulative percentage of the number of passing test takers. According to this graph, the top 10 schools produced 55% of all passing test takers, and the top 20 schools produced 75%. In other words, it is estimated that the total number of passing test takers could be produced by 20 schools which are as large as those in the top 10 rank.<sup>4</sup>

In consideration of the current low pass rate of the national bar examination, the

<sup>4</sup> A number of small law schools obtained permission for establishment, probably in line with the government’s deregulation policy and the MEXT’s administration of professional graduate schools.

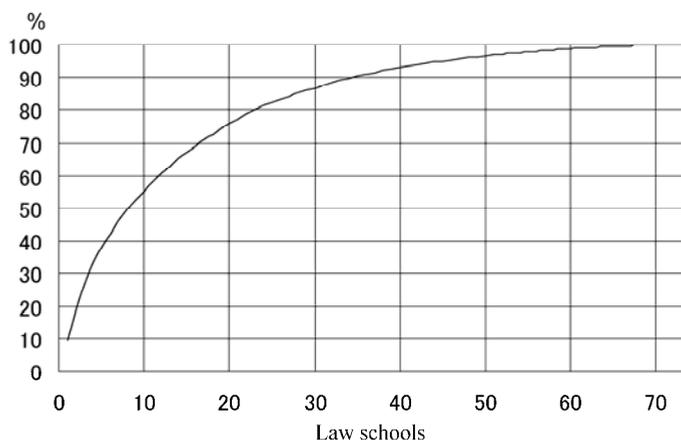


Figure 2. Cumulative Percentage of the Number of Passing Test Takers

MEXT came up with a cutback in the number of law school enrollees. Most law schools started to cut down on an enrollment quota in 2010, and the total enrollment dropped by about 15% (Table 1). However, this movement will not significantly affect the pass rate.<sup>5</sup>

## 2. Process from Enrollment to Graduation at Law Schools, and to Passing the National Bar Examination

How many persons are enrolled at law schools every year, and how many of them successfully graduate? Among law school graduates, how many of them pass the national bar examination, or fail to pass the examination and leave? Through the five times of implementation of the new national bar examination, from 2006 up to now, the overall picture of the examination has mostly been revealed.

### (1) Number of Enrollees and Percentage of Graduates among Them

Table 2 indicates how many persons are enrolled in law schools, and how many of them successfully graduate. The number of enrollees in 2004 (the first enrollment class) was 2,350 in the two-year course and 3,416 in the three-year course. Among the students enrolled in the two-year course, 2,176 (92.6%) completed the course of study and graduated within the standard period ending in 2005, whereas 2,563 (75.0%) of those enrolled in the three-year course graduated within the standard period ending in 2006. The same trend was seen for the enrollment in 2005 and thereafter, that is, 90% of students enrolled in the two-year course graduated within the standard period, whereas the rate of the students

<sup>5</sup> The Special Committee on Graduate Schools of the Central Council for Education recommended the review of the number of enrollees in its report entitled “Measures to Improve the Quality of Education at Law Schools” (April 17, 2009). Following this recommendation, law schools reduced the number of enrollees in 2010.

Table 2. Number of Enrollees and Number of Graduates

	2004		2005		2006		2007		2008	
	2-year	3-year	2-year	3-year	2-year	3-year	2-year	3-year	2-year	3-year
No. of enrollees	2,350	3,416	2,063	3,481	2,179	3,605	2,169	3,544	2,066	3,331
Graduation year										
2005 (%)	2,176 (92.6)									
2006 (%)	33 (1.4)	2,563 (75.0)	1,819 (88.2)							
2007 (%)		NA	362 (17.5)	2,576 (74.0)	1,972 (90.5)					
2008 (%)				NA	NA	2,542 (70.5)	1,996 (92.0)			
2009 (%)							NA	NA	2,392 (67.5)	1,871 (90.6)

Source: Ministry of Education, Culture, Sports, Science and Technology, *Overview of the Certification of Graduation from Law Schools*.

Notes: 1. The figures in parentheses are the ratio of the number of graduates to the number of enrollees.

2. Although law graduates account for about 70% of all enrollees, not all of them are enrolled in the two-year course; half of them are enrolled in the three-year course. Roughly divided, the ratio among “law graduates enrolled in the two-year course,” “law graduates enrolled in the three-year course” and “non-law graduates enrolled in the three-year course” is 1 : 1 : 0.5.

enrolled in the three-year course who graduated within the standard period was 70 to 75%. This gap may result from the tendency that students with higher academic abilities were enrolled in the two-year course.

## (2) Number of Graduates and Percentage of Passing Test Takers among Them

Table 3 demonstrates the relation between the number of law school graduates and the number of passing test takers of the national bar examination. Among the students who graduated the two-year course in 2005 (2,176), a total of 1,518 passed the examination, 1,009 in the first year following the graduation (2006), 396 in the second year (2007), and 99 in the third year. Those passing test takers account for 69.8% of all graduates in 2005. As for those who graduated from law school in 2006, the sum total of passing test takers among the graduates of the two-year course was 1,167 (64.2%), and that of the three-year course was 1,000 (39.0%). The figures in the lowest row of the table represent the ratio of passing

Table 3. Number of Law School Graduates and Number of Passing Test Takers of the National Bar Examination

	2005			2006			2007			2008			2009			No. of passing test takers (no. of candidates) and pass rate, by year
	2-year	3-year	2-year	3-year	2-year	3-year	2-year	3-year	2-year	3-year	2-year	3-year	2-year	3-year		
No. of graduates	2,176		1,819	2,563	1,972	2,576	1,996	2,542	1,871	2,392					1,009 (2,091) 48.3%	
(a) 2006 No. of passing test takers (No. of candidates)	1,009 (2,091)														1,851 (4,607) 40.2%	
(b) 2007 No. of passing test takers (No. of candidates)	396 (903)		819 (1,738)	636 (1,966)											2,065 (6,261) 33.0%	
(c) 2008 No. of passing test takers (No. of candidates)	99 (324)		258 (780)	242 (1,180)	974 (1,898)	492 (2,079)									2,043 (7,392) 27.6%	
(d) 2009 No. of passing test takers (No. of candidates)	8 (130)		78 (373)	90 (716)	232 (824)	229 (1,337)	948 (1,947)	458 (2,065)							2,074 (8,163) 25.4%	
(e) 2010 No. of passing test takers (No. of candidates)	6 (149)		12 (155)	32 (538)	96 (412)	138 (940)	308 (870)	249 (1,367)	820 (1,769)	413 (1,963)						
(f) Sum total number of passing test takers in the graduation year	1,518		1,167	1,000	1,302	859	1,256	707	820	413						
(g) Ratio of the sum total number of passing test takers to the number of graduates	69.8%		64.2%	39.0%	66.0%	33.3%	62.9%	27.8%	43.8%	17.3%						
(h) Number of enrollees in the corresponding year	2,350		2,063	3,146	2,179	3,481	2,169	3,605	2,066	3,544						
(i) Ratio of the total number of passing test takers to the number of enrollees	64.6%		56.6%	31.8%	59.8%	24.7%	57.9%	19.6%	39.7%	11.7%						

Source: Ministry of Justice, *Survey on the New National Bar Examination, by Law School*.

Notes: 1. If all goes as planned, students enrolled in the two-year course in 2004 are to graduate in 2005 and pass the examination in 2006. Similarly, those enrolled in the three-year course in 2004 are to graduate in 2006 and pass the examination in 2007.

2. (f) = (a) + (b) + (c) + (d) + (e)
3. (g) = (f)/(N number of graduates)
4. (i) = (f)/(h)

test takers to enrollees of the year of the passing test takers' enrollment year. For example, the sum total of passing test takers among graduates of the three-year course in 2007 is 859. Their enrollment year is 2005, in which 3,481 were enrolled (Table 2). Accordingly, the ratio of passing test takers to enrollees is 24.7% (= 859/3481).

What is inferred from Table 3 is as follows. (i) There is a large gap in terms of the pass rate between the graduates of the two-year course and those of the three-year course (about 30% against both the number of graduates and the number of enrollees). (ii) The pass rate has been declining every year respectively for the two-year course and the three-year course, and the combined pass rate concerning all graduates in these courses has also been on a declining trend. This may be because the total number of passing test takers has not increased despite the yearly increase in the number of repeat candidates who sit the examination a second or third time. (iii) Given these facts, it is presumed that the ratio of passing test takers to graduates will eventually come to 50% or so for the two-year course and slightly below 15% for the three-year course in the long run, and the combined ratio of passing test takers to graduates will be 20 to 25%.<sup>6</sup>

### (3) Number of Repeat Candidates and Number of Persons Disqualified as Candidates

Table 4 indicates the number of repeat candidates and number of persons disqualified as candidates. For example, a total of 4,607 persons took the examination in 2007. Among them, 3,704 were fresh candidates (who sit the examination for the first time following graduation from law school in the previous year), and the remaining 903 persons were repeat candidates. The number of fresh candidates is smaller than the number of graduates from the previous year (4,382). This difference signifies that several hundreds of graduates withheld making the first try for the examination probably in consideration of the limited

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<sup>6</sup> Let us assume the following steady state and estimate the equilibrium value. The annual number of law school graduates is ( $y$ ). All of them take the national bar examination in the first year following the graduation, and some of them ( $a$ ) pass the examination. All of the unsuccessful candidates from the first examination ( $y - a$ ) take the examination in the second year, and some of them ( $b$ ) pass the examination. Then, all of those who failed to pass the previous two examinations ( $y - a - b$ ) take the examination a third time, and some of them ( $c$ ) pass the examination. At this point in time, three years following the graduation, the remaining unsuccessful candidates ( $y - a - b - c$ ) have used up the three chances of taking the examination and become disqualified as candidates. Summing up this process, on the assumption that law school graduates in a given year take the examination in the year following the graduation, the number of candidates  $N_i$  who take the examination ( $i$ ) time would be as follows:

$$N_1 = y, N_2 = y - a, N_3 = y - a - b, N_4 = 0, N_5 = 0.$$

In the steady state, the composition of candidates each year would be the same. The number of successful candidates who pass the examination each year is ( $a + b + c$ ). Accordingly, the pass rate is calculated as follows:

$$r = (a + b + c) / (N_1 + N_2 + N_3 + N_4 + N_5) = (a + b + c) / (3y - 2a - b)$$

In this formula, assuming that  $a = 1400$ ,  $b = 400$ ,  $c = 200$ , and  $y = 4000$  (the situation in 2007 is close to this), the pass rate ( $r$ ) is  $2000/8800=22.7\%$ . The number of persons who have used up the three chances of taking the examination and become disqualified as candidates is  $y - a - b - c = 2000$ . The number of repeat candidates is  $N_2 + N_3 = 2y - 2a - b = 4800$ .

Table 4. Numbers of Fresh Candidates, Repeat Candidates, and Persons Disqualified as Candidates

	2007	2008	2009	2010
(a) Number of law school graduates in the previous year	4,382	4,548	4,538	4,263
(b) Total number of candidates	4,607	6,261	7,392	8,163
(c) Number of fresh candidates	3,704	3,977	4,012	3,732
(d) Number of repeat candidates	903	2,284	3,380	4,431
(e) Number of passing test takers	1,851	2,065	2,043	2,074
(f) Pass rate (e)/(b)	40.2%	33.0%	27.6%	25.4%
(g) Number of fresh candidates who passed the examination	1,455	1,216	1,406	1,233
(h) Pass rate of fresh candidates (g)/(c)	39.3%	30.6%	35.0%	33.0%
(i) Number of persons disqualified as candidates	47	240	571	872
(j) Number of repeat candidates who are to sit the	2,709	3,956	4,778	5,217

*Sources:* Ministry of Justice, *Survey on the New National Bar Examination, by Law School*, Ministry of Education, Culture, Sports, Science and Technology, *Overview of the Certification of Graduation from Law Schools*, and Ministry of Internal Affairs and Communications, *Report of the Study Group on Evaluation of Law Schools (Legal Professional Training System)*, December 2010.

*Notes:* 1. Fresh candidates in (c) are law school graduates (a) who take the examination in the year following the graduation year.

2. (d) = (b) – (c)

3. The number of persons disqualified as candidates in (i) is based on the MOJ data.

4. (j) = (b) – (e) – (i)

5. The number in (j) corresponds to the number in (d) of the following year, with a difference of 400 to 500 due to the tendency to avoid taking the examination.

number of chances allowed for them.

The number of candidates who passed the examination in 2007 was 1,851. By subtracting this from the total number of candidates, we gain the number of unsuccessful candidates ( $2,756 = 4,607 - 1,851$ ), and further subtracting the number of persons disqualified as candidates (47), the result is the number of repeat candidates who are to sit the examination in the following year (2,709). The actual number of repeat candidates in 2008 was 2,284, smaller than the estimated number by about 400. This difference is probably also due to the tendency to avoid taking the examination in consideration of the limited number of chances.

To what extent will the number of repeat candidates increase in the long run? According to Table 4, the number of repeat candidates has increased every year and reached 4,431 in 2010. This is slightly smaller than the number estimated for the hypothetical steady state described in Note 6 (4,800). The number of persons disqualified as candidates in the

same year was 872, which is considerably smaller than the number estimated for the hypothetical steady state (about 2,000). From these points, it is conjectured that, in the long run, the annual number of repeat candidates will be around 5,500 to 6,000 and the annual number of persons disqualified as candidates will be around 2,000, respectively.

#### **IV. When Is the Right Timing of Selection?—From the Perspective of Human Capital Theory**

As a number of people aspire to enter the legal profession, there is a high degree of competition among them. In addition, it takes a great deal of cost and time to train professionals such as jurists and physicians. Given these conditions, when would be the best time to select the required number of persons from among a large number of candidates for the legal profession? The author argues the following two points:

- (i) Selection should be implemented for students at the youngest possible age.
- (ii) Selection should be implemented prior to the investment in human capital, that is, at the stage of entering law schools.

As for the first point, if the selection process is too delayed, the range of options of occupations available for students will be limited, and it will be more risky for them to choose the legal profession. It should be noted that in Japan, students would be placed in a more disadvantageous position in finding employment in private businesses as they go further away from the time of their fourth year of university (age 21). Under the new system, the selection process (national bar examination) is implemented at the age of 24, whereas it was at the age of 21 under the old system. In regard to this point, the old system is better than the new one. Saito (2006, 207), with a perspective that is somewhat different from this paper, compares legal education among Australia, the United States, and Japan, and finally argues that “the best way to reconstruct the legal education system [in Japan] would be to abolish all law schools immediately and return to the former system.”

As for the second point, under the new system, the selection process is implemented following graduation from law school, which means that students would be subject to selection after spending a great deal of time and money for study at law school, and in this respect, their investment in education would be highly risky. If they are to go through the selection process at the time of entering law school, there will be no investment risk. Considering that the selection process was implemented at the age of 21 under the old system and this worked well, it would be sufficiently possible under the new system to implement the selection process at the time of entering law school.<sup>7</sup>

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<sup>7</sup> With regard to the timing of selection, S. Tanaka (1999, 66) states, “It is obvious that the education acquired up until upper secondary school is insufficient for studying law, which is referred to as the study of grown-ups. During the lower-division course at university, students should acquire a wide-ranging and in-depth education through learning.” From this viewpoint, it may not be appropriate to select students at the age of 18, as in the case of the faculty of medicine.

Table 5. International Comparison of the Age of Candidates for Legal Professionals Subject to the Selection Process

Age	21 or under	22	23	24	25	26	27
Japan (new system)	University	<b>Entrance exam</b> Law school			<b>Bar exam (30%)</b> Judicial training (LTTRI) <b>Final exam</b>	Open legal practice	
Japan (old system)	University	<b>Bar exam (3%)</b> Judicial training (LTTRI)	Judicial training (LTTRI)	Open legal practice			
US	University	<b>Final exam (100%)</b> <b>Entrance exam</b>			<b>Bar exam (Approx. 70%)</b>	Open legal practice	
UK (Solicitor)	University (Acquire a law degree in 3 years) (70%)	Law school of the Law Society	Practical training		<b>Obtain qualification (70%)</b>		
Germany		Qualification for university graduate =		Practical training (2 years)		<b>Final national exam (90%)</b>	Open legal practice
France		<b>Preliminary national exam (50-60%)</b> Undergraduate or master's course	Training at CRFPA (2 years)		Two-year internship		Open legal practice
Korea (new system)	University	<b>CRFPA entrance exam (20-30%)</b> <b>Entrance exam</b>	<b>CAPA exam (100%)</b>		Open legal practice <b>New bar exam (80%)</b>	Open legal practice	
Australia		Law school			Open legal practice		Continuing legal education (CLE), etc.
		Undergraduate course in law (4-5 years) (50% drop out in the first year. <b>95% of graduates become solicitors.</b> )	Practical training (PLT, 2 years)				

Sources: Data are cited from the following sources: (1) Ono (2001), (2) the handout distributed at the 14th meeting of the Justice System Reform Council (March 2, 2000), and (3) Japan Federation of Bar Association (1994) for data on the U.K., concerning solicitors. As the legal professional training system in the U.K. is complicated, please refer to H. Tanaka (1973, 1980) for details.

Let us look at the situations in other countries from the points of view mentioned above. Table 5 shows comparison by country with regard to the timing of selection and the pass rate under the legal professional training process. Most countries select candidates for legal professionals at the beginning of the legal professional training process, whereas only Japan places the selection process at the end of the training process. For instance, in Germany, among students admitted to the faculty of law, only 50 to 60% can acquire the qualification of graduates (this also certifies that they have passed the preliminary national examination), at which point they reach the beginning of the training process. Meanwhile, the pass rate of the final national examination, which marks the end of the training process, is as high as 90%. In France, applicants for admission to the CRFPA are severely narrowed down by the examination to 20 to 30% at the beginning of the training process, and almost all of those who complete the training course are supposed to pass the CAPA examination at the end. In the case of the training process of solicitors in the United Kingdom, 70% of the students who have earned a law degree enter the legal profession (JFBA 1994, 21). If they wish to be solicitors, they join the solicitors' association called the Law Society (with limitation to the number of new members) and receive training at its law school for one to two years. About 70% of trainees pass the final qualification examination (*ibid.*, 36). In Australia, students who major in law are subject to selection before they earn a law degree (30% drop out in the first year), and 95% of graduates can become solicitors. The United States has a somewhat unique process—not all law school graduates practice law but many of them find employment at government agencies or private businesses—but the hurdle placed at the end of the training process (bar examination) is also rather easy to pass. Although the pass rate is 70% or so, all the states hold examinations independently, so the chance to be certified as a lawyer is close to 100%. In Korea, where the law school system has just started (law schools were opened in 2009, and the first national bar examination is to be held in 2011), as the number of accredited law schools and the number of enrollees are severely limited, the pass rate of the national bar examination is estimated as about 80%.<sup>8</sup>

## **V. Administration of the National Bar Examination by the MOJ**

The MOJ takes charge of the administration of the new national bar examination and the preliminary examination. How to administer these examinations has a significant influence on the future legal professional training system.

### **1. Role of the Preliminary Examination—Expressway or Bypass?**

Persons who have passed the preliminary examination shall be granted the qualifica-

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<sup>8</sup> Ono (2001) demonstrates a great deal of details of the legal professional training system in Germany. The law school system in the United States is discussed in detail in Yanagida (2001) and Murakami (2003). For the new law school system in Korea, refer to Han and Okubo (2008), Yoon (2004), Kim (2006, 2007), Ahn (2006), and Lee (2010).

tion for taking the national bar examination without going to law school. This arrangement serves as a great incentive for those with excellent abilities to take the preliminary examination. Thus, the preliminary examination is expected to be an expressway or elite track to the legal profession.

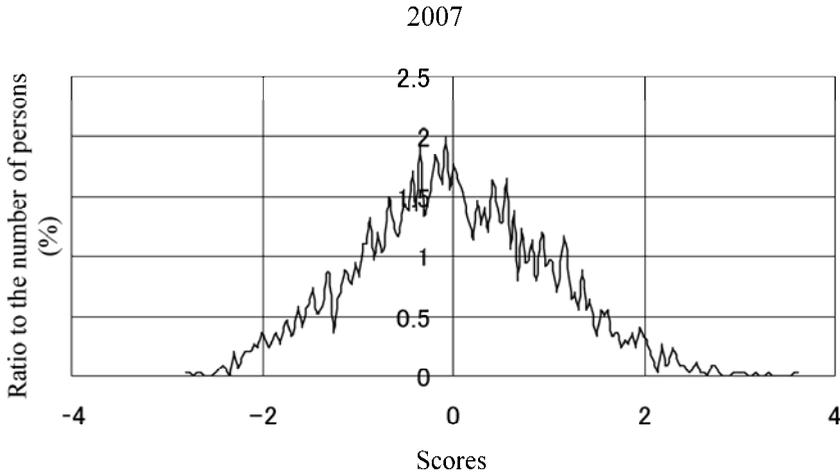
The preliminary examination will start in 2011 under the management of the MOJ. The criterion for passing the preliminary examination is to have an academic ability equal to law school graduates. It is worth noting that the composition of the preliminary examination is almost the same as that of the new and old national bar examinations. The preliminary examination is composed of three stages, (i) multiple choice test, (ii) essay examination, and (iii) oral examination, and the subjects are centered on the six main codes (the constitutional law, civil law, commercial law, civil procedure law, criminal law, and criminal procedure law). This may be the only feasible form of an examination for selecting qualified persons from among several thousands of candidates.

The scale of the preliminary examination is also noteworthy. In 2011, 8,971 persons applied for the examination, and 6,477 persons took the examination. The final selection of successful candidates is to take place some time later. If the number of passing test takers is too large, the preliminary examination will be criticized as undermining the meaning of law schools. If the number is too small, a question will be raised if there is any meaning in holding this examination on such a large scale. Although the passing test takers of the first preliminary examination are scheduled to be decided in November, the MOJ has not yet announced how many candidates will be selected, by reason that the preliminary examination is a qualifying examination and all those who meet the criteria will be allowed to pass the examination.

The number of passing test takers of the preliminary examination may possibly increase in the future. The Three-Year Program for Promoting Deregulation (adopted by the Cabinet on March 25, 2009) states that “the quota of passing test takers of the preliminary examination should be increased to the extent that the pass rate of the national bar examination among those who have gone through the preliminary examination and the pass rate of the national bar examination among those who have graduated from law schools would be in equilibrium.” If the preliminary examination is implemented according to this program, the consequence will be far removed from the principal purpose of the preliminary examination (providing the opportunity to take the national bar examination for people who have economic difficulties in going to law school), and would also damage the educational philosophy of law schools.

## 2. It Is Highly Likely That the MOJ Has the Intention of Holding Down the Number of Passing Test Takers

The number of candidates for the new national bar examination has been increasing since 2007, while the number of passing test takers has been held down to around 2,000 (Table 4). This makes one presume that the MOJ is trying to raise the criteria for passing the



Note: The passing score is  $-0.1128$ .

Figure 3. Distribution of Scores of the National Bar Examination (2007)

examination, while holding the number of passing test takers down to around 2,000. If this presumption is correct, the MOJ's policy would be in conflict with the target level recommended by the JSRC, i.e. 3,000 passing test takers per year.

With regard to the fact that the number of passing test takers has been kept around the 2000 level each year during the past three years, Makoto Hayashi, the Director of the Personnel Division of the MOJ, stated that, "This is the number of persons who have achieved the qualifying level of the examination results, and we do not hold down the number of passing test takers. The target level of 3,000 passing test takers per year could be realized only on the premise that law schools provided productive educational programs" (Tokyo Shinbun, September 1, 2009), explaining that the inadequate quality of students produced by law schools is the cause of the low number of passing test takers. Thus, the MOJ takes the stance that "the national bar examination is a qualifying examination, and all those who meet the criteria for passing the examination, no matter how many there are, will be allowed to pass the examination." However, these criteria are not clear, and the decision to pass or fail candidates is made exclusively by several bar examiners appointed by the Minister of Justice.

Let us discuss the hypothesis that the National Bar Examination Commission has been raising the criteria for passing the examination every year. Figure 3 is the distribution of the examination results in 2007.<sup>9</sup> The horizontal axis shows the total score and the vertical axis shows the ratio to the number of persons (%). As this graph is converted into

<sup>9</sup> Data source: Ministry of Justice, Minister's Secretariat, Personnel Division, "Results of the New National Bar Examination." According to the results (raw scores) of the examination in 2007, the highest score was 1398.83, the lowest score was 586.32, and the average score was 941.69.

Table 6. Passing Score among Candidates for the National Bar Examination

	Total number of candidates	Passing test takers of the essay examination	Final passing test takers	Pass rate	Passing score (standard normal distribution)
2006	2,091		1,009	48.3%	
2007	4,607	3,408	1,851	40.2%	-0.1128
2008	6,261	4,416	2,065	33.0%	0.0940
2009	7,392	4,817	2,043	27.6%	0.1809

*Note:* There were no graduates from the three-year course in 2006.

standard normal distribution, the average score is 0 and the standard deviation is 1. The distributions in 2008 and 2009 show almost the same normal distribution curves. Table 6 indicates the comparison in terms of the passing score and other factors. The passing score has been rising every year, from -0.1128 (2007), to 0.0940 (2008), and 0.1809 (2009). The passing score in 2007 was below the average score only by 0.1128 (against the standard deviation of 1). In 2008, the passing score rose by about 0.2 to 0.0940. In 2009, it further rose by 0.1 to 0.1809. Supposing that the average abilities of candidates remained the same level during these three years, it could be said that the criteria for passing the examination have been raised every year. If the passing score in 2009 had been on the same level as 2007, the number of passing test takers would have been 2,648. Thus, the number of passing test takers was reduced by about 600.

There can be the following criticism against the analysis indicated above. The candidates for the examinations in 2008 and 2009 included repeat candidates who took the examination a second or third time, and the scores achieved by these repeat candidates might have pushed down the total average score.<sup>10</sup> Here, let us make a comparison focusing only on the candidates who took the examination for the first time following graduation from law school. As the number of law school graduates each year is 4,000 or so (Table 7 [a]), if the law of large numbers applies, the distribution and average of their abilities could be supposed to be almost the same each year. In Table 7, (d) is the ratio of passing test takers to graduates, and (e) is the ratio of passing test takers to candidates. The ratio (d) has been declining every year, down by 4.3% during the three years. The ratio (e) has also declined by 6.3% during the same period. If the ratio of passing test takers to candidates in 2009 had been 39% (on a par with the level in 2006), the number of passing test takers would have increased by about 200. This testifies to the fact that the criteria for passing the examination

<sup>10</sup> Seeing the tendency that “in the new national bar examination, the pass rate is lower among those who have tried the examination more times,” Inoue (2010) presumes that the overall average rate will go down as the percentage of repeat candidates increases.

Table 7. Ratios of the Number of Candidates Who Passed the Examination on Their First Try Following Graduation from Law School, to the Number of Graduates (Total of Those in the Two-Year Course and the Three-Year Course)

	2006	2007	2008	2009
(a) Number of graduates	4,382	4,548	4,538	4,263
(b) Number of candidates	3,704	3,977	4,012	3,732
(c) Number of candidates who passed the examination on their first try	1,455	1,466	1,406	1,233
(d) Ratio of passing test takers to graduates (c/a)	33.2%	32.2%	31.0%	28.9%
(e) Ratio of passing test takers to candidates (c/b)	39.3%	36.9%	35.0%	33.0%

Note: Data of (a), (b) and (c), are taken from Table 3.

have been raised every year.<sup>11</sup>

## VI. Administration of the Law School System by the MEXT, and the Outcome Thereof

The new national bar examination is expected to produce some 5,000 repeat candidates regularly and some 2,000 persons disqualified as candidates every year. Did the MEXT and its law school designing team ever expect such phenomenon and what did they think of it?

The basic concept and system of the new national bar examination were discussed and designed by the three deliberation bodies including the JSRC. As revealed by the minutes of meetings of these bodies, the opinion that the new examination should be designed under the principle of providing students with the “opportunity for investment in their education” was minor. Rather, concept discussion and system design focused exclusively on universities’ business strategies.<sup>12</sup>

In each of these deliberation bodies, the universities’ delegation had an influential voice. The delegation was in an official position and was responsible for representing the interests of all universities at the same time. 94 universities with faculty of law considered it

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<sup>11</sup> The three parties in the legal profession, i.e. the Supreme Court, the Public Prosecutors’ Office, and the Japan Federation of Bar Association (JFBA), seem to disagree with the rapid increase in the number of practicing attorneys. It is natural that the JFBA is opposed to the increase in the number of practicing attorneys. The Supreme Court may be concerned that the increase in the number of practicing attorneys might lead to the increase in the number of legal actions, causing a delay in court proceedings. The Public Prosecutors’ Office may be worried that the increase in the number of practicing attorneys might make criminal proceedings more complicated.

<sup>12</sup> The three deliberation bodies are the JSRC (chaired by Koji Sato), the Study Group on Legal Professional Training (chaired by Shigeaki Tanaka) affiliated with the JSRC, and the Law School Committee of the Central Council for Education (chaired by Koji Sato) established within the MEXT.

important to have law schools in order to maintain their status, and many of them wished to have law schools. As a result, the number of law schools finally established swelled to 74.

At the 14th JSRC meeting (March 2, 2000), council member Masahito Inoue explained the basic policy as follows: "It seems to be an extremely difficult task to limit the number of law schools to 20 or 30 by calculating backward from the possible number of passing test takers of the bar examination, and selecting universities to which these law schools are to be assigned. All universities wishing to have law schools should be permitted to set up one only if they meet the minimum required standards." Also, "Free entry should be allowed for universities that are motivated and capable as is required for setting up a law school. Otherwise, the new system would not work well." Following Inoue's comments, another council member, Morio Takeshita, stated, "We should consider, beforehand, the possibility that legal professionals would be produced only from the strata of people who can afford to spend a certain amount of time and costs...Therefore, it may be necessary to arrange a system, similar to the university entrance qualification examination, wherein persons who have not graduated from law schools would be qualified for sitting the national bar examination by taking a certain examination." This statement implies that there was an idea of "preliminary examination" from the early stage of discussions.<sup>13</sup>

It might have been difficult for the universities' delegation for the JSRC to agree to limit the total number of law schools to a certain number, for example, 20 or so. There were 94 universities with a faculty of law in total, of which 30 were national or public universities, and the rest were private universities. Most professors who retire from national universities find reemployment at private universities. In a sense, these two categories of universities share a common interest.

If any limit were to be put on the total number of law schools, only the MEXT could have done this. However, the MEXT did not have any such idea of limiting the number to 20. Rather, the MEXT appears to have desired that law schools would grow in number, in an attempt to use law schools as a means to fulfill the advancement of the system of professional graduate schools, which had made poor progress in the scope of the MEXT administration.

Before the introduction of law schools, the MEXT had launched the system of graduate schools for teaching professionals (graduate schools for the teaching staff at lower and upper secondary schools), which had not been very successful because those having completed graduate schools for teaching professionals were unable to find employment or enjoy treatment in society suitable to their qualifications, so these graduate schools were considerably unpopular. In such a situation, a far larger project of establishing law schools was brought up. Taking this opportunity, the MEXT reorganized graduate schools for teaching professionals and incorporated them with law schools into "professional graduate schools."

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<sup>13</sup> Sato, Takeshita, and Inoue (2002) provide a review of the JSRC's recommendations, showing that the universities' delegation had a considerable influence on the recommendations.

However, this action taken by the MEXT resulted in enhancing and reproducing the contradiction. In reality, more than half of law school graduates fail to obtain qualification as legal professionals and they eventually have to seek employment all over again. The MEXT, in general, did not take note of the need to establish an environment where those who have completed professional law schools would be accepted by society and the labor market under conditions suitable for their qualifications. In short, the MEXT did not have the basic philosophy that graduate schools are the “place where students make an investment in their education.”<sup>14</sup>

## VII. Conclusion

Under the new national bar examination system, the pass rate has been declining every year, down to 25.4% in 2010. The pass rate of law school graduates in their first examination following the graduation is 30 to 35%, and the pass rate of those who have used up the three chances of taking the examination is 40 to 50%. If this situation continues, there will be some 5,000 repeat candidates regularly, and some 2,000 persons will be disqualified as candidates every year (the situation is expected to become worse depending on the implementation of the preliminary examination that is to be introduced in 2011).

The problem with the new system is that it requires candidates to assume both cost and risk in human capital investment to a greater extent. The cost means that they need to invest about 100,000 dollars for law school expenses in advance, and the risk means that they would lose the investment at more than 50% probability.

The law school system also has problems in terms of efficiency on the supply side. First, the law school industry is more than double the necessary size, holding a great deal of surplus capacity. Consequently, half the subsidies granted by the government to law schools are wasted, and more than half the scholarship money granted to law school students becomes loans owed by those who have failed in investing in their education. Secondly, the creation of small law schools has caused inefficiency. All law schools, even small ones, must have at least one set of teaching staff and facilities. Although half the existing law schools (36 out of 74) have 50 or less enrollees, the appropriate size is to have 500 to 600 enrollees.

The system design of law schools involved the following problems. First, the JSRC made contradictory recommendations, that is, the JSRC set the target pass rate as 70 to 80% of law school graduates, while allowing free entry to the law school industry. Secondly, the

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<sup>14</sup> Steele (2005), while comparing with the situation in Australia, argues why students (in Japan) are not allowed to take more part in the reform process of the law school system, thus raising a question against the system reform that has proceeded in Japan without paying attention to students. West (2007) criticizes the new Japanese system for lacking a perspective of what the market and students demand from law schools, and suggests that matching the needs of the market and of students is the key for the success of law schools.

policies taken by the MOJ and the MEXT were inconsistent.

The following would be the possible measures to improve the existing system. (i) The total enrollment at law schools should be limited to 3,500 (the total number of graduates to 3,000) or lower, so that at least 80% of all graduates will be able to pass the national bar examination. (ii) Small law schools should be consolidated into larger schools with 200 enrollees or more. (iii) The MOJ should clearly indicate the number of passing test takers of the national bar examination (for example, 2,500) and maintain it on a medium to long term (for at least five years or so). These measures will mitigate the uncertainty in passing the national bar examination and reduce law school students' risk in investing in their education.

A question that remains here is whether or not the number of passing test takers of the national bar examination should be raised to 3,000 per year, as recommended by the JSRC. There may be two approaches. One is to increase the number gradually, while taking into account the supply and demand balance of practicing attorney services. The other is to increase the number to 3,000 first, and then leave it to the supply and demand mechanism in the market. Which of these approaches to take should be determined after progress is made in supply and demand analysis of the practicing attorneys' market.

Each law school is also required to make its own efforts so that its graduates will be able to find employment in various fields including private businesses and public services in the long run, as seen in the case of the United States. To this end, as Lubbers (2010) suggests, law schools should set up divisions for finding jobs for graduates or organize graduate associations for supporting job seeking activities. In order to carry out these measures, it is essentially necessary for law schools to become larger through mergers or for them to rationalize their management, thereby reinforcing their financial bases.

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# The Ph.D. as a Professional: Current Status and Issues concerning the Early Careers of Doctorate Holders

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This paper revisits and clarifies the issues relating to the early careers of doctorate holders and the reform of graduate education, while at the same time considering the significance of doctorate holders as a particular group of professional. In this paper, initially, we introduce the condition of the labor market for doctorate holders, and perform international comparisons to demonstrate that the state of the post-doctoral market in Japan is not particularly unusual. We also introduce the idea that a new paradigm is emerging among doctorate holders, which differs from the conventional perspectives both of doctorate holders and professionalism. This new paradigm, which expresses itself in the phrase “one profession, multiple careers,” categorizes the doctorate not simply as a part of one’s educational history, but in fact as a whole new area of professional. Estimating the lifelong rate of entry to Ph.D. programs in Japan from this perspective shows that the rate is not in fact falling significantly, and that it is perhaps premature to link the superficial falling rate of progression to doctoral programs to a process of readjustment in supply and demand within the market for doctorate holders.

## I. Introduction

Since the beginning of the 2000s, the decline in employment rates of doctoral graduates in Japan has been raised as a policy concern. It has been taken up by the newspapers, and become a common subject of discussion. This paper attempts to explain the problem from an academic perspective. For this reason, in addition to clarifying the situation in regard to the early careers of doctorate holders, we also consider the concept of the “Ph.D.<sup>1</sup> as a professional in itself.”

The title of this paper (“The Ph.D. as a Professional”) compares doctorate holders to traditional professions, and may give rise to some confusion. This concept is not, however, the creation of the author. The 2003 revisions to Japan’s Labor Standards Act made possible the fixed-term employment of “employees with a high level of expert knowledge, skills or experience” for up to five years. The specific range the article should be applied is defined as criteria set by the Minister of Health, Labour and Welfare, based on “the provisions of Article 14, paragraph (1), item (i) of the Labor Standards Act.” It is particularly symbolic that “doctorate holders” are cited at first in said provisions, ahead of certified public accountants, doctors, attorneys and other traditional professions. Holding a doctorate is essen-

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<sup>1</sup> Within Japanese educational statistics, students leaving a doctoral program without a degree at the end of the fixed period are counted as having “completed” a doctorate, and are therefore treated the same as doctorate holders. Students leaving without a degree are equivalent to Ph.D. candidates or the so-called “All But Dissertation,” but there is no official Ph.D. candidate system in Japan.

tially an expression of one's educational history; it is not a certification for employment or something that defines one's profession. Legally, it has always been necessary to categorize "doctorate holders" not as researchers or university professors, but as an independent profession, alongside other traditional professions.

Realistically speaking, we are faced with a situation in which it is necessary to consider doctorate holders as a profession in themselves, not simply as one issue within a labor market divided according to academic background. The core of this paper has managed to clarify this issue. Subsequent to the "academic revolution" in the 19th century, when universities engaged internally in research activities in the natural sciences and began to train new academics to succeed existing teaching staff, graduate schools<sup>2</sup> began to train researchers and university teaching staff, in the same way as medical schools train doctors. At such a time, the topic of doctorates was studied from an educational perspective, while the market for researchers or university professors was studied from a perspective of their labor market. Nowadays, however, it has become difficult to analyze doctoral education and professional employment independently of one another.

Today, doctorate holders are not only researchers and university professors. They are expected to play roles across a wide range of fields within society, and the fact is that those fields are increasingly multi-faceted. Graduate schools, too, are not only educational institutions; they also play a second role as a country's central agencies of scientific and technological enterprises. This attribute was fixed during the history of the development of graduate schools at American universities, and it is now impossible to ignore the fact that doctoral programs play a role as research agencies, and that doctoral candidates, while students, are, at the same time, already functioning as researchers, or at least in the role of research assistants. When considering the market for researchers, it is therefore necessary to include doctoral candidates as part of this market.

In addition to this, Japan currently faces a situation in which the employment rate among doctorate holders is low, and increasing numbers are either becoming post-docs or remaining unemployed.<sup>3</sup> When considering employment for doctorate holders, we must

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<sup>2</sup> Japan's current graduate school system has a superficial similarity to U.S. graduate schools in that it offers three types of education: master's programs, Ph.D. programs, and professional school programs. Professional schools in Japan are part of a new system, however, and while they are similar to those in the U.S., they are not the same. Up until around 40 years ago, people completing master's degrees went on to Ph.D. programs, and for this reason many Ph.D. programs are still divided into "the first cycle" and "the second cycle." Because of this history, "the first cycle" of Ph.D. program and master's programs both tend to be conventionally referred to as "master's programs," where many people take master's degree. "The second cycle" of Ph.D. programs are called "doctoral programs." Traditionally, many people taking a master's degree have gone onto a wider range of professional employment, while doctorate holders tended to go on to research and university teaching posts. Given this history, this paper focuses for research purposes on the analysis of both such doctoral programs with two cycles and a few of unified doctoral programs that are not divided into two cycles.

<sup>3</sup> In general, post-doctorate (post-doc) refers to a person who has taken a doctorate, and spends some further time training in research before entering stable employment. Such people may also be

consider not only the employment engaged in immediately after the acquisition of the degree, but also any employment reached after further, post-doctoral study, meaning that education and profession cannot be easily separated.

In other words, there are limits to the analysis of doctoral training, the labor market for doctorate holders, the labor market for researchers and university professors, and the labor market for post-docs, if these are separated from one another. The situation is not explained by the frameworks of theories of traditional professionalism and of the labor market for researchers. This paper seeks to apply data, and recent debates, to these areas, and to clarify and bring a contemporary view of the labor market for doctorate holders.

## **II. Where Are the Problems in the Labor Market for Doctorate Holders?**

### **1. What Is Being Seen in the Market for Doctorate Holders**

Firstly, we need to establish the basic state of the labor market for doctorate holders. There is, however, very little to be understood from the data relating to doctorate holders. Compared to that available in Europe and the U.S., there is simply a significant lack of data. The available fragments of data are concerned with the low rate of employment of people attaining doctoral degrees, and the increase in post-docs.

Figure 1 shows the trend in employment of doctorate holders, immediately after they obtain their degrees. The employment rate among students completing doctoral degrees fell in the 1990s, alongside the increase in students taking doctorates, and had dropped to 54% in 2003. This level was lower, not only than that of master's degree holders, but also of students completing undergraduate programs.

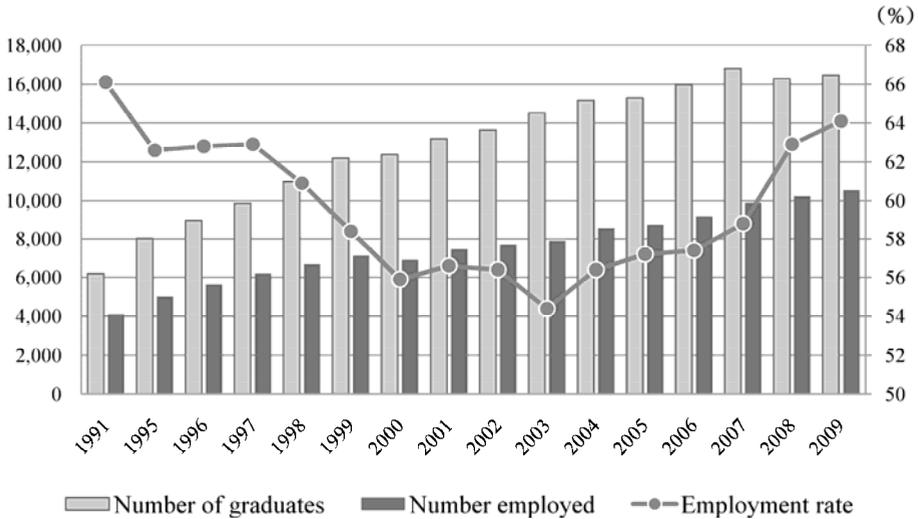
In terms of employers of doctorate holders, since there is not sufficient data within the School Basic Survey, a range of further additional surveys have been carried out. Cumulative data on students completing doctoral programs between FY 2002 and FY 2006 has been published (NISTEP 2009), and shows that 11% of doctorate holders were immediately employed as full-time teaching staff in universities, while 1.4% took up research posts outside universities. 14.7% of doctorate holders entered post-doctoral employment.<sup>4</sup>

The situation for post-doctoral fellows has been surveyed since FY 2005 by the Knowledge Infrastructure Policy Division, Science and Technology Policy Bureau, at the Ministry of Education, Culture, Sports, Science and Technology (MEXT), in cooperation with MEXT's National Institute of Science and Technology Policy (NISTEP), allowing cla-

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referred to as post-doctoral research fellows. In Japan, recently, the numbers of doctorate holders whose initial careers involve part-time research, and of unemployed doctorate holders, are increasing, and there is a tendency to refer to such people also as post-docs. This paper uses the term "post-doc" to refer to people who have obtained a doctorate, and are engaged in research training prior to entering stable employment, including those in part-time or fixed-term posts.

<sup>4</sup> The School Basic Survey and other government official statistics do not include statistical surveys of post-docs in their data relating to doctorate holders.

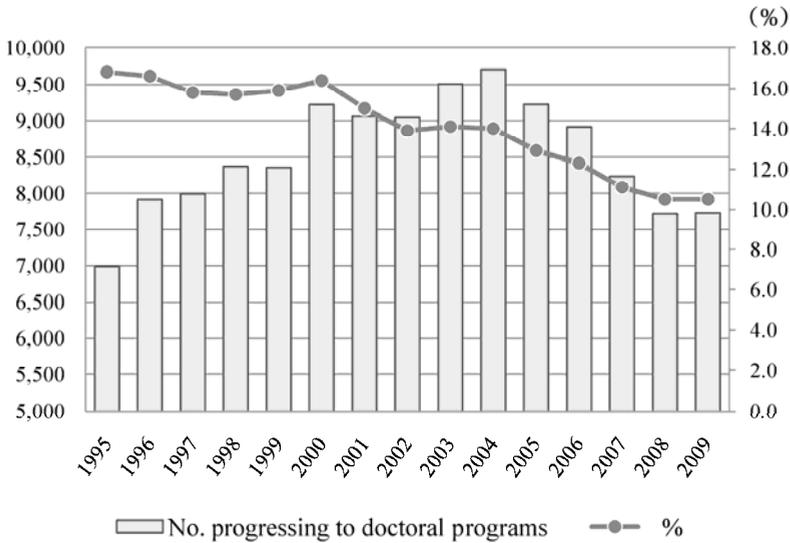


Source: Annual School Basic Survey.

Figure 1. Employment of Doctorate Holders (all subject areas, immediately after completion of degree)

rification of the situation since FY 2004 (NISTEP & Knowledge Infrastructure Policy Division, Science and Technology Policy Bureau, MEXT, 2008). According to this report, the number of post-doctoral fellows in Japan rose from 14,854 to 15,496 and 16,394 respectively between FY 2004 and FY 2006. The number of post-doctoral fellows over the age of 35 is gradually increasing. Divided into areas of research fields, the life sciences represent the largest proportion by far, but the humanities are also significant enough in scale to mean that they cannot be ignored.

Let us take a look at the market for university professors. According to MEXT's survey of teaching staff appointments (part of its School Teachers Survey), among all appointments to university teaching staff (other than transfers between universities) in FY 2006, 14.4% of appointments were of newly graduated staff (including doctorate holders). Newly qualified doctorate holders are clearly a minority within the market for university professor appointments. Past figures, incidentally, show that the proportion was 20.3% in FY 1988, and 17.4% in FY 2000, indicating a falling trend in new doctorate holders being appointed as university teaching staff immediately after graduation. On the other hand, the proportion of appointments to university teaching staff at age 35 or older was 29.3% in FY 1988, 45.2% in FY 2000, and 48.8% in FY 2006, demonstrating that appointees are getting older. In FY 1988, 30.9% of these had prior experience in either the private sector or public service. This figure rose to 33.7% (in FY 2000) but then fell noticeably to 24.1% (in FY 2006).



Source: Annual School Basic Survey.

Figure 2. Progression to Doctoral Programs by Students Completing Master's Programs

This figure could lead to the assumption that increasing numbers of post-docs are being appointed, but there is no data to demonstrate this fact.

Viewed from the supply side, only slightly more than 10% of doctorate holders progress directly to being university teaching staff. This equates to no more than some 10% of appointments. It could be said that post-doctoral work serves as a diversion, but since only 14% of doctoral graduates proceed to post-doctoral studies, even taking into account this “diversion,” it is difficult to see a strong connection between doctoral degree’s program and the market for university teaching staff. In other words, whilst the labor market for doctorate holders and the university professorship market are related, they definitely cannot be seen as the same.

This data not only indicates that even those achieving a doctorate find it difficult to become university professors, but that the overall rate of employment for such people is low, and it is not easy for them to find employment in other industries or professions. This is a serious problem for students thinking about whether to proceed to doctoral programs, and is likely to cause a reduction in the number of students applying for doctorates, since it makes the qualification less attractive. Figure 2 shows the trend in students proceeding from master’s to doctoral programs. The proportion of students entering doctoral programs peaked in 2000, while the number of students peaked in 2004, and both have been in decline ever since.

Multiple theories emerging from this situation. These theories include the ideas that

the scale of doctoral programs has always been too large, or that an expansion in scale of doctoral programs has led to a drop in quality in the students participating in them. Furthermore, in contrast to the labor market for doctorate holders in other countries, it is often said that Japanese companies do not traditionally appreciate the value of a doctorate. On the other hand, we hear from private sector companies that Japanese doctoral programs are strongly biased towards the training of university teaching staff, and that doctorate holders are not suited to careers in the private sector. The need for post-doctoral researchers in the research workforce is also emphasized from the perspective of research enterprises. From the perspective of the individual's career, post-doctoral research can be seen as a process of achieving independence, but on the other hand, it can also be seen as merely playing a role in supply/demand adjustments within the labor market. How should we understand the situation surrounding the labor market for doctorate holders, and the labor market for university professors?

## 2. The Reality of Doctorate Holders throughout the World

Within Japan, it is a common perception that graduate schools in Europe and the U.S.—particularly in the U.S.—are more successful than those in Japan, and that doctorate holders are playing active roles in a range of fields throughout society. It tends to be assumed that the problems discussed above are unique to Japan. This, however, is not necessarily the case. Unemployed doctorate holders and post-docs working under poor employment conditions are sometimes derogatively referred to as “highly educated *freeters*” (*freeter* is a recently-coined Japanese word meaning a young, low-skilled and non-regular worker). In Europe, people in similar situations are referred to sometimes as the “academic proletariat” (EURAB 2002).

The difficulties within the labor market for doctorate holders are similar around the world. Nature Magazine ran a special feature on the problem of doctorate holders around the world in Spring 2011. Taylor (2011) points out that “Most doctoral-education programmes conform to a model defined in European universities during the Middle Ages,” and calls for change or closure (“Reform the Ph.D. system or close it down”). Cyranoski et al. (2011) described the situation surrounding doctoral education in Japan, the U.S., Germany, China and other countries. It is clear that doctoral programs in Japan are in a serious position, and that the outlook within the Japanese doctoral labor market is pessimistic, but this article explains that such problems exist in doctoral programs in many other countries, to a greater or lesser degree. Nature Magazine publishes cutting-edge research, so the inclusion of these articles indicates the extent to which traditional doctoral programs are facing difficulties worldwide, and how unrealistic it is for all doctorate holders to become researchers.

Since 2005, the OECD has been engaged, in cooperation with EUROSTAT and UNESCO, in the Careers for Doctorate Holders (CDH) Project, which aims to collate data on the careers of doctorate holders in formats that allow international comparisons to be

made. There is much of interest in the project's first set of results (data from 2001-2003),<sup>5</sup> published in late 2007 (Auriol 2007).

CDH shows the unemployment rate and inactivity rate (the inactive proportion of the whole population) among doctorate holders. The inactivity rate and unemployment rate among doctorate holders is lower than the average across all educational backgrounds, but not necessarily lower than among graduates of bachelor's degree programs. In fact, the inactivity rate is higher among doctorate holders than among university graduates in Australia, Canada, Germany, and Switzerland. In the U.S., the rate of unemployment among doctorate holders (2.9%) is almost the same as that among bachelor's degree holders (3.0%), while in all of these other countries, the unemployment rate among Ph.Ds is lower than the average for all educational backgrounds, and lower than that among the university graduates.

Doctorate holders work in a broad range of fields. In the U.S., 29.7% of doctorate holders are university teaching staff. In Canada, this figure is even higher, at 37.1%, but these two countries have a high proportion of doctorate holders in university teaching posts, with other countries recording lower figures. In Germany, for example, the same as in Japan, doctorate holders include medical doctors, and therefore the proportion of doctorate holders working in medicine is high, while the percentage in university faculty members is only 6.6% (lower than in Japan). These figures merely reflect differences in the graduate school system, however; there is no particular significance in the scale of the figures. What is important is the fact that there is diversity within the employment of doctorate holders in all countries.

In addition to this, the average age at which doctoral degrees are attained in the U.S. is 36.8 for men and 38.1 for women, which is higher than in Germany (33.2 for men, 32.3 for women). This differs, of course, according to subject, so that in the U.S., for example, the average age at which men become medical doctors is 40.2, while in the social sciences it is 40.1. Students in the U.S. also take the longest to achieve their degrees. The average for men in Canada is 69.0 months, whereas in the U.S. it is 101.1 months (for women, these figures are 72.0 and 103.5 months, respectively).

In the U.S., therefore, not only does it take a long time to achieve a degree, the average age of people taking these degrees is high. This issue is frequently the topic of debate within the U.S. According to long-term data relating to American doctorate holders (Thurgood, Golladay, and Hill 2006), the increase in age of people attaining degrees took place since the 1980s, and has been particularly noticeable in the humanities. Furthermore, the time between graduating with a bachelor's degree and attaining a doctorate averaged 10.6 years, for degrees taken in the late 1990s (9.0 years in engineering, 11.0 years in social sciences, 20.0 years in education, etc.), which is longer than it used to be.

In regard to the relationship between doctorates and the market for university profes-

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<sup>5</sup> CDH implemented further surveys in 2010, and it is anticipated that more detailed survey results will be published in the future.

sors, Nerad and Cerny (1999) have continued with surveys tracing careers of doctorate holders. Within this, the study compiled data on the time taken between attaining a doctorate and receiving tenure, among those of the cohort taking doctorates between July 1982 and June 1985 who became university professors. According to Nerad and Cerny (1999), the age at which students entered graduate school for molecular biology was 22.8, while it was 23.7 for English, and the time required to achieve the degree was 5.9 years in molecular biology but 8.9 years in English. The period of time between receiving the degree and achieving employment on a tenure track was 4.1 years in molecular biology and 1.1 years in English, and the age at which academics achieved tenure track employment was 32.8 in molecular biology, and 33.7 in English. The time taken subsequently to achieve tenure was 6.1 years in molecular biology and 5.9 years in English, and therefore the age at which tenure was achieved was 38.9 in molecular biology and 39.6 in English. In other words, compared to molecular biology, where post-doctoral work subsequent to the completion of a doctorate appears to be becoming the norm, in English, students appear to take longer to attain their degrees, and then enter employment directly after that, rather than engaging in post-doctoral research. For this reason, the age at which academics are hired to a tenure track, and the age at which they actually achieve tenure is roughly the same in both fields.

This data is based on average values, and there is a need for caution, since there can be disparity. While the data shows that some people become university teaching staff immediately after completing a degree, it also suggests that many people are not in this situation. Furthermore, only 18% of doctorate holders in molecular biology and 57% of doctorate holders in English had achieved tenure within 10 years after their degree, while the data shows that a further 16% in molecular biology and 6% in English were still employed on a tenure track. Not everyone who receives a doctorate is able to work in a university in the U.S., and even 10 years later, it is not unusual to find people who are in uncertain employment situations.

What this data shows is not simply that a doctorate is the terminal in the direct linear educational path that runs primary education – secondary education – undergraduate degree – master’s degree – doctorate. It is not, however, necessarily the case that people graduate with a bachelor’s degree or a master’s degree and go straight into a doctorate. In many cases, people walk a somewhat winding road before entering a doctoral program,<sup>6</sup> taking a degree requires time, and there are many diverse potential employers subsequent to the attaining of a doctorate. It is certainly not the case that a doctorate is a “passport to the university professorship market.” Even for those entering the profession, it can take time to actually become a university professor.

In other words, when considering the labor market for doctorate holders, or for uni-

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<sup>6</sup> In the U.S., in addition to people who progress to graduate school after taking an undergraduate degree and then working for a period of time, there are also significant numbers of people who enter Ph.D. programs after completing master’s degrees that are not necessarily designed to lead to doctorates, or graduating from professional schools (Thurgood, Golladay, and Hill 2006).

versity professors, we must not consider only the data relating to what happens immediately after the acquisition of a degree. In Japan, since the School Basic Survey only collects data immediately after the completion of a degree, our understanding has been passed on this information. If we assume, however, that it takes time for the career of a doctorate holder to stabilize, the data from the School Basic Survey may be seen as under-estimating the careers of doctorate holders. This is also the case with small figures in the survey of teaching staff appointments, in which the definition of “new graduates,” makes it seem as though a Ph.D. does not lead to employment as teaching staff. In fact, however, the age of those being hired is increasing, which may suggest that an increasing number of doctorate holders are hired after a lengthy career detour following the completion of a doctoral program.

In order to hold a debate as extensive as that in the U.S. and Europe, we need to collect and analyze data not only from students who have just completed degrees, but also throughout the lifetime of a doctorate holder’s career. At this point, we do not have access to sufficient data of this sort. The aforementioned NISTEP report (2009) offers a small amount of data, however. For example, a large proportion of all students completing doctorates between FY 2002 and FY 2006 were aged 27 or 28, but after that numbers reduce gradually, giving a so-called “long-tailed” distribution, and indicating that there is no defined scope within which the age of doctorate holders is concentrated. The median is 31 years, which is young in comparison with the aforementioned OECD survey. Of those who entered post-doctoral posts on completion of a doctorate, 7% were working full-time as university teaching staff within one year, and 24% within five years. In the meantime, of those who took up non-regular work upon completing a doctorate, 18% were working full-time within one year, and 36% within five years. From this data, we can speculate that initial employment entered by doctorate holders in Japan is often transitional, but that with the passage of time, this employment stabilizes, and a significant number of such people move from post-doctoral training to employment in university teaching.

After all, available data, focusing merely on what happens to Japanese doctorate holders immediately after their graduation, may excessively emphasize the negative aspects, i.e., they have difficulties not only in becoming a university professor but also in finding employment in other industries or professions under circumstances where overall employment rates are low. However, such data is extremely specific and the structure of the labor market for doctorate holders in Japan is, in fact, the same in many ways to that in Europe and that in the U.S.

### **III. Reviewing the Labor Market for Doctorate Holders**

#### **1. The Issue of Post-Docs, and the Diversification of Career Paths for Doctorate Holders**

Even so, there are many problems with the labor market for doctorate holders. In particular, such problems tend to be concentrated, and distorted, within the post-doctoral sector.

There are some differences with post-doc problems, such as the scale, and the period at which they become obvious, but these issues are becoming more important topics of debate in Europe and the U.S., too.

Historically, the U.S. has had a high proportion of post-docs, but the debate occurred first in the UK and Europe. In the UK, policy discussions related to the problem of post-docs first arose in the early 1990s, and as a result a significant amount of experience has been accumulated in this area. The Human Frontier Science Program (HFSP) and the European Science Foundation (ESF) held a conference in November 2001, which identified the fact that in many countries, post-docs were not infrequently treated as long-term temporary workers or “permanent post-docs” with poor remuneration, security and benefits, and called for improvements to this career structure (HFSP 2002). At the same time, the study found that regardless of the relevance or otherwise of their career to research activities, people who had been educated in science and technology were to be found in a broad range of fields, including industry, schools, government, media, business, etc.

Based on the results of this conference, the European Union Research Advisory Board (EURAB) compiled a report on the subject of human resources within science and technology in November 2002 (EURAB 2002). The report warned that graduate students needed to find a bridge to careers other than in research, and stated that in order to do this, students needed systematic training, in subjects including intellectual property, ethics, communication skills, etc. Furthermore, as the number of post-docs increase, the report indicates that not only are poor employment conditions becoming the norm, but also that the number of such posts is increasing, leading to a need for reformation of this system.

In Japan, too, the Committee on Human Resources of MEXT’s Council for Science and Technology referred to the HFSP conference report mentioned above in its second proposal, dated 2003 and entitled “Fostering and Securing Research Personnel to Improve International Competitiveness.” The proposal noted, “There is the need to establish diverse career paths in which doctorate holders are treated appropriately.”

There is little expectation that university teaching posts will significantly increase in any country in the future, and as such there is a tendency to debate the fact that there is an “excess supply” of doctoral students and post-docs. On the other hand, however, post-docs are a vital, central force within research activities, and many people would dispute the idea that there are too many such qualified people, based on an awareness that doctorate holders and post-docs are at the cutting edge of transferring knowledge from the academic research to the industry. Within these opposing debates, the discussion has become one of how to diversify the career paths of doctorate holders, rather than the issue of their employment.

## 2. From a “Pipeline Model” to a “Tree Model”

In the background of this debate regarding the change from employment issues to the issue of diversifying career paths lie changes in the way the labor market for both doctorate holders and university professors is viewed. The underlying theme of the discussions at the

HFSP conference was the change from a “pipeline model to a tree model,” which backs up these theories.

The pipeline model emerged in the 1980s in the U.S., during policy debate and research relating to securing human resources in science and technology for the future. The selection of professions by university and graduate school students, and the selection of fields of study by university students, are key in ensuring both quality and quantity within such human resources in science and technology. The debate began to embrace the idea, however, that an interest in science and technology must be strengthened among children further “upstream,” in elementary and junior high schools. The “pipeline” analogy was used to express this awareness. If the country is to retain scientists and engineers, it is no use to merely widen the pipe at the end, or loosen the valve. Rather, the flow must be increased from upstream. The supply of human resources can be adjusted through opening and closing the valve, but in principle, it is a one-way, cascading flow.

At the HFSP conference, participants expressed objections to this model of training. The pipeline model has as its final objective a small number of academic leaders, and those who leave the field to pursue other areas part way along are considered “failures.” Industry researchers appear to be “imitations” of university professors, and post-docs can appear to be penalized as second-rate human resources. The employment of graduate school students or post-docs seems to come down to how hard each individual works at these issues, and if such a person cannot find employment, it is seen as a sign that they are not capable, or not working hard enough.

In fact, however, it is necessary to understand that the career options for science and technology graduates are more diverse and multi-faceted, and realize that a one-way style of training model is not sufficient, if we are to broaden the range of training given to people in scientific and engineering fields, and respond to the diversification of need within the knowledge-based society, as well as develop careers for young researchers. This is where the metaphor of the “tree” emerges. A tree has roots and branches, as well as a trunk to connect the two, and expresses the fact that people who are educated and trained in different ways may end up in a range of professions (the “leaves”). Those careers may be outside the academic world, and will extend into the non-academic world, in areas such as industry. They may be strongly connected to the worlds of science and technology, or perhaps not so strongly. The “tree” model sees a career path not as a single line or a hierarchy (although there may often be a spiral arrow pointing to the top of the tree), but rather allows for coming and going between a range of professions, and allows a career to be seen as diverse and fluid. This debate has changed the definition of the doctorate holder/post-doc issue from one of training academic researchers, into one of training human resources in a diverse range of fields.

### 3. One Profession, Multiple Careers: Changes in the Career Perspectives of Doctorate Holders

Changes to the view of diversifying career paths for doctorate holders and post-docs, as expressed by the tree model, inevitably require changes in how we view the relevant professions. Typically, this requires a change in the image of university professorships and the research professions. In other words, if we assume a tree model, professorships and research professionals will no longer appear “unique,” but rather become simply one of the potential professions a doctorate holder or post-doc can aspire to, and the scope of range of such professions will expand significantly.

The European Commission Report “Researchers in the European Research Area: One profession, multiple careers” (European Commission 2003) provides a symbolic glimpse of a harmonious blend of diverse knowledge professionals, including doctorate holders, post-docs, university professors and researchers. The report’s subtitle (“One profession, multiple careers”) skillfully expresses the ideal of professional employment for doctorate holders, as symbolized by the tree model.

This sort of awareness of problems is increasing in other arenas. Conventionally, “doctorate holders” have been referred to just as that—an expression of their educational history—but there are now many examples of professions being referred to using names that express “one profession, multiple careers.” The CDH project describes it in this way: “Doctorate holders, being the highest educated group, are considered most likely to contribute to the advancement and diffusion of knowledge and technologies. As such, they often are seen as one of the key actors behind the creation of innovation and knowledge-based economic growth.” The entire picture must be considered—not only those working within the labor markets for doctorate holders or university professors, but also the process of training doctorate holders, and those holders who are active in diverse careers.

The Carnegie Foundation in the U.S. implemented the Carnegie Initiative on the Doctorate, a piece of research into the training offered by graduate schools, which arose from a similar awareness of issues. The resulting publication is entitled “The Formation of Scholars” (Walker et al. 2008). The words “formation” and “scholar” are symbolic here. “Scholar” conventionally means someone with academic knowledge. In this book, however, graduate school education and degrees such as a Ph.D. are considered as waypoints on a journey into a wide range of destinations. Each of these “destinations,” representing a variety of professions, is referred to as becoming a “scholar.” In other words, the professional as a whole is referred to as being a “scholar,” in as much as it represents “one profession, multiple careers.” This is certainly not the traditional meaning of “scholar,” but in fact provides a whole new definition of the term.

The debate within the Carnegie Initiative on the Doctorate reaches as far as the actual attributes of the profession. Doctoral education, which is required to train “scholars,” involves the communication of knowledge that could almost be called “secret arts” and an understanding of moral obligations as well as intellectual obligations. This is represented by

the expression “formation.” “Formation” means not only acquiring specialist knowledge, but also developing the personality of a scholar, and training habits of heart and mind, as well as playing a role in academe and society. In other words, it means acquiring both knowledge and the scholar’s professional identity. This is secondary to the theory of the traditional professions, but a scholar is equivalent to the traditional professions such as a cleric, legal specialist or doctor. They will not have been trained in a professional school, but rather in a graduate school where they were able to acquire a Ph.D.

These discussions all converge in the area of linking educational attainment (in the form of a Ph.D.) to diverse professions, without being restricted to university teaching or research. The concept on which they are based is that of treating a whole range of professional labor markets as a single entity. This is the embodiment of the concept of “one profession, multiple careers,” and provides an alternative image of “professionals” to the traditional view. Through this, we are convinced that the “doctorate holder,” which has conventionally been nothing more than an expression of educational history, is in fact a “professional with a high level of expertise,” equivalent to the traditional professions.

#### **IV. Reviewing the Japanese Doctorate**

##### **1. The Labor Market for Doctorate Holders in Japan**

Even in Japan, the subsequent careers of doctorate holders and post-docs appear to equate to “one profession, multiple careers.” As we have already seen, and similarly in Japan to the situation in Europe and the U.S., there is a significant range of ages at which candidates complete a doctorate, and post-docs are on the increase. The age at which people become university teaching staff is increasing, and rather than becoming a faculty member on completing a doctorate, many people engage in other professions first, only entering teaching at a later stage. Perhaps we should be looking at a person’s professional experience, and their experience during a doctoral program, as joint parts of the composite network that goes to make up the career of a doctorate holder. Figure 3 shows a type of doctorate holder in this style. It assumes that the labor market for doctorate holders, as well as those for researchers and university professors and other labor markets all form the labor market for “one profession, multiple careers.” In Japan, there is an extremely high employment rate for students completing master’s degrees (including those who are employed after completing only the first cycle of a doctoral program), which indicates success within the educational program. As a result, the “recurrent” flow of working adults with a master’s qualification back into education in the form of entry to a doctoral program must be considered. Furthermore, if consideration of the role of students on doctoral programs as researchers is also included, in the wider definition, it is perhaps appropriate to analyze the labor market for doctorate holders as including holders of master’s degrees who may in the future proceed to doctoral programs as part of that overall labor market.

In order to analyze this labor market for doctorate holders, it will be necessary to

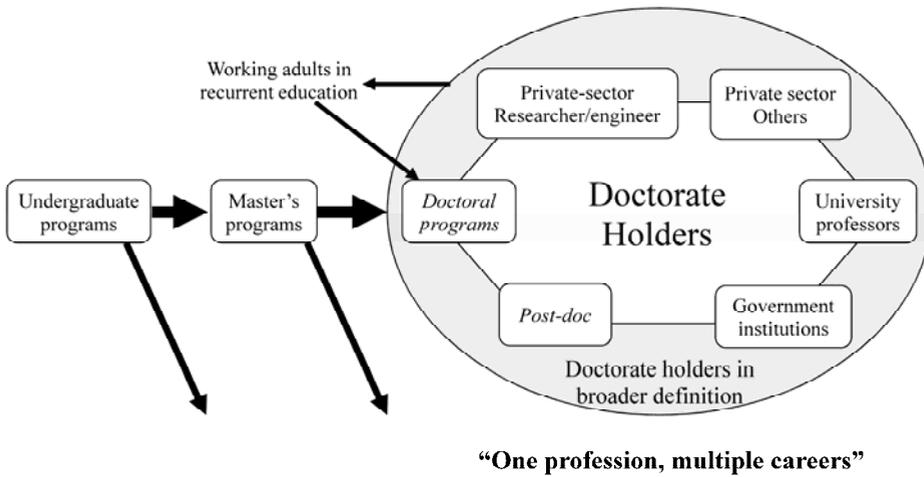


Figure 3. An Alternative Image of Doctorate Holders

collect and analyze data on the entire scope of the careers of doctorate holders in Japan, too. If this can be achieved, we will be able to ascertain the rate of employment of doctorate holders “X” years after completion of their degrees. Unfortunately, no such all-embracing survey has been implemented in Japan, and although fragmentary data is available.

As we have already discussed, the range of ages at which Japanese doctorates are completed shows an extremely broad distribution. Clearly, it can be assumed that part of this is explained by “recurrent” education—people who have entered employment, but then returned to education within a doctorate program. Furthermore, according to the School Basic Survey, 21.7% of students on doctoral programs in 2003 were people who had already had careers—and this had risen to 34.1% in 2008. Analyzed by field of study, a particularly high proportion of working adults had returned to education in the field of healthcare, but there were also high rates of recurrent education within engineering and agriculture. The School Basic Survey only began to release details of how many working adults had returned to education in 2003, but in fact MEXT has been collecting this data since the end of the 1980s, and according to these figures, the proportion of working people in graduate education has been rising since the mid-1990s. By the year 2000, it was already around 15%.

This fact is less due to the concept that a doctorate is the connecting pipe between a master’s degree and a profession, and more an indication that a doctoral program is part of the recurrent educational process that is forming the same human resources pool as pursuing a profession. If this is the case, then it is inappropriate to estimate the proportion of people entering a doctoral program by looking at the rate of direct progression from a master’s course.

## 2. Has the Rate of Progression to Doctoral Courses Fallen?

Fortunately, the School Basic Survey has published the age distribution of people entering doctoral programs since 2003. These figures show a broad distribution in the age ranges of such students. During the five years between FY 2003 and FY 2008, these figures show a distinct rise in age. In other words, rather than entering doctoral programs immediately after completing master's degrees (or undergraduate degrees, in the case of medical or veterinary sciences), it is natural to assume that an increasing number of people are entering doctoral programs at some point during their careers.

In order to consider the rate of entry (progression) to university programs as a part of life-long education, we need to look not at the progression of people from master's program directly into doctoral programs, but rather the entry into further education programs by cohort. Since an accurate, lifelong cohort-based rate of entry is not saturated until relatively high age levels, realistically we will need to estimate the expectation of lifelong rate of entry by calculating the sum of rates of entry according to age at a particular point. In other words:

Suppose that the number of people entering education is  $x_i$  out of a population of  $p_i$  at age  $i$  in year  $t$ ,

$$\text{the expectation of lifelong entry rate (in year } t) = \sum x_i/p_i.$$

That is, the lifelong entry rate in year  $t$  is expected by the sum of  $x_i/p_i$  for all  $i$ . Table 1 shows a collation of the major data estimates.<sup>7</sup>

According to the estimation, there is a high possibility that the rate of progress from master's to doctoral degrees has been underestimated. The percentage of students progressing directly fell 3.6 points in five years—from 14.1% to 10.5%—but the expected lifelong rate of entry to programs fell from 76.8 to 71.5 people per 10,000, which represents a smaller range. Since the units of measurement for direct progression and lifetime entry are not the same, it is difficult to make a direct comparison. For this reason, if we convert both to a rate of change in order to compare them, we see that the direct rate of progression has changed by -0.26, while the expected lifelong rate of entry has changed by -0.07, indicating that the direct progression rate has fallen by a larger amount.

Furthermore, the sudden recent drop in the direct progression rate is thought to have been caused by the future increase in entry by working people, and it is estimated that this phenomenon (the reduction in direct progression) will result in a temporary lowering of the expected lifelong entry rate, until such time as the future increase is reflected in the data. Given this, there is a high possibility that the most recent expected lifelong rate of entry may have been underestimated compared with the lifelong rate of entry by cohort.

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<sup>7</sup> Data collated by age in the School Basic Survey is new and not cumulative. Sufficient scrutiny of estimation methods, therefore, is not possible. At present, these indicators are therefore provisional.

Table 1. Changes in the Major Data Relating to Entry to Doctoral Programs

	2003	2008	FY 2008/ FY 2003	Rate of change between 2003 and 2008*
Number of people entering doctoral programs	18,232	16,271	0.89	-0.11
Number of people entering doctoral programs directly from master's programs	9,507	7,722	0.81	-0.19
Percentage of working adults entering doctoral programs among all entrants	21.7	34.1	1.57	0.57
Percentage of people entering doctoral programs over the age of 30 among all entrants	33.0	40.3	1.22	0.22
Rate of people entering doctoral programs directly from master's programs	14.1	10.5	<b>0.74</b>	<b>-0.26</b>
Expected lifelong entry rate to doctoral programs (per 10,000 people)	76.8	71.5	<b>0.93</b>	<b>-0.07</b>

*Sources:* Estimated from annual School Basic Survey, and the population estimated by the Statistics Bureau, the Ministry of Internal Affairs and Communications.

*Note:* \*Rate of change = (values for FY 2008 – values for FY 2003) / values for FY 2003

Using the rate of change allows analysis of the factors involved in the change. If the rate of lifelong entry  $=\alpha$ , and the rate of direct progression from master's courses  $=\beta$ , then the proportion of direct progression  $\rho=\beta/\alpha$ . Here, we can calculate that  $\beta=\alpha\cdot\rho$ , in other words,  $\Delta\beta/\beta=\Delta\alpha/\alpha+\Delta\rho/\rho$ .

$\alpha$  and  $\beta$  cannot be estimated using the same dimensions, but the rate of change estimated as shown above allows us to show that:

$$\Delta\beta/\beta (-0.26) = \Delta\alpha/\alpha (-0.07) + \Delta\rho/\rho (-0.19)$$

This gives an estimated change of direct progression rate ( $\Delta\rho/\rho$ ) of -0.19. The “change in rate of direct progression” could also be considered to be the “effect of delaying entry to doctoral programs” (by changing the plus and minus sign). As a result, it can be estimated that 73% of the drop in students moving directly from master's to doctoral programs between 2003 and 2008 is explained by the effect of delaying entry to doctoral programs.

This suggests that the view that “the reduced appeal of doctorates is leading to reduced entry to doctoral programs” is not necessarily correct. In the short term, we may be

seeing a certain amount of adjustment in supply and demand in the market for doctorate holders (increase in doctorate holders → difficulty in doctorates finding employment → reduction in people progressing to doctoral programs), but it is not the case that the rate of progression to doctorates has dropped significantly in the true sense. Rather, we must understand that the market for doctorate holders in Japan has been gradually merging into one that equates to “one profession, multiple careers.”

## **V. Doctorate Holders: Professionals in What?**

### **1. Doctorate Holders and Traditional Professionals**

If it is the case that a view of doctorate holders as a new breed of professionals is emerging, then our next problem is to identify the profession attributes that define doctorate holders, and understand what sort of training they should be given. Firstly, let us start by comparing doctorate holders with the traditional professions. The CID report “The Formation of Scholars” states that a “scholar” has the ethos of traditional professions, and sees their training as similar to that within traditional ones. In general, the training of a professional emphasizes the establishment of their identity, and their assimilation to the professional community. In order to be a professional, an intellectual level must be maintained, and behavior in line with the responsibilities of the professional is required. These efforts allow the autonomy of the community, which are acknowledged by society at large. This image of the traditional professional can be applied equally to a scholar.

Aspects that clearly differ from traditional professions include, firstly, qualifications. A doctorate (Ph.D.) is effectively no more than a signpost indicating the holder’s educational history, and is not a professional qualification. It may allow the monopolization of a title, but it does not indicate monopolization of a particular job, and given the range of jobs done by doctorate holders, nor does it define the scope of work that should be monopolized.

Secondly, there is the level of doctorate holders’ sense of belonging. Medical doctors, attorneys and other traditional professionals have a strong sense of affiliation to a particular professional community, which, it is often pointed out, can on occasion surpass their sense of affiliation to the organization for which they work. Doctorate holders, on the other hand, are different to this. Even university professors, who are the traditional doctorate-holding profession, do not tend to have a sense of belonging to their own professional community (academic society) that is greater than their sense of affiliation to a university. University faculty, particularly those who are engaged in research, are traditionally unique in that they have a dual affiliation—to their professional community (academic society) and to the organization for which they work. In other words, before science was included in university curriculums as a result of the academic revolution, scientists were all amateur scientists, and their scientific enterprises had no bearing on their organizational affiliation. As scientists began to choose to work as university professors, however, as part of the academic revolution, they effectively chose to belong both to an academic society and to a university. Uni-

versity professors are “marginal people,” who must, through their activities, hold in balance their affiliations to both academic societies and organizations. This is one of the attributes that differentiate doctorate holders from traditional professionals. Traditional professionals either operate without affiliation to a designated organization, or are affiliated, but even then are able to act relatively independently. Doctorate holders, however, are almost always employed by a designated organization, while also at the same time affiliated to a professional organization (academic society).

## 2. Boundary Organizations and Communities of Practice

This sort of dual affiliation is not necessarily a difficult situation. Guston (2000), has proposed a theory of boundary organizations, which focuses on boundary organizations and boundary work within knowledge production.

Organizational theory frequently refers to the concept of “boundary spanning” (e.g. Daft 2007). This refers to the concept of a person bridging two groups, and people who work in this way are known as “boundary spanners.” This theory, however, looks only at the act of linking two organizations. Boundary organizations and boundary work are more proactive than this. Boundary organizations, and boundary people, who implement boundary work, exist as agents of two principal organizations at the same time. This is the point of interest. Only in cases where this agent operates not in one but both directions will the boundary person exist in a stable state. Put another way, these organizations and this type of boundary work have been developed through history, and have survived selection.

Within the boundaries of science and policy, this debate has been drawn out of analysis of particular organizations that are responsible not only for ensuring scientific correctness, but also appropriate policy (decision making). The basic principles at work, however, apply to the whole arena of intellectual activity. University professors implement teaching and research in universities, but academic societies provide decision-making criteria that allow consideration of whether the contents of that teaching and research are correct and meaningful. In other words, a university professor is required to behave in a way that is considered “correct” by the academic society, as an agent of that society within the university. At the same time, he or she is also required by the university to be an agent of the desired educational and research activities. If university professors are focused only on their academic society activities, they may destroy their principal-agency relationship with the university to which they belong, while at the same time, professors who are not involved at all with the activities of an academic society may invite the same result.

And how about those not employed as professors in universities? Some researchers in public research institutes or private sector companies are active in academic societies, and therefore exist in a similar principal-agency relationship to that of university professors. Other knowledge workers may not be members of academic societies, but we can assume that they have a vague sense of themselves as belonging to the intellectual community. The CID emphasized the cultivation of identity as a professional, including achieving a role

within the community engaging in the scholar's "discipline," in the formation of scholars. These "professional communities" are not necessarily academic societies. We can understand the phrase as encompassing the whole intellectual community in a particular field. This is the same as the way in which university professors may consider themselves as acting within a somewhat vague "academic world," rather than a specific academic society. The intellectual community does not need to have a clear structure, in the way that traditional professional communities do.

The theory of "communities of practice" (Wenger 1998) gives hints in regard to this point. The formation of a community of practice happens through mutual engagement, communal activities, and a scope of knowledge and skills requiring sharing (a specialist field). A community of practice does not necessarily require a name or a clear membership structure. It does, however, provide guidance as to what makes good practice within a particular field of knowledge. It is an extension of the definition of an academic society or professional community.

An example of a community of practice is the sort of "community" that develops via an information network. Communities span companies and departments, and become arenas for the exchange of the knowledge required for work, and regardless of the fact that the work belongs to the company, it is in fact progressed through mutual engagement with the community. Individuals may, in some cases, leave their work in progress so as to supply information to help another person to do his/her job. From the perspective of the organization, the community is a source of knowledge, and is not necessarily something to be eliminated. Individuals, however, must maintain a balance between their work in progress and their engagement with the community.

Intellectual work has many shared attributes and its prototype may be found within the work of a university professor. Doctorate holders differ from traditional professions, and also from workers within traditional organizations. They are a new type of professional.

## **VI. Conclusion**

This paper has introduced the state of the labor market for doctorate holders, who have tended to be considered in excessive supply, and through international comparisons, has shown that the Japanese market for doctorate holders is not particularly unusual. Furthermore, it has introduced the idea that a new view of doctorate holders is emerging, which differs both from the traditional view of doctorate holders and the traditional view of professionals. This new perspective—expressed as "one profession, multiple careers," sees the doctorate not merely as an indication of educational history, but also as significant in identifying a new profession. If we revise our view of the situation in Japan in the light of this, we see that doctorate holders in Japan are also shifting in a similar direction. In conclusion, we offer two points relating to the implications for policy.

The first point relates to the theory of excessive supply of doctorate holders. In addi-

tion to the fact that employment opportunities for doctorate holders are not good, the rate of progression to doctoral programs is falling, with some departments being under-subscribed. For this reason, some people are calling for numbers of places on doctoral programs to be reduced, and the supply of doctorate holders to be more controlled. As discussed in this paper, however, the present statistics may not in fact be appropriate in order to understand the state of employment and professions engaged in by doctorate holders, and as such it is dangerous to judge the situation in the same manner as undergraduate departments. Furthermore, Japan's situation is not particularly bad. Additionally, restricting the number of places on doctoral programs as an over-reaction to the recent falling rate of progression may threaten opportunities for working people to return to recurrent education in the future, and so any response must be considered carefully.

Secondly, there is a theory of separation between the training of academic professionals and researchers and other occupations in the private sector. This debate becomes more confused due to the fact that graduate school systems differ in various countries. In comparison with the U.S., where professional schools train professionals, Japan has only just begun to introduce a professional school system, and it is often said that private-sector researchers and engineers should be trained by professional schools, or that university graduate schools should split off their programs to train academic professionals, and provide separate specialist training programs. Realistically, however, it is not anticipated that the future market for university professors will be particularly large, and since the market for university professors is not closed within academe, and a large number of professors come to universities from other professions, it is thought likely to be difficult to split off the training of academic professionals. More fundamentally, the issue for today is how, instead of professional schools, university graduate schools, which have traditionally existed to train academic professionals, can progress into training doctorate holders to play roles throughout a broad section of society, and not only within universities. Doctorate holders are already evolving into this new type of professional.

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# Career Transitions in the J-League: Theories and Practices of Career Support for Professional Football Players

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This paper examines the issue of career transitions with reference to football players in the Japanese professional football league (J-League) as well as the support systems in the case of J-League Career Support Center (CSC). According to the career transition theory, many changes take place as a result of events and non-events in a variety of realms, including roles, interpersonal relations, daily life, and ways of thinking. To cope with these changes, an individual needs to evaluate usable resources in the framework of 4S system: situation, self, support, and strategy. The Career Support Center, established within the J-League in 2002 for providing official support for the second careers, has focused on services for finding employment and education opportunities to both active players and retiring players. For example, the center has held joint try-outs for players who are out of the club's roster to find new teams, and has provided consultation for career in non-football occupations and higher education. The problems faced by retiring players can be classified into two categories. First is the psychological problem that losing their status as a professional footballer feels to them as though losing their own identity. Second is the technical problem that not only are they unable to imagine their long life after retirement, but also that they lack preparation for planning retirement financially, educationally, and vocationally. No matter how much assistance may be given, nothing will happen if the player himself is unwilling to endeavor for new career. It is important to get the ball rolling by himself.

## I. Introduction

“My feelings became ambivalent. The ‘passion for football’ inside me had changed and, to be honest, I began to think about retiring. It was nothing to do with my age, strength, or body. It was a problem of my feelings. I had always lived my life striving to go higher and move further, but I suddenly felt that I had lost sight of my future....It was an unexpected mental state, even for me. Even though it was my beloved football, I couldn’t get fired up....I felt that I had a responsibility as a professional player. If I continued to play as a professional while having these feelings, it would be disrespectful towards the fans and supporters....I even told my family about my feelings.” (Atsushi Yanagisawa, in *Theory of Breakthrough* [Nakamura and others 2010, 78])

This is the inside story confessed by the footballer Atsushi Yanagisawa (former

member of the Japanese national team) in his decision to transfer from Kashima Antlers to Kyoto Sanga F.C., having experienced successive problems, such as the devastating miss shot in the match of 2006 World Cup, Germany and an injury during the 2007 season.

As is the case of Yanagisawa, everyone experiences major changes and turning points in their working life. The bigger the changes, the harder it is to adapt to them. Behind the glamorous scenes of professional football, the players listed in the professional league must retire from their playing careers at a very young age and find their next ways of living soon. It is for sure that unanticipated, terrible difficulties are waiting for them who experience a major transition from a professional sportsman to another career at an early stage in their life. This paper aims to think about the problem of career transitions with reference to the cases of football players in the Japanese league (J-League). It also learns about the effective career support systems, looking at the case of the J-League Career Support Center (CSC) which has been providing official support for the career related problems to players in Japan.

## **II. Theory of Career Transition**

The theory of career transition (Schlossberg 1981; Schlossberg, Waters, and Goodman 1995) provides many insights not only for academics researching career problems and practitioners providing support and counseling, but also for professional football players facing their turning point of life. Knowledge of career transition theories may be helpful at the very moment when they end athletic career and start new vocational career.

Individuals may feel anxious and upset at the point of career transitions (or milestones of their living), and sometimes may engage in baffling behavior that no one think as sensible. In order to understand such unfathomable things, it is important, first of all, to understand the phenomenon of transition in light of the theory. The cases of career transition differ significantly depending on the individual concerned. Particular circumstances and backgrounds in every person's case make it unique as to say that there is no identical phenomenon in career passage. Nevertheless, transitions can be broadly classified into two types (Schlossberg 2000).

The first category is the transitions that arise from encountering "events." This category can be further classified into "expected transitions" and "unexpected transitions" (Schlossberg, Waters, and Goodman 1995; Guichard and Lenz 2005). "Expected transitions" refers to the major changes resulting from events that usually occur in a person's life (i.e., life events), for example, getting jobs, getting married, becoming a parent, acquiring property, the death of parents, and retirement. On the other hand, "unexpected transitions" refers to the changes of life as a result of unexpected (and, in many cases, unpleasant and unwanted) events, such as serious illness, accidents, corporate restructuring, job transfers overseas, and unwanted promotions.

The second category is "non-events," which indicate the life changes coming from

the fact that what one has been hoping for has not occurred after all. Non-events involve the influence of incidents that did not occur. Failing to get a permanent job, being unable to get married and remaining single, being denied to get promoted, losing the opportunity to acquire property, and not having enough wherewithal for retirement are all example of the second type of transition. Though it is not a sudden change, it insidiously impacts on the individual's life like a body blow.

In the case of professional football players, changes from events, such as retirement and being out of roster, happen sometimes expectedly and sometimes unexpectedly. Non-events such as no appearance in regular season games, being ill-compatible with the manager, and not being selected for the national team are more stressful for those who have sacrificed everything for the unrealized goals and those who have been recognized as football elites.

### III. Three Facts of Career Transitions

Broadly speaking, three facts have been derived in transition theory (Guichard and Lenz 2005). Firstly, everyone experiences some kind of transition in their career that alters considerably the roles taken by individuals, their relationships with others, their everyday activities, and their ways of thinking. Transition may overturn life and lifestyle up to the point that he/she needs to start new life from the beginning. Major changes arise in a variety of realms, including (i) roles, (ii) relationships, (iii) routines, and (iv) assumptions (Schlossberg 2000). The bigger those changes, the greater the impact on the persons and those around them, and the longer the time required for them to get over and move forward.

The second fact is that the duration and reaction to the transition differ according to the period (timing) of changes. When initially facing a transition, people are drained by the new roles that they need to take on in the future, e.g., an unemployed person, father or mother, retiree, and widow or widower. Eventually, individuals break free of their previous roles and are able to accept the new roles. They go back and forth between those two roles in the process of adapting to the new situation. It takes commensurate amount of time until they can say farewell to the past, separate themselves from the past roles and relationships with others, and give up the familiar way of looking at things (assumptions) and everyday activities (routines). While some people overcome the transition instantaneously, most people take a number of years till they get over the physical and psychological difficulties caused by the career changes. All they can do is just wait until time heals the metaphorical wounds.

Bridges (1980) has modeled the transition process on the basis of three steps: (i) end → (ii) neutral zone → (iii) beginning. The most distinctive concept in his theory is the notion of neutral zone: a psychological state of uncertainty being neither one thing nor the other, that lies between the ending phase in which one regrets what has ended already and the beginning phase that one moves on, perceives the change in a positive manner, and be-

gins something new. The neutral zone shows the ambivalent situation in which one is swayed by emotions at both extremes: “I want to continue as I am” and “I want to change.”

The hiatus between the end and the beginning is the period of hesitation. The individual cannot go back even if he/she looks back over the past with regret, or does not know which direction to go. The person stops, hesitates, and frequently experiences a feeling of futility. Tanaka-Oulevey (2005) points out that things do not go well to the ex-elite athletes at the transition to the next career, since athletes cannot deal with properly the strong sense of loss that they aren't players any longer. This often occurs in those who strongly identify themselves as athletic contestants. She lists the following five as the typical responses demonstrated by athletes when they retire:

- (i) Emptiness by the loss of value gained from competition: feelings of desolation about the past that they can no longer experience the cheers of spectators, the thrill and excitement of victory, and the sense of unity with team-mates.
- (ii) The loss of identity: the faltering of their own *raison d'être* and identity following the end of player status.
- (iii) Anger about their retirement: (sometimes misdirected or unfocused) feelings of anger that arise at the unexpected, forced retirement in such cases as injury and being out of player's list.
- (iv) Anxiety about the future: a strong sense of uncertainty about the future that arises from the fact that they had been dedicated to competition and had neglected preparations outside their sporting career.
- (v) Despondency about the vanishing of special status: Mental stresses brought about by losing their special status as “player xxx” and starting a new career as a rookie.

Everybody experiences negative emotions in the “neutral zone,” consciously or unconsciously. Properly getting rid of negative emotions in this phase becomes the first step toward making a fresh start. With the flourishing of positive psychology today, the field of career transition is still dominated by negative psychology.

Thirdly, though transitions may appear to be the same outwardly, different people have different ways of coping with them. Even a single person copes well with one transition and does poorly in the next transition. Effective ways of coping vary according to the individual, the timing, and the circumstances.

On the premise that a career is stable, the career stage theory (Super 1957; Hall 1976; Levinson 1978) has postulated that there is a certain pattern in career that is common to all people. However, this conventional approach is not always applicable to the phenomena of transition. The situation is so unique and highly specific to the individual that it is hardly successful to put together a universal, general picture of transition unless one excludes the detailed aspects and increases the level of abstraction quite considerably. No pattern sometimes means no preparation. Therefore, it is not so easy to make plans for transition as to

purchase insurance in advance.

#### IV. The 4S System for Coping

To educate young people for coping with career transitions in advance, centers for providing career support are established in the J-League, as well as in universities and other educational institutions. Despite that those centers have provided career education seriously, in most cases, people get set for transitions after something has happened. Even if the staff at the J-League Career Support Center explain young players time and again that mental preparations for a second career are necessary, and even if professors teach the first-year students about the necessity of developing career and occupational image in four years' time, it has no impact on them because they are not yet facing the issue.

In order to handle with the career transition in a systematic fashion, even in an *ex post facto* action, what is needed is a system of coping. The coping system is a network of resources that can be utilized for coping in a specific circumstance. If one does not take the unique circumstances into consideration, the coping strategy can end up being irrelevant.

Schlossberg, Waters, and Goodman (1995) stated that, in order to cope with the changes that occur as a result of transitions, it is helpful to use the framework of 4S System that can evaluate specific cases and identify resources for coping. The 4S System consists of the following four elements:

- (i) **Situation:** The individual faces the specific situation in a transition. The timing of the transition, causes, duration of impact, and past experiences in similar situations will differ depending on the person. It is fair to say that coping begins after the situational factors have been properly evaluated. Because the situational factors are sometimes thought as outside and beyond of one's reach, it is important to assess the degree to which the situation can be in control of oneself.
- (ii) **Self:** This represents the attributes of the individual who is coping with a transition. Environmental factors (situation) and personal factors (self) interact to give rise to the actual effect. So, it is necessary to undertake a proper evaluation in the individual side, too. The economic circumstances of the family, gender, age, and state of health, all significantly alter the way in which an individual copes with the transition. Moreover, from the perspective of counselors, an understanding of personality traits, e.g., optimism, tenacity, perseverance with anxiety, and personal values, impacts upon whether or not the individual copes well with the situation.
- (iii) **Support:** The individual can utilize diverse support from outside, e.g., family, friends, community, organizations, and third-party institutions. If there is no support available from those around the person, he/she may lapse into a state of helplessness, that makes coping even more difficult. According to the theory of social support, people around person can provide four types of assistance (House 1981):



Source: Compiled by the authors with reference to Schlossberg, Waters, and Goodman (1995).

Figure 1. The 4S Model of Career Transitions

- (a) emotional support, which involves keeping ears open to their complaints, consoling them, listening to what they say, and providing emotional assistance; (b) appraisal support, that provides criteria for judging whether or not the individual's behavior will be permitted by society, and whether it is right or wrong; (c) instrumental support, that includes substantial actions such as lending money when necessary, assisting with chores, and doing things on behalf of the individual; and (d) informational support, that provides helpful information, such as where and what kind of opportunities can be available. Because one person or one institution cannot provide all of these supports, it is important to make use of different people or institutions for different purposes.
- (iv) Strategy: This represents the approach or way of thinking adopted to coping. In general, one can alleviate stress from transition, if he/she can control the situation by re-evaluating it and utilizing various actions strategically. Because there is no one best way or no panacea for coping, it is important to have a good balance of diverse strategies. Like traditional Chinese medicine, the only way for dealing with the problem is to find the medicine that suits one's own body.

Figure 1 shows the 4S model that exhibits the flow from facing the transition, through

evaluating the resources, to coping with the problem.

Thus far, the article has focused on the theoretical side of career tradition. Let us leave the theory here and move on to the case of J-League's support for career transition. The next section will take a look at the history of professional football in Japan, followed by the description of activities undertaken by the Career Support Center in the J-League and the state of players who receive support. We would then like to provide hints regarding the actions taken by players in transition and support provided by those around them.

## **V. The History of Professional Football in Japan**

The Japan Soccer League (JSL), the predecessor of the J-League, was born in 1965. Many teams were established in that period for the purpose of raising the morale of company employees, and continued their sport activities as corporate organizations, rather than as sport clubs or community institutions. As the competitiveness between teams increased thereafter, an impetus for the professionalization bore down on the society of Japanese football. The fact that professional footballers were permitted to participate in the 1984 Los Angeles Olympics spurred on the tide of professionalization as well.

The history of professional football in Japan is generally thought to have begun with the birth of J-League in May 1993. This isn't correct, however. The movement towards the professional players had actually begun in 1985, eight years earlier than the beginning of the J-League.

Nineteen eighty five was the year when Yasuhiko Okudera, who played as a professional footballer in West Germany for nine years and had decided to return to his former team of Furukawa Electric (currently known as JEF United Chiba), and Kazushi Kimura, who had been a driving force in domestic footballing circles as a player on the Japanese national team and the Nissan Motors team (currently known as Yokohama F. Marinos), had their registration as "special licensed players (LP)" approved by the Japan Football Association. This means that both players could play football full-time and receive an income from it. The following year, when they registered as professional players for the 1986-87 season of the Japan Soccer League (JSL), marked the beginning of professional footballers in Japan.

The occupation of professional football player in Japan began in 1985 with only two qualifiers. When curtain rose on the J-League in 1993, the number of people with this occupation was in excess of 300, and by 2008 that figure had risen to more than 1,000. As the number of teams increases, the number of professional players increases. Since the establishment of the Career Support Center, more than 100 players each year have been cancelled their registration with the league and have lost their status as professional footballers. However, when the J-League was first founded, there was no third-party institution that supports players who have been compelled to search for a new occupation.

In 1996, three years after the J-League got underway, the J-League Pro-Footballers

Association (JPA at the time; currently known as the Japan Pro-Footballers Association, or JPFA) was established as a self-governing organization for players. The JPA, which was an organization for players, deployed its activities according to three principles, namely (i) aiming to develop and promote football culture; (ii) conducting activities that contribute to the society; and (iii) striving to improve the environment surrounding professional footballers. Taking the nature of players' association into account, "improving the environment surrounding professional footballers" is an important principle in the sense of supporting player's career after retirement. From the time of its founding, the JPA actively disseminated information about careers after retirement, reporting specific cases of retired England players in its newsletter.

In the JPA's survey in 1999, the percentage of players who responded to the question "Are you anxious about the life after retirement?" approached 90%, highlighting the anxieties of footballers with regard to their life after retirement and second careers. Professionalization meant the disappearance of traditional career path like becoming an employee of the parent company after retiring from playing career and dedicating oneself to the company's business. Now, professional players were compelled to acquire the new career paths and employment opportunities after retirement. At that time, efforts in this direction were left up to the individual totally.

The biggest issue was securing a new occupation to replace football. Unfortunately, there was no expert who can handle with this problem in the football society. The J-League considered the establishment of the Career Support Center within the league in order to acquire personnel with the expert knowledge and skills and to provide career support to football players.

A second career is an issue relating to the career prospects in the player's side. In other countries, it is the responsibility of players' associations to take initiative in implementing support activities. However, in the case of the J-League, due to the fact that only nine years had passed since its foundation, the J-League, which controls the league and clubs, took actions on behalf of the players' association.

In April 2002, the Career Support Center (CSC) was established as a department in the Japan Professional Football League (J-League). The CSC began its activities with the budget that was derived from 4% levy of the transfer fees accrued when players moved to other clubs (at that time).

## **VI. The Role of the Career Support Center in the J-League**

What is the role of the Career Support Center? To put it in simple terms, it is "the bridge linking the player and society." Most professional players began football at a young age. Spending a tremendous amount of time and effort on their training and surviving intense competition, only a very small number are able to obtain the occupation of a professional footballer. Because they had dedicated too much to taking the position of profession-

als, in almost all cases, they lack preparation for their long life after retirement.

The major difference in player's mind before and after the inception of the professional league relates to the idea that a footballer is a profession or not. Most of the players in the days of the Japan Soccer League and the opening of the J-League never conceived that a professional league would emerge in Japan and that they could earn their living as a footballer. To be a Pro might be the story in overseas. Within Japan, it was unrealistic to see that football could be an occupation.

Consequently, the basic attitude of players at that time was that football was a route for an employment in a company. Even if they were recruited as a footballer at a company, keeping a job opportunity in that company was one of the major concerns when making a career choice.

In the year when the J-League celebrated its ninth birthday, the CSC was founded in order to provide support in finding jobs and educational opportunities to players who are about to face a career transition. Placing "career support for players" at the forefront, the CSC started such activities as providing job information, financial support for acquiring foreign language and PC skills, and internship opportunities during the off-season. The center focused on tangible support that helped professional footballers get an employment outside the football league.

There was no organization prior to the CSC that players could call for assistance. Even if they had career problems and retirement plans to be discussed, they were unable to obtain an objective, expert advice for possibilities of employment outside of football. Therefore, the establishment of the CSC was a major leap for the career transitions among professional footballers. Thereafter, taking the J-League initiative as a point of reference, similar organizations were established in rapid succession in other sports, such as the Nippon Professional Baseball Organization (NPB) Second Career Support Program in 2007 and the Japan Olympic Committee (JOC) Career Academy in 2008. These are the evidences of the J-League's foresight and advancement in terms of career support.

## **VII. Activities for the Athletic Career Support**

The CSC provided support in finding employment and educational opportunities for both currently active players and retired (and retiring) players. When it initially commenced its services, many players believed that "it still is not relevant to me at present." They had the image that "the CSC is an organization for helping retired players acquire a second career." The expression "employment support" tended to be perceived as the support for acquiring a new occupation after retirement. The staffs of CSC realized these facts, thus approached active players with the message "how we can prolong your career as a professional footballer."

The concerns of lineup players are focused on the success as a professional footballer. In the middle of the season, the CSC staffs explained "how difficult to be a J-League play-

er,” based on the figures calculated from the number of registered professionals out of total number of players in Japan, trying to re-evaluate the value of J-League players. Moreover, the staffs interviewed “what the term ‘professional’ means to you” to top athletes in other sports and compiled an educational movie with the title “Living as a Professional.” This movie tried to improve the professionalism of J-League players by the real voices of athletes in other sports. It communicated that players should concentrate on the current role as professional footballers from the cycle of Plan-Do-Check-Act, rather than make general preparation for unanticipated retirement during the playing season. In fact, the movie exerted a major impact on players as well as staffs of J-League clubs. The messages from professional athletes were accepted favorably, and the movies were made several times.

On the other hand, to players who were informed to be out of players list, the center maintained its original position of supporting them by providing sincere career guidance. More specifically, the CSC staffs built relationships with players in places like clubhouses and training fields throughout the season. Based on such personal relationships, the staffs made direct contact to players when notice of no further contracts was disclosed for the following year. The staffs worked hard to gain understanding of player’s current situation and of desired career paths for the future. If appropriate, they tried to have a meeting in person to provide face-to-face counseling to the player.

From its establishment in 2002, the CSC worked cooperatively with the players association to hold the “joint J-League try-outs” as a tangible aid for those who wish to play in other team and to keep the football career in the league. Until that point, those players often contacted to other clubs for trials on personal bases after receiving a notice of contract termination. It was common that the dates for trails overlapped in two or three clubs. Moreover, taking a try-out at another club was viewed as a new job-hunting activity during the contracted year, and was counted as the unofficial activity for the affiliated club. It placed a great burden on players financially and psychologically.

Since 2002, the joint try-outs have been positioned as official J-League events, so if a player were injured in try-outs, the club had to deal with the case on the contracted agreement. The coordinated try-outs have made job-searching opportunities efficient in the professional footballer market and certainly beneficial both for clubs and for players. Gradually, the try-outs have been recognized as an opportunity for gathering transition players in one place and meeting with scouts and contract managers of most J-League clubs, spreading the idea that “if you want to keep playing, go to the try-outs first.”

In the beginning, however, many players possessed negative impressions on the joint try-outs. Numerous media rushed in the event to report the cases of famous players failed to renew their contracts as a symbolic metaphor of corporate restructuring prevailing in Japan. Many hesitated to participate in the event even they knew that it opened new employment opportunities to them.

Players who received no-contract notification have minimum time to recover from that shock but prepare for the try-outs quickly. Naturally, they are not in the mood for

thinking about the next career. If they fail to attract interests from other clubs at the try-outs and find no other way but retirement, it is the timing that CSC staffs finally approach them for personal interviews.

The second form of support is the guidance for higher education. The main target of this educational support is the high school graduates who contracted straightaway. Apportionment for correspondence education in famous private universities has been secured for currently-active players and players facing retirement, thereby broadening opportunities for receiving post-high school education during playing seasons. In addition, the CSC has distributed information concerning universities that accept retired J-League players via a special admission quota. Those universities perceived it as an excellent opportunity to improve visibility to high school students, as well as the chance to strengthen college football teams. Some ex-players who have college degrees obtained coaching positions in academia.

The CSC provided other forms of support including alumni meetings where active players got together with retired football players and athletes in other sports to share their experiences. Financial supports for acquiring computer skills, business etiquette, and English communication, as well as internships (miniature work experience) during the off-season were the activities that worked out for expanding career skills.

### **VIII. Attitudes of J-League Players to the Career Support**

When the CSC was initially founded, the heaviest time and efforts were allowed to let players understand the objectives and services of the CSC, to put them as the “leading actors” of the career transition, and to build trustful relationships with them. The staffs visited all of the clubs and gave explanations of the CSC’s objectives and activities in formal presentation and casual conversation between practice sessions in each club.

However, there were antagonistic feelings toward the CSC. Because the center was founded for “providing career support for players facing retirement,” active players right in the middle of the season felt as if showing interests in the services and listening to what the staff said were the foretoken of unpleasant fate of retirement. At that time, many players demonstrated a disagreeable attitude and gave off an impression implying that “It’s none of my business.” In fact, the CSC staffs heard opinions from players like: “It’s better to think about career just on the verge of retiring,” and “Why don’t you give support when we are actually facing retirement?”

On the other hand, even if they were superficially indifferent, the players who were harboring subconscious anxieties welcomed this chance and took initiatives on their side to seek for career guidance and consultations. When the CSC’s staff visited clubs and explained past activities and new plans, some players called for advice on that site, and some got in touch via e-mail later on. Until the birth of CSC, discussions regarding retirement and future plans were commonly put under restraint in a very limited range of relationships, e.g., mentors/teachers in former high school or college, parents, and close friends. Undoubtedly,

the fact that the CSC launched support for second career problems as the third party and disseminated information officially and honestly brought a refreshing surprise to the players.

It was known from the JPA survey that the majority of players felt anxious about the post-professional life. Is it better to think about retirement in advance from days of active players, or to focus on the fierce competition in front of them and wait to do so till the time comes? The CSC activities disclosed the unnoticed, yet serious challenge of designing post-retirement careers to the minds of professional players.

## **IX. Problems of Athletic Career Transitions**

To most players, the fact that they were unable to renew their contract is too tough to accept it. The psychological damage of losing status is often so high as to hardly conceal its shock. Therefore, when providing career support, it is necessary for the CSC to communicate with players having an empathy that they are in a devastated mental condition as to refuse support from the third party.

The second author (Shigeno) was once affiliated to J-League clubs as a professional footballer, and twice had the experience of contract termination. In the first time, though he expected it in advance, he felt not small sense of oppression when he actually received the notification. The second time was completely unexpected, because he had appeared in half of regular season games and felt confident in his record. He almost lost his memory because the shock was too strong to handle consciously. The notification was informed in just a few seconds, but he couldn't restore clear memory of the scene. He was unable to get what the person in front of his very eyes was saying and, though superficially calm, found it difficult to understand the circumstance for a while. What is worse, he suddenly suffered from acute emphyema and stomach ache and lost weight around 15 pounds in a week.

In order to understand the player's mental state accurately, the career advisor needs to take the strategy of active listening, rather than traditional approach of giving advice. Because players are highly sensitive to the notice of discharge and retirement, no matter how much the CSC staff may publicise their help and assistance, players won't talk about the sensitive issues truthfully unless having trustful personal relationships with the advisor. The introduction to CSC's principles and services during the season is only a port of entry activity to open doors to players who need to find a new occupation, functioning as the resort in case of need.

The acceptance of CSC services was facilitated by the fact that former players who shared values of the football community took the role of expert career advisors. In supporting the players, the CSC provided only information relevant to their circumstances and waived to seek job opening till the player requested to do so. From the second author's own case of athletic retirement and the experience as the career advisor working with the fellow players, he is keenly aware that no matter how much people around the player push him to

go ahead, nothing will change unless the player himself is willing to change. The greatest support is to give the player a clue and impetus to get the ball rolling by himself. Restraining the good will to offer a helping hand and taking a position of stay is the best strategy for the true help. Paradoxically, for professional footballers who are always at the center of attention, true support does not mean to give but withhold a helping hand.

Broadly speaking, players anticipating retirement may face two types of problems. The first is the psychological problem that losing status as a professional footballer feels to them as if losing their own identity. Outwardly, it is a loss of major source of income that is indispensable to secure their living. Yet psychological loss is more serious than that.

The second author lost his position as a professional player just in three years. After the long years of efforts sacrificing almost everything in his life to the point, it was like a nightmare fell over him suddenly. He dropped in the maze of life for several years, worrying and wondering what to do in the future as the lay person with football skills only.

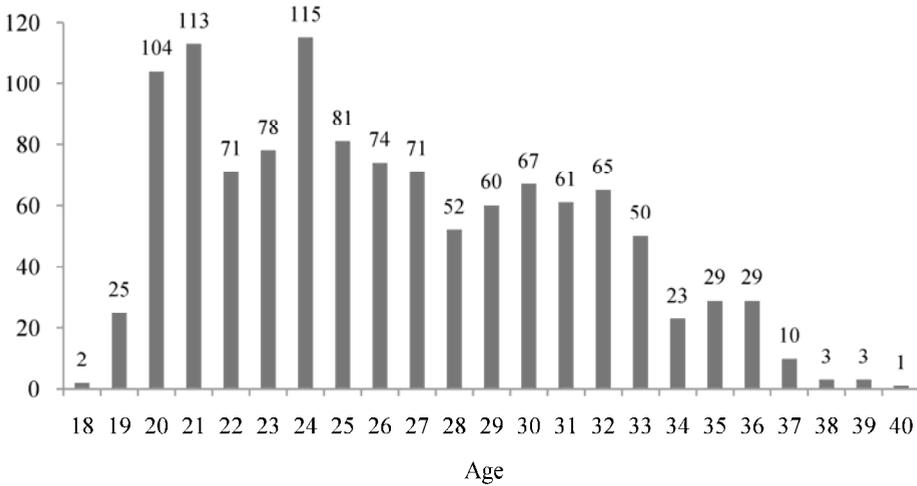
Majority of professional footballers are the football elites having no experience of substitutes at high school age. Once joined in a professional team, they may experience hardships that have never happened in their elite career, for example, failing to hold starter positions and being out of roster instantly. Recovering from those incidents requires an inconceivable level of pains.

Most of the footballers in the J-League have dreamt of becoming professionals since their childhood. It is regrettable that the “completion” of childhood dream sometimes hinders from moving forward in their subsequent career. An early death of realized dreams makes the footballer’s problem more complex.

Every year since the establishment of the CSC, the number of players who lose membership with the league at the end of the year has reached in excess of 100. The average age of terminated players is around 26 (see Figure 2). For a typical J-League player who signs a professional contract at the graduation of high school (age 18), their average lifespan as a professional footballer may be as short as eight years. To borrow the words of the footballer Kenta Kano (Yokohama F. Marinos), the life of footballer is something like:

“For players who turned to professional straightaway from the high school, it is often said that the third season is the year of showdown. In three years, you will be ready for the game. If you cannot take a starting line-up by that point, the team won’t put you in the system any longer. There will be no fourth year....” (Kenta Kano, in *Theory of Breakthrough* [Nakamura and others 2010, 233–34])

For most of the players whose contract comes to a dead-end, the number of appearances in regular season games may be zero or in single digit. Those who are in reserve regularly may predict a career crisis at the very early stage. In many cases, it is so stressful that total body and soul get out of condition.



Source: J-League Career Support Center.

Figure 2. Number of J-League Players Whose Registration Has Been Cancelled (2002–2009)

The second problem is more technical in nature. Not only are they unable to envisage their long life after retirement, but also that they lack preparation for planning retirement financially, educationally, and vocationally. Because players have spent almost all time to football since childhood and walked on the “route to football” without looking aside, they sometimes have no prior experience to work on the part-time basis or no clear image of earning a living. They attach less importance to education and occasionally perform poorly at school. Saving and investing money are out of their interests. Accordingly, it is a big challenge for them to develop a new vision for the long life after retirement and to acquire new skills that help them to obtain employment, such as computer skills, business etiquette, and English communication.

## X. In Order to Survive the Transition Happily

According to Ben-Shahar (2007), the happiness from goal achievement does not last long. The feeling of relieved and relaxed after crossing the finish line is a fleeting sense of freedom that there is no need to bear on hardship any longer, and people sometimes mistake it for bliss. Clear goals like “becoming a professional football player,” “taking a league title,” and “being selected in the national team,” compel self-sacrifice naturally. Activities of personal interest and fun may change into the subjects of patience and sacrifice. Many times, we can hear athletes say “I’ll hold everything out until I achieve my goal. All daily activi-

ties become a means of goal accomplishment.” However, the euphoria of having a status of Pro’s and the joy of victory are unexpectedly short-lived. Players are heavily involved in perpetual competition for winning the goals, then unable to enjoy their happiness after attaining goals at last.

To be in a state of happiness, it is necessary to alter the tragic sense of self-sacrifice for noble objectives and taste the joyful sense in beautiful daily life without feeling guilty. This does not mean abandoning oneself to pleasure, but rather living whilst enjoying one’s current activity and feeling linkage to the future. To put it another way, it involves striking a balance between instrumental benefits that lead to future goal attainment and teleological benefits that focus on enjoying happiness in the present.

In the period of major career transitions, or in “the neutral zone” (Bridges 1980), the feeling of emptiness resulting from goal disappearance exerts a highly detrimental effect on typical athletes who tend to engage in goal-oriented activities. Being in a state of “object loss” can delay coping with the transition.

Conducting a qualitative study of second career through interviews with J-League players, Takahashi (2010) suggested that during career transition phases, three skills are required in the sequential order: (i) conceptual skills (general design and vision for a career) → (ii) human skills (skills for interpersonal relationships and formation of personal networks) → (iii) technical skills (job-related knowledge and skills required to get employed). In the initial stages of a career transition when players are overwhelmed by the shock, the most urgent issue is to develop a concept or vision that can clarify the direction of their own career. The practices of CSC emphasized the conceptual skills as well.

More than anything else, it is essential for people in transition to have spontaneity and actions on own initiatives to survive independently. Daisuke Nasu, player of Jubilo Iwata and the captain of Japan’s team at the Athens Olympics, exhibits the positive attitude of J-League players who hang in there in all situations. His word echoes forcefully in the ears of people who are facing a career transition as well.

“It’s not only footballers who have good times and bad times, but everyone does. The important thing is, what you feel and what actions you take in bad times. It is a preparation for the next step. If you have energy to link your feelings of depression or frustration to the next step and to take action, you’ll be able to get something.” (Daisuke Nasu, in *Theory of Breakthrough* [Nakamura and others 2010, 153])

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# The Legal Issues Surrounding Professionals in Relation to Labor Law

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Workers are those who work subordinate to the orders of employers (subordinated labor), and who earn a wage and live on this income. The image of such workers could be considered to be in contrast to so-called professionals, who work autonomously, earning a high wage along with high levels of economic and social standards. Given their position, profession and attributes, professionals were seldom recognized as ordinary workers. Professionals include those to be categorized as workers and those not. In this paper, we initially consider the characteristics of a worker within the professional. The criteria for identifying “worker characteristics” is related to whether the professional in question is subordinate to an employer, and has no relation to their actual type of profession. In this paper, the various problems within labor law as it relates to professionals who are also workers are illustrated through examples of the working hours of doctors, and the dismissal of professionals.

## I. Introduction

### 1. The Meaning of “Professional”

When writing a paper on law, it is important to first define the terms being used therein. In this paper, it is therefore necessary to define what we mean by “professional,” since the term “professional” is ambiguous.

The word “professional” is often used to express the opposite meaning to “amateur,” for example in the terms “amateur” or “professional” musician, or “amateur” or “professional” sportsperson. In comparison with a professional musician, who makes their living from music, an amateur musician in general does not work in the music profession. A professional sportsperson, similarly, makes their living from sport. Among amateur athletes, however, there are frequent examples whose paid work is within the sporting industry. Amateur athletes may also be company employees, or have other professions that are outside of sport entirely.

“Professional” can also be used as a term to describe people with high levels of specialist or unusual abilities and/or skills. A very limited number of people with special abilities or skills are known as “professionals.” In the case of medical doctors, for example, these abilities are developed in a specialist training program, and only those who have undertaken this program and passed a state qualification may practice in the field of medicine. People with such a qualification are professionals. In the same way, there is no doubt that lawyers are professionals. The high level of their specialization demonstrates the fact that they are exclusively qualified to engage in their work. In addition to doctors and lawyers, there are many other professions that require high levels of skill and the passing of a state qualification, but it is difficult to draw a line above which such people would be referred to

as “professional.” Perhaps it is not right to judge whether someone is a “professional” or not by whether they have a particular qualification or work in a particular profession. University teachers, for example, are assumed to have high-level skills, and it is by no means easy to gain employment in this field, but it is doubtful whether all such personnel could be referred to as “professionals.” It is easier for people working in the fields of mechanical and technical engineering to gain employment than it is, for example, for a doctor or a lawyer. Becoming a mechanical or technical engineer with specialist skills, however, requires many years of experience and good instincts. Engineers with such specialist skills are undoubtedly worthy of being called “professionals.”

## 2. Scope of This Paper

As pointed out above, the term “professional” is ambiguous and easily misinterpreted. In this paper, the term is used to refer to the professions that are recognized as “professional” by society as a whole.

There are some cases where legal problems may arise in regard to the period of time, hours, location, remuneration, contract termination, or other issues relating to how a “professional” executes his or her profession. The issue to be dealt with by this paper is that of problems relating to labor law, and as such, the scope of this paper is restricted to those professionals to whom labor law applies, in other words those professionals acknowledged as having the characteristics of a worker.

Let me give an example. When a musical theater puts on a performance of an opera, a diverse team of opera singers, the choir, the orchestra, stage staff, costume staff, hair and makeup artists, etc., work together to create the production. They are not amateurs, nor are they working on the project as a hobby. They are participating in the team as professionals. Obviously, they have their own individual artistic skills and techniques, such as singing or playing. From that perspective, they are all professionals.

The American Metropolitan Opera performed in Japan in June, but sadly, opera stars Anna Netrebko and Jonas Kaufmann cancelled their performances. Stars such as they are not exclusively attached to the Metropolitan Opera, but enter into contracts with opera houses throughout the world. They are paid large sums to perform on stage. The legal basis for their performances is a concluded performance contract (contract for work), and not a contract of employment. In comparison to this, the ensemble members and costume staff are more strongly affiliated to the organization, and the probability that they have an employment contract with the opera company is high.

As can be seen here, there are professionals who are not workers, and those who can be described as workers. Whether or not a professional is also a worker depends on the type and contents of the contract that person holds, and on the relationship he or she has with the contracting party (their employer or the person placing an order with them). The definition is unrelated to the type of profession in which they are engaged, or their professional level of specialization or abilities.

Subsequently, we will consider the worker characteristics of a professional (II). As examples of the labor law problems faced by professionals who are also workers, we will look at the working hours of doctors (III) and the dismissal of professionals (IV).

## II. Characteristics of a Worker

### 1. General Remarks

Workers are subject to labor laws and regulations, and at the same time are protected by such labor laws and regulations. The characteristics of a worker differ slightly depending on the applicable labor laws and regulations.

Article 9 of the Labor Standards Act states that a worker is “one who is employed at an enterprise or office [...] and receives wages therefrom, without regard to the kind of occupation.” The characteristics of a worker according to the Labor Standards Act are the same as those applied in the Minimum Wages Act, the Industrial Safety and Health Act and the Industrial Accident Compensation Insurance Act. The same principles also apply almost exactly to the concept of a worker under the Labor Contract Act.<sup>1</sup>

Defining the characteristics of a worker requires a decision as to whether the worker can be considered to actually be supplying labor in a state of subordination to the employer, regardless of whether their contract is a labor contract, a contract for work or some other form of contract.<sup>2</sup> Specifically, this concerns factors such as whether or not there is a relationship in which directional orders are given during the implementation of work, the description of the job, the characteristics and value of the wage paid, whether the relationship between the employer and the worker allows for any freedom in accepting or rejecting specific requests or instructions in regard to the job, the existence and level of restrictions regarding time and location of work done, the possibility of substitution of the work supplied, which party bears the burden of supplying equipment, machinery and tools for the work to be done, the extent to which the worker is exclusively working for the employer, the application by the employer of service regulations, the relationship to public burden (taxes and social insurance) and various other considerations. When determining whether a worker is a professional or not, issues such as the existence of a director who issues orders, whether the remuneration paid is of a high level, and whether the worker has freedom to reject a request tend to be problematic.

The Labor Union Act, on the other hand, defines a worker as someone who lives on the income acquired from wages or salary, regardless of profession (Labor Union Act, Article 3). This is a broad definition compared with the definition of a worker within the Labor

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<sup>1</sup> The Labor Contract Act does not require a worker to be employed “at an enterprise or office” (Labor Contract Act, Article 2, Paragraph 1). As such, strictly speaking, it offers a broader definition of “worker” than the Labor Standards Act.

<sup>2</sup> Shinjuku Labor Standards Office Director Case, Tokyo High Court, July 11, 2002, Rodo Hanrei 832, p. 13.

Standards Act or the Labor Contract Act, since the Labor Union Act contains no requirement for “employed.” Under the Labor Union Act, a worker is someone who negotiates his or her wages with an employer fairly, through group activities, who lives on the wages or fees earned, whose labor conditions are decided unilaterally by the employer (economic subordination), and who carries out work that is part of the business organization.<sup>3</sup> “Professionals,” on the other hand, do not tend to work to orders, but rather implement their work autonomously, and in many cases are not restricted as to the hours they spend at work. Such professionals may not appear to have the characteristics of a worker under the Labor Standards Act, but even in such cases, they may be acknowledged as having the characteristics of a worker under the terms of the Labor Union Act.

## 2. Musicians

Even court decisions have in the past been divided on the matter of whether or not musicians are “workers” under the terms of the Labor Standards Act.

A solo cellist with an orchestra may be said to have a leadership position, in that he/she directs the general members of the orchestra, but at the same time, he/she is contracted for certain hours, and is unable to refuse when the orchestra requests that he/she performs. For this, and other reasons, the cellist is in a position of subordination, and is acknowledged to have the characteristics of a worker under the Labor Standards Act.<sup>4</sup> Furthermore, the trumpeters and other individual musicians in a band working at a theme park have no freedom to negotiate their remuneration. The theme park management unilaterally specifies the number of performances, schedule, dates and times of performances, the performance location, the formation of the band, and the soloists, and in the case of musicians standing down, the theme park is also responsible for finding replacements. In addition, the musicians’ remuneration is done in consideration of the labor supplied, and most of the band members are able to live on the income they receive in remuneration from their work at the theme park, without having to do other part-time jobs. This equates the musicians’ contracts with labor contracts, and means they are acknowledged as having the characteristics of workers.<sup>5</sup>

In contrast to this, contracted chorus members within a theater company who were given a list of actual performances when their contracts are signed, and who had the ultimate freedom to refuse or accept individual requests to perform (and therefore have no specific rights to request payment for opera performances), were decided by the Tokyo High Court not to be in a relationship with their employer that was subject to the Labor Standards Act.<sup>6</sup>

Next, we introduce some examples where the characteristics of a worker have been

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<sup>3</sup> Satoshi Nishitani, *Rodo Kumiai Ho* [Labor union act], 2nd ed. (Tokyo:Yuhikaku, 2006), 77.

<sup>4</sup> Yomiuri Nihon Orchestra Case, Tokyo District Court, January 27, 1987, Rodo Hanrei 493, p. 70.

<sup>5</sup> Chibori Japan Case, Okayama District Court, May 16, 2001, Rodo Hanrei 821, p. 54.

<sup>6</sup> New National Theatre Case, Tokyo High Court, May 16, 2007, Rodo Hanrei 944, p. 52.

contested under the terms of the Labor Union Act. The Supreme Court has acknowledged the characteristics of a worker for orchestra members where they are employed under a broadcasting and performance contract in such a manner that they are basically required to appear in designated performances, and where their remuneration is set not according to the value placed on the artistic merit of the performance but rather on the value placed on the supply of labor in the form of a performance, even in cases where they are free to perform with other orchestras, or even in cases where their contract does not include a clause that prohibits them from refusing to perform for the company in question.<sup>7</sup>

In regard to the aforementioned theater group chorus members, due to the fact that members with contracts are built into the foundation's organization as a necessary labor provision (chorus) during performances, the fact that members are essentially in a relationship with the employer where they are required to respond if asked to appear in individual performances, the fact that the details of the basic performance contract are decided unilaterally and there is no room for negotiation by members, the fact that members are under directional orders when providing labor in the form of choral singing, and the fact that remuneration is given in respect of the value of the provision of labor in the form of choral singing, the Supreme Court acknowledged that they have the characteristics of workers under the terms of the Labor Union Act.<sup>8</sup> This decision differs from that based on the Labor Standards Act. This differing conclusion probably arises from the fact that the definition of a worker under the Labor Union Act interprets the subordinate relationship with an employer rather more loosely, and emphasizes the inequality in negotiating position and the position of the chorus as part of the business organization.

### 3. Professional Athletes

Among professional athletes, it is thought that professional baseball players, particularly first-stringers, are not workers under the terms of the Labor Standards Act, since they are able to engage in discussions regarding how their salaries are decided, and their own equipment, etc.<sup>9</sup> In contrast to this view, however, since Japanese players are restricted in their ability to transfer to other teams, it is also the case that they are controlled by their affiliated club, and from this perspective, there are some who say that they should be acknowledged as having the characteristics of workers, regardless of the higher or lower level of their remuneration.<sup>10</sup>

It is thought that the status of professional baseball players as workers would be ac-

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<sup>7</sup> CBC Wind Orchestra Case, First Petty Bench of the Supreme Court, May 6, 1976, Rodo Hanrei 252, p. 27.

<sup>8</sup> New National Theatre Case, Third Petty Bench of the Supreme Court, April 12, 2011, Rodo Keizai Hanrei Sokuho 2105, p. 8.

<sup>9</sup> Hideo Nagano, "Puro-supotsu Sensyu no Rodosyasei [Can professional sports players enjoy an employee status?]," *Japanese Journal of Labour Studies* 47, no. 4 (2005): 21.

<sup>10</sup> Itaru Nemoto, "Puro-supotsu Sensyu to Kobetsuteki Rodoho [Professional players in the sports sector and individual employment relations law]," *Journal of Labor Law*, no. 108 (2006): 131.

knowledge under the Labor Union Act, since professional players are part of the working organization, they receive day-to-day and specific instructions from their manager and coach, their remuneration cannot in principle be reduced, and their wages can be assessed as valued against the labor provided.<sup>11</sup> In fact, the Japan Professional Baseball Players Association is registered as a labor union, so for the meantime we will acknowledge their status as workers under the terms of the Labor Union Act.

#### 4. Patent Attorneys

Recently, there have been examples of disputes over whether contracts held by patent attorneys not running their own businesses, but working as employees in a patent office, are in fact labor contracts.<sup>12</sup> The parties involved initially agreed that such are labor contracts, but the patent office subsequently withdrew its agreement, emphasizing that the contract in question was, in fact, a contract for work. The court permitted the withdrawal of agreement, and judged that the contract in question was a contract for work not a labor contract, based on the facts that (i) the criteria for deciding the value of the work done was not based on length of hours worked, but on completing a task, (ii) the difference between running one's own business and being employed was no more than the method of handling taxes and social insurance, and (iii) there was a low level of subordination to the employer.

The Tokyo District Court also stated that since the plaintiff was engaged in patent attorney work with a high level of specialization, the defendant did not have the power of directional instruction over the specific contents of their work. It is difficult to agree with this point, since the Labor Standards Act envisages the employment of people with a high degree of specialization as workers (see Labor Standards Act, Article 14, Paragraph 1). The characteristics of a worker should be judged based on points (i), (ii) and (iii) above.

#### 5. Doctors

##### (1) Hospital Physicians

Hospital physicians are, generally speaking, workers under the terms of the Labor Standards Act. This is because they are, in general, subordinate to the directional instruction of the hospital, and they earn wages for engaging in treatment, etc., so providing there are no special circumstances that negate their worker status, they are by definition workers. In reality, however, most hospital physicians do not think of themselves as workers. Compared to general workers, hospital physicians receive extremely high salaries. Given the recent shortage of doctors, it is fairly easy for them to change posts. Furthermore, they can also choose to become self-employed (open their own practice). Within the hospital, they have an elevated position, both within the system and psychologically, when compared to nurses

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<sup>11</sup> Satoshi Nakauchi, "Puro-supotsu Sensyu to Syudanteki Rodoho [Professional athletes and collective labor law]," *Journal of Labor Law*, no. 108 (2006): 145 onwards.

<sup>12</sup> S Patent Office Case, Tokyo District Court, December 1, 2010, Rodo Keizai Hanrei Sokuho 2104, p. 3.

and other medical and administrative staff. In other words, hospital physicians are usually in a strong position, and do not need to depend on the Labor Standards Inspection Office or collective labor organizations. They are able to solve legal issues by themselves. It is therefore, perhaps, inevitable that there is a low level of awareness among hospital physicians that they are workers.

An alternative explanation may be that, due to the fact that hospital physicians tend to work far longer than other workers, they lose any sense of themselves as workers or as subject to the protection of labor law over many years of continuous work. (See Section III below for further discussion of the issues surrounding hospital physicians' working hours).

Since hospital physicians, in general, are workers according to the Labor Standards Act, they are generally acknowledged as also having the characteristics of workers according to the Labor Union Act. Hospital physicians, however, do not tend to be members of a labor union of the same type as those usually formed and joined by workers. There are unions of hospital employees, but most of their members tend to be nurses, and very few doctors join them. The National Union of Physicians was only finally formed in 2009.<sup>13</sup> This is a nationwide labor union, which individual doctors can join, and it is anticipated that the rights of doctors as workers will be better protected, and improvements will be seen in labor conditions, as a result. The National Union of Physicians has been accredited as a labor union.

## (2) Trainee Physicians

Earlier systems for trainee physicians paid extremely low wages of a few tens of thousands of yen per month, for which doctors worked in the medical department of the university from which they had graduated. Trainee physicians are undergoing training as part of their education, and their activities were not thought of as labor, so as a result they were not, in most cases, treated as workers. Trainee physicians could not live on what they are paid, with the result that most of them did other part-time jobs as a doctor on call.

A judgment on this issue by the Supreme Court in 2005<sup>14</sup> stated that trainee physicians are physicians registered and licensed by the Health Minister (currently the Minister of Health, Labour and Welfare), that former clinical training, while it had an educational aspect, envisaged the trainee doctor carrying out medical practice under the guidance of a teaching physician, and that the implementation of such medical practice, etc., included an unavoidable aspect of working for the hospital establisher. Given that they could be considered to be working under the directional instruction of the hospital when carrying out medical practice, the court found that trainee physicians are therefore workers under the terms of the Labor Standards Act. The Supreme Court did not acknowledge all trainee phy-

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<sup>13</sup> The Okinawa Prefectural Public Sector Physicians Labor Union was formed in 2000, but the National Union of Physicians is the first nationwide organization of its type.

<sup>14</sup> Kansai Medical University Trainee Physician Case, Second Petty Bench of the Supreme Court, June 3, 2005, Rodo Hanrei 893, p. 14.

sicians as workers under the Labor Standards Act due to the fact that they practice medicine. The judgment only applies to those trainee doctors who are demonstrably working under the directional instruction of the hospital. For this reason, while it could be said that the judgment represents a cautious interpretation of Article 9 of the Labor Standards Act, it was also based on previous precedent.

A new clinical training system came into force in 2004, under the terms of which trainee clinical physicians were remunerated as workers based on both their actual status and the content of their work while training. Appropriate wages are now paid during training, and trainees are prohibited from doing other part time jobs.

### (3) Medical Staff and Graduate Students

Previously, many university hospitals depended on the labor of unpaid medical staff. The medical practices carried out by unpaid medical staff were not of a level expected of unpaid volunteers. Rather, they were clearly equivalent to the execution of labor, but implemented either entirely unpaid or in return for an extremely small allowance. There were even some cases in which unpaid medical staff were required to pay medical costs. Since unpaid medical staff contravene both the Labor Standards Act and the Minimum Wages Act, it has now become impossible to manage a hospital in this way, but it appears that there are still some cases where staff are working for nothing, or for close to nothing.

Physicians who have passed their national medical examinations and completed their initial clinical training sometimes proceed to graduate school in order to carry out research or study treatment, or take further degrees. The Ministry of Education, Culture, Sports, Science and Technology (MEXT) issued a notification in 2008<sup>15</sup> requiring universities to take appropriate measures in regard to graduate students of this type engaging in research or treatment. According to this notification, “Where graduate students, etc., engage in work that is an aspect of treatment, appropriate measures are required, such as a contract of employment that makes possible the application of labor accident insurance.”

People working as medical staff or graduate students, therefore, who are engaging in treatment under the directional instruction of the hospital or university, are acknowledged as equivalent to workers, since their work is labor.

## III. Doctors’ Working Hours

### 1. The Attributes of a Physician

Physicians engage in treatment and health education, which have a direct impact on the lives and health of patients. The provision of services by physicians is not done only for their own (or their hospital’s) profit, but could be called a public vocation. In Japan, where the right to life is protected, it is only natural to expect that citizens should be able to live

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<sup>15</sup> MEXT Notification on June 30, 2008 (No. 266).

healthy lives, and access appropriate medical treatment as and when they are injured or sick. This principle leads to the expectation that doctors should be available for patients all the time, at any time of day or night, and has led to the veneration of doctors as an almost “holy” profession.<sup>16</sup>

These attributes mean that doctors tend to be thought, both by themselves and others, as a particularly special type of professional, and therefore are unable to avoid working unreasonable hours in order to provide diagnosis and treatment. Such working conditions not only threaten the health of the physician, but can also lead to mistakes in treatment and errors of ruling. Doctors are forced to implement treatment and perform operations even when short of sleep. We should not be revering doctors as “holy.” Rather, we should expect them to provide medical treatment within the bounds of their ability as physicians.

According to the Survey of Working Conditions of Physicians Relating to the Supply and Demand of Doctors, carried out by the Ministry of Health, Labour and Welfare (MHLW), hospital physicians worked for an average of 63.3 hours per week as of March 2006.<sup>17</sup> A simple calculation based on this figure means that hospital physicians do, on average, around 100 hours of “out of hours” work per month, indicating the extent of their extremely long hours.

The characteristics of hospital physicians’ working hours do not end with the fact that they are extremely long. If a doctor is on duty at night, he or she may be required to work continual shifts that extend to over 30 hours continuous work. In addition, they are frequently required to respond to emergency callouts. From the hours worked and the style of work employed, hospital physicians seem to be working under far worse conditions than other workers.

## 2. The Problem of Night Duty

Hospitals that have inpatients, or provide emergency services, are required to respond to patient needs in the evening and overnight. Doctors working in such hospitals are required to perform night shifts. Whether or not a hospital can require a doctor to work night shifts depends on their labor contract. Whether or not such night shift work is counted as part of their working hours is determined not by the labor contract, but rather objectively,

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<sup>16</sup> Although it is natural to require a system that gives appropriate treatment to people requiring it at the appropriate time, it is not necessarily possible to expect that individual doctors should always be available to meet patient needs, at any time of the day or night, even out of hours. The government needs to address this issue and establish a system to supply medical treatment at an appropriate level in response to such demands. Since most physicians have a strong sense of vocation, they tend to be forced to provide consultation and treatment out of hours, at night and during holidays, although the awareness of these issues among doctors is gradually changing.

<sup>17</sup> Furthermore, according to the “Report of Survey into the State of Reductions in the Burden Placed on Hospital Physicians” by Central Social Insurance Medical Council (survey in fiscal 2008), the average working hours of doctors in the week before the survey were 61.3 hours, showing similar results to the MHLW’s survey.

according to whether the physician in question is considered to be working under the directional instruction of the hospital or not.<sup>18</sup>

According to the Labor Standards Act, people engaged in monitoring or intermittent labor, and whose employers hold a permit issued by an authority of labor standards office director, may be excepted from the application of regulations relating to working hours, break times and days off (Labor Standards Act, Article 41, Item [iii]). Since employers excepted in this way are no longer subject to regulations relating to working hours, the issue of working out of hours during night shifts (Labor Standards Act, Article 36) does not arise, and there is no need to pay increased wages as designated in the Labor Standards Act (Article 37). Many hospitals received such permits from authorities, but a notification in 1988<sup>19</sup> stated that, in regard to night shift work among monitoring/intermittent work types, which may be excepted from the application of regulations relating to working hours, the issuing of permits must be strictly considered from the perspective of protecting the worker, and only types of work that involved almost no labor equivalent to that provided under normal circumstances would be granted permission. The notification also stated certain conditions in regard to night shift work, including the provision of sleeping facilities.

Doctors who had few responsibilities in emergencies were, at one time, not required to do significant amounts during night shifts, and were able to sleep. More recently, however, increasing numbers of people present for diagnosis in the evenings and at night, and higher levels of patient care are required. This is meant that doctors on night shift are only able to sleep for intermittent, short periods.

The MHLW issued a further notification in 2002<sup>20</sup> with the intention of dealing with this issue, which attempted to regulate night shift work. According to this notification, night shift work was confirmed as, in principle, not being something workers could be forced to do as part of their regular work. In regard to criteria for permission issued to medical organizations, the notification stated that permission would only be granted to types of work “that involve almost no labor, such as regular patrol of patient wards, monitoring the pulses or temperatures of small numbers of patients requiring particular care, other light work that does not involve special measures, or tasks requiring only short periods of work. In principle, continuation of regular labor will not be approved, and if the doctor in question is required in rare cases to perform emergency treatment, etc., this must be at a level that does not interfere with him or her getting sufficient sleep.” Night shifts that do not contravene these standards, therefore, may be considered equivalent to monitoring/intermittent labor and be exempted from the application of restrictions to working hours. Even if they are

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<sup>18</sup> Mitsubishi Heavy Industries Nagasaki Shipbuilding Plant Case, First Petty Bench of the Supreme Court, March 9, 2000, Minshu 54-3, p. 801.

<sup>19</sup> Labour Ministry Administrative Vice-Minister’s Notification on September 13, 1947 (No. 17), and Labour Ministry Labor Standards Bureau Chief’s Notification on March 14, 1988 (No. 150).

<sup>20</sup> Notification from the MHLW Labor Standards Bureau Chief, “On the Regulation of Holiday and Out-of-hours Work in Medical Institutions (Request),” on March 19, 2002 (No. 0319007).

exempted from the application of regulations, however, in cases where emergency care of patients becomes necessary, and the doctor on night shift has to work according to his or her normal labor practice, he or she is paid an increased rate in respect to that period in question, according to the Labor Standards Act.

### 3. Working Hours Characteristics of Night Shift Work

Doctors working night shifts in the obstetrics department of a prefectural hospital were unable to avoid this work being an extension of regular labor, and brought a case against the prefecture demanding increased rates of pay for work done out of hours and on holidays. The Nara District Court and the Osaka High Court approved the payment of increased rates of pay, on the basis that such night shift work was not intermittent labor.<sup>21</sup> In this case, the doctor on night shift frequently had to attend births during the night, and performed measures, treatments and operations for abnormal labor that were the same as during normal working hours. There was only one doctor on night shift at a time in the obstetrics department, and while sleeping facilities had been made available, it was difficult to get sufficient sleep during night shifts. The plaintiffs, who were doctors of obstetrics within the hospital, were acknowledged as implementing ordinary work because they were engaged for longer than 20% of the night shift time. The court considered that, in the light of the MHLW notification, the night shifts worked by the plaintiffs were not intermittent labor, and that the entire period of a night shift should therefore be paid at the higher rate.

### 4. Working Hours Characteristics of On-Call Night Shift Work

The issue of working hours characteristics also arises when doctors work night shifts based at home (on-call). In the Nara Prefecture Case, increased rates of pay were also demanded for on-call night shifts. The Osaka High Court stated that on-call work was an autonomous measure, which had occurred naturally among the doctors in the obstetrics department, as part of an agreement made between the doctors themselves, and that since the number of times a doctor would be called from home to the hospital was unlikely to be more than 6-7 times per year, this was an issue of professional awareness, and not something that could be considered to be based on an order from the hospital. As such, it denied that their night shift work has the characteristics of working hours.

In order to come to this judgment, the Osaka High Court focused on the professional stature of the doctors. According to the court, this profession was acquired through the learning of or training in specialist skills, backed up by the doctors' educational history, and based on this, the profession is required to work for the good of society as a whole, through specific acts of service in respond to specific requirements by individuals presenting voluntarily from among an undefined number of citizens. Doctors are always required to imple-

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<sup>21</sup> Nara Prefecture Case, Nara District Court, April 22, 2009, Rodo Hanrei 986, p. 38, and Osaka High Court, November 16, 2010, Rodo Keizai Hanrei Sokuho 2093, p. 3.

ment emergency measures, and the expectation from society that doctors will perform appropriately in such cases is the basis for a physician's professional standing within society. This position is understandable, but emphasizing the expectations of society when applying and interpreting labor laws and regulations is problematic. Even if this could be permitted as one element for consideration when thinking about the characteristics of working hours, the extent to which it is prioritized should surely be restricted.

#### **IV. Dismissal**

##### **1. Protection from Unfair Dismissal**

The termination of a labor contract does not require the agreement of both parties. If one party requests the termination, it is possible for a contract to be cancelled. In general, if an employer has a labor contract terminated by a worker, it does not provide any obstacle to work, but on the other hand, if a worker has his or her contract terminated it may have a severe impact on the worker and his/her family. For this reason, the right of an employer to cancel a labor contract is restricted in law. Termination for reasons of nationality, belief, social standing or gender, for example, is prohibited as discriminatory (Labor Standards Act, Article 3, Equal Employment Opportunity Act, Article 6). An employer must give a worker a minimum of 30 days' notice of dismissal, and if no notice is given, must pay a dismissal allowance (equivalent to 30 days of the average wage) (Labor Standards Act, Article 20). Furthermore, dismissal must be done for an objective and rational reason, and must be considered generally socially acceptable (Labor Contract Act, Article 16). If no reason is given, or the reason is not generally socially acceptable, the employer is considered to have misused their right to dismiss, and the dismissal is invalid. Professionals considered under the terms of the Labor Contract Act to have the characteristics of workers are also subject to these terms, and are therefore protected from unfair dismissal.

##### **2. Professional Athletes**

As the end of the professional baseball season, a number of baseball players will receive notification that they have been removed from their teams. If a professional baseball player is considered to have worker characteristics according to the Labor Contract Act, he may consider such notification as an expression of intent by his team to terminate his contract. To date, no cases have been recorded of a player fighting to invalidate termination in the courts.

A professional baseball coach, who was formerly a player himself, had his contract terminated by the club for reasons of violence towards players. The hearing at which he claimed invalid dismissal is still ongoing. A request by the coach to retain his post has already been denied.

In cases where sumo wrestlers were terminated for using marijuana, the Tokyo Dis-

trict Court<sup>22</sup> ruled that the reason for termination (marijuana use) did in fact exist, and that since the wrestlers in question had been prohibited from using marijuana through receiving copies of the “Nihon Sumo Kyokai Doping Prevention Handbook”, and the fact of their marijuana use had been widely reported in the press, and furthermore since the increasing misuse of drugs is becoming a serious social problem, it was in fact entirely natural that their contracts had been terminated. The reason for termination was approved, and the court stated that there was simply no possibility that the reason for termination—the fact that the plaintiffs’ drug use had damaged their trustworthiness and reputation—could be lacking in objective rationality or general social acceptability, and therefore be considered a misuse of rights. The court also stated that since sumo is “considered our national sport, and is watched closely not only by the press but by wider society,” but the fact that sumo wrestlers are considered “professionals” is thought not to have been a decisive factor in its judgment regarding justification of their termination of employment. Even if the workers in question had not been professionals, this case would surely have resulted in a decision that the termination was valid.

### 3. Religious Workers

Disaffiliation or excommunication of religious workers from their religious organization is subject to Article 16 of the Labor Contract Act relating to dismissal, providing the excommunicated religious worker is acknowledged to have the relationship of worker, as defined in the Labor Contract Act, with their organization.

In a case where 16 monks were excommunicated from their religious order (the defendant) in an internal dispute regarding the appointment of a new chief priest and organizational leader,<sup>23</sup> the Tokyo District Court ruled that the plaintiffs, who were equivalent to workers, since their legal relationship with the religious organization was based on a labor contract, were in a position where they had to obey work-related orders from leaders of the organization. The plaintiffs were excommunicated for not obeying such orders, but since excommunication bears the characteristics of termination, the court ruled that it cannot be construed that the termination lacked an objectively rational reason and was not generally acceptable to society, and therefore dismissed the plaintiffs’ demands for confirmation of their position. This is interesting because the court recognized the legal implication of termination within excommunication, which could be interpreted as a religious act, thereby applying the framework of labor law to the issue. Other than in this point, the fact that religious workers are professionals appears not to have affected the judgment.

### 4. Doctors

There are extremely few judicial precedents relating to the termination of hospital

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<sup>22</sup> Japan Sumo Wrestling Federation Case, Tokyo District Court, April 19, 2010, Hanrei Jiho 2090, p. 144.

<sup>23</sup> Myooji Case, Tokyo District Court, March 29, 2010, Rodo Hanrei 1008, p. 22.

physicians acknowledged to have the characteristics of workers under labor contract law. Of those that exist, I shall introduce two precedents in which it is considered that the attributes of physicians were taken into account.

The first involves the ruling in a case where the doctor concerned had his/her employment terminated based on inappropriate medical practice.<sup>24</sup> The plaintiff was a doctor in obstetrics, who instructed the use of an atonin drip in order to induce labor in a hospital patient. Lack of care for the patient during the administration of the drip can cause danger of damage to the uterus, but the plaintiff did not manage the patient's care sufficiently despite having stated that he/she would be responsible for doing so, and left the hospital without handing the case over to the doctor on night duty. As a result, the patient suffered a ruptured uterus, and required an operation to disconnect the uterus. The hospital terminated the employment of the plaintiff (doctor), stating that the case equated to "inappropriate behavior towards a patient, or behavior that invites error," which is listed within the employment regulations of the hospital as a reason for disciplinary (or instructed) termination. In this case, the court did not apply the legal principle of misuse of right to termination (currently Article 16 of the Labor Contract Act), but ruled that the incident in this case simply contravened the hospital's employment regulations, and that the termination was therefore concluded to be valid. At present, if similar cases arise, in addition to ruling that contravention of employment regulations can be a reason for termination, the court also rules that the use of the right to terminate, as stated in Article 16 of the Labor Contract Act, has not been misused. While this case differs slightly from the current legal framework, it is useful to refer to as an example of termination in the case of a doctor causing a serious medical incident.

A further case is an example where the termination of a doctor who headed a department of internal medicine was judged valid.<sup>25</sup> In this case, various reasons were given for termination, including failure to abide by clinic beginning hours, trouble with patients or patients' families (three incidences), the implementation of tests not covered by insurance without permission, the implementation of unnecessary tests, forcing nurses and administrative staff to perform unnecessary tasks, etc. The defendant (hospital) emphasized that these actions did equate to the reasons for termination listed in the hospital's employment regulations, which included "Extremely poor performance by a member of staff at work, which is considered inappropriate for a member of staff," and "Unavoidable reasons equivalent to those listed in the previous items."

The details of the trouble with patients or patients' families, listed as part of the reasons for termination, involved the plaintiff explaining to a patient and his/her family that if the patient was not careful he/she could die suddenly (the patient in question subsequently left the hospital of their own accord and demonstrated an extremely negative attitude), and expressing a negative view in relation to heart resuscitation to relatives of a patient who

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<sup>24</sup> Tokyo Medical University Case, Tokyo District Court, March 15, 1978, Hanrei Times 369, p. 340.

<sup>25</sup> A Hospital Case, Fukui District Court, April 22, 2009, Rodo Hanrei 985, p. 23.

were hoping to prolong the patient's life, among other incidents. In regard to these, the court stated that "... such problems arose because the doctor did not take due care to meet the emotional needs of either the patients or their families. In general, clinical doctors engaged in patient treatment are not only required to use their knowledge of medicine to make appropriate decisions regarding patient care, but they are also required to provide appropriate explanations of the patient's symptoms and treatment methods to both the patient and his/her family, and where possible provide a response that takes into account the situation in which the patient finds him/herself... the behavior and attitude of the plaintiff did not meet these requirements, and the plaintiff was not demonstrate either behavior or attitude that is considered appropriate as a clinical doctor at the hospital." As such, the court recognized the employment regulations of the hospital as a valid reason for termination. In any labor relationship, appropriate levels of explanation are required in regard to customers and trading partners, but the court here could be seen to have expressed a greater than ordinary requirement for appropriate explanation and consideration from doctors.

Furthermore, it was confirmed in advance that the implementation of tests not covered by insurance was prohibited in principle by this hospital, and doctors were required to consult with the hospital director before implementing any treatment not covered by insurance. Despite this, the plaintiff implemented tests not covered by insurance without contacting or consulting the hospital director, indicating clear inappropriate behavior. The court also acknowledged that such implementation of tests not covered by insurance without permission constitutes one reason for termination. The implementation of unnecessary tests involved the commissioning of CT scans for almost all patients suffering from pneumonia, despite the fact that the necessity for this is generally doubted. It appears that the hospital had not taken any steps to caution the plaintiff about this behavior, and the court made the following statement in relation to whether or not the reason for dismissal was commonly acceptable to society. "In general, physicians who have high levels of medical knowledge and skill and bear the responsibility for making decisions regarding the treatment of patients, are in special positions superior to other working staff in hospitals, and their positions and opinions are widely respected. In fact, the plaintiff had worked continually for the defendant for 14 years before this dismissal occurred, and was head of the department of internal medicine, receiving an extremely good wage. It is assumed that the only people within the hospital who could have issued directional instruction to the plaintiff would be the chair of the board, or the hospital director, and since the plaintiff was seen by other staff at the hospital as being in a position of authority only exceeded by the hospital director, the plaintiff, as a doctor, and as the long-term head of the department of internal medicine, was in a position of leadership over, and should have been setting an example to, other doctors and staff. It could be said that as such, it is natural to require the plaintiff to strive for self-improvement, and regulate his own behavior... As a clinical doctor working in contact with patients, and as a doctor at the hospital, which implements medical procedures as an organization, it is natural to expect appropriate behavior and medical practice, and since it is

considered that such things should not have had to be stated to the plaintiff in advance, it is not appropriate to focus on the fact that little clear, specific caution or instruction was provided by the defendant to the plaintiff.” The view of the court in this case was that doctors in superior positions within hospitals are expected naturally to behave in a way that is appropriate, without having to be issued with specific or clear warnings or instructions.

This judicial precedent appears to place a special emphasis on the labor relationships within medicine. Appropriate behavior and medical practice is a natural component in the labor contract of a doctor. If a doctor is unable to provide appropriate behavior and/or medical practice, he/she will be judged inappropriate for the post. Termination for reasons of lack of working ability or appropriate qualifications tends to be judged severely for its potential lack of common social acceptability within general labor relationships, but the nature of work required of a doctor means that appropriate qualification and high levels of ability are a fundamental requirement, and this fact therefore has an impact on the social acceptability of reasons for termination.

## **V. Conclusions**

Examples of legal disputes involving professional workers have been few and far between to date. The following three reasons can be thought of for this. Firstly, not only is the absolute number of professionals in the workplace small, but also the number who are additionally considered workers is even smaller. Secondly, given the position and attributes of the posts held by professionals, they have not traditionally been considered as “workers.” Professional musicians and athletes give enjoyment and dreams to others and these professions are considered far removed from the concept of “work.” Furthermore, it cannot be denied that religious workers and doctors have aspects of their work that equate to service. Professionals tend to have high-ranking positions within their organizations and within society, and earn high wages. They have high levels of specialist abilities and techniques, and for many of them, changing job or going into self-employment is not difficult. Considered from these perspectives, professionals and workers seem almost to be the opposite of one another. Thirdly, when solving legal problems involving professionals, it is not always necessary to show that they equate to workers. Demands for unpaid wages or disputes over unfair contract termination may occur involving professionals who are not workers, as well as those who are. The only difference is the laws that are applied in such cases. Given this, it may be the case that only those seeking protection as workers, and those who are clearly demonstrable as workers, ever bring lawsuits based on labor law.

Recently, the fact that professionals are also workers has come to be more emphasized, with the result that the number of dispute cases is increasing. When dealing with legal disputes involving professionals who are workers, the accumulating judicial precedents will in the future shed further light on how significant is the issue of whether or not one is a professional.

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# Action Research in Career Counseling: Development of Effective Training in Career Counseling

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This research aims to improve career counseling at public employment agencies. As a research methodology, we selected action research in which research, training and practice are inter-related and performed together. The research is conducted in this way. First, we present the idea of career counseling focusing on building a Career Concept (Japan Institute for Labour Policy and Training [JILPT] 2009) based on a theoretical background (research). Next, based on the idea presented, we develop a training program for career counselors to conscientize a career counseling process. Then, we develop a support system in which the career counselors can practice conscientization of the career counseling process at the counseling counter (practice). Through this cycle of research → training → practice, a more effective training program will be developed. Career counseling services will also be further improved through practice. This report presents the results of our study of the above-described cycle as a practical example and discusses future issues in the development of the program and the methodology of action research.

## I. Introduction

This research aims to improve career counseling through “conscientization” of a career counseling process from the perspective of building a Career Concept (JILPT 2009).

As a research methodology, we selected action research. Lewin (1951), an advocate of action research, said, “Nothing is as practical as a good theory.” Believing that training is necessary when putting a theory into practice, he suggested a triune action research to be carried out; research, training and practice. The research is conducted in this way. First, we present the idea of career counseling focusing on building a Career Concept based on a theoretical background (research). Next, based on the idea presented, we develop a training program to conscientize a career counseling process and incorporate it into the training course at the Labour College,<sup>1</sup> which is an institute providing training to counselors who engage in career counseling and job introduction at public employment agencies on a national scale (training). Then, we develop a support system in which career counselors can practice conscientization of the career counseling process at the counseling counter (practice). Through this cycle of research → training → practice, the theory will be revised and a more effective training program will be developed. Career counseling services will also be further improved through practice.

This article presents the results of our study of the above-described cycle as a practic-

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<sup>1</sup> Labour College is a training institution of the Japan Institute for Labour Policy and Training. This college is explained in English at <http://www.jil.go.jp/english/index.html>.

al example and discusses future issues.

The career counseling referred to in this article is counseling for job seekers who request career counseling and job introduction in the services of public employment agencies.

## **II. Research—Career Counseling Model**

### **1. What Is a “Career Concept”?**

In career counseling, given as part of general job placement services provided by public employment agencies, the match between the skills of the job seeker and the skills needed by an employer is examined to increase the possibility for the job seeker to secure work (Ministry of Health, Labour and Welfare 2004). When assessing the vocational skills of a job seeker, his/her work experience, educational background, training history, licenses and qualifications he/she has obtained and various other work-related events are considered.

In this research, a person’s vocational skills are viewed as a Career Story which interprets and connects past, present and future events, such as “I am doing XXXX (or I am going to do ZZZZ) because I have been doing YYYY so far” or “I am going to do ZZZZ because now I am doing XXXX.”

The job seeker and the counselor in charge of career counseling in public employment agencies examine through dialogues a match between the job seeker’s skills and the skills needed by employers through the process of construction (making), deconstruction (breaking down), and reconstruction (remaking ) of a story.

After this process narrows down the employment offers that satisfy the match between the job seeker and the employer, the above story will develop into one incorporating a specific and practical plan for activities to obtain employment, which includes preparing a curriculum vitae and setting up an interview schedule, which will be an activity plan for the future based on past and present events. This development of a story is called a “Career Concept.”

### **2. Model for Building a Career Concept**

As a process of building a Career Concept through career counseling, we propose the model shown in Figure 1. In this model, the process is divided into three steps: (i) collection, (ii) processing and (iii) utilization of information on job offers and job seekers.

#### **(i) Information collection**

The job seeker and the career counselor collect information both on job offers and job seekers through discussion, using the information from job offer forms and job application forms as a guide.

#### **(ii) Information processing**

Necessary information is picked out from the job seeker’s application form and organized as a Career Story. The story is constructed, deconstructed and reconstructed repeatedly while being compared to and based on the information on the job offer form. In this way,

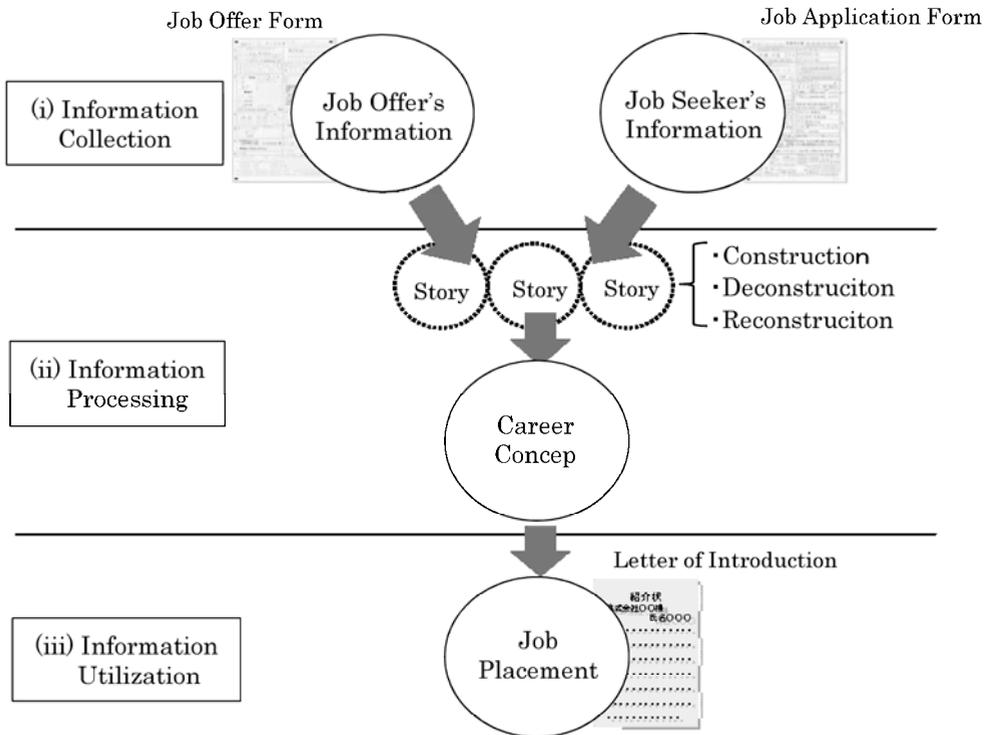


Figure1. Model for Building a Career Concept

the Career Concept is built as a more specific activity plan targeting only those jobs for which the job seeker is applying.

### (iii) Information utilization

By using the Career Concept, the career counselor can provide job placement services in a more efficient manner, and the job seeker can also examine the information on the job offer form more efficiently.

## 3. Background Theories of the Career Counseling Model

There are three major theories on vocational development: (i) the trait and factor theory, which emphasizes the importance of an objective match between the personal traits of the job seeker and the job (Parsons 2005; Williamson 1964); (ii) the vocational development theory, which emphasizes the importance of the job seeker's subjective view, i.e. self-understanding and vocational understanding (Super 1953); and (iii) the constructivist approach, which holds that by expressing his/her subjective understanding of himself/herself and the job mainly by means of language and sharing it with others, the job seeker actualizes the concept of a career (e.g. Savickas 1993; Peavy 1996; Cochran 1997).

In this research, we posit that career counseling will shift from the Job Placement Type, in which “the career counselor takes a neutral position between the job seeker and the employer and introduces an appropriate job offer to the job seeker from an objective perspective,” to the Catalytic Agent Type, in which “the career counselor acts as an intermediary between the job seeker and the employer and provides support so that the two parties can constructively talk with each other.” The theoretical background of the Catalytic Agent Type of counseling is the constructivist approach.

The environment surrounding job seekers is changing with the advancement of the information society, economic globalization, diversification of employment patterns and increased mobility of employment, and it is difficult for a job seeker to directly control what happens to him/her. However, by giving meaning to what has happened by interpreting the relationships among the present, the past and the future and then creating a Career Story, the job seeker can construct his/her perspective to cope with the difficult situation he/she faces and can actively seek a job. Therefore, we believe that the role of the career counselor in career counseling is to help the job seeker create his/her Career Story.

### **III. Training—Program Development**

#### **1. Outline of the Training Program**

The training program was developed with the aim of conscientizing a career counseling process from the perspective of building a Career Concept so that career counselors can control their activities at the counseling counter and improve their career counseling skills. “Conscientization of a counseling process” means that after a career counseling, the career counselor reviews the counseling process of the session and verbalizes what was communicated between the job seeker and the career counselor. The program is to provide training in such verbalization.

This program, which is called “Case Study,” has been provided by the Labour College since fiscal 2005 as part of its professional training course for career counselors.

At the Labour College, the program provides a total of 9 hours and 40 minutes of training in two sessions (days), with a two-week interval between the first and second session. The schedule of the Case Study Program is shown in the Appendix.

To date (as of January 2008), the program has been offered six times to a total of 263 career counselors. Starting in fiscal 2006, the career counselors taking the program have been requested to report on how they have used what they learned in their actual work to the Labour College on a voluntary basis, and a total of 69 reports have been submitted by 60 career counselors.

#### **2. Basic Ideas of the Program**

The program has three basic concepts as follows:

First, the technique we use is called the Expressional Technique. By mastering the

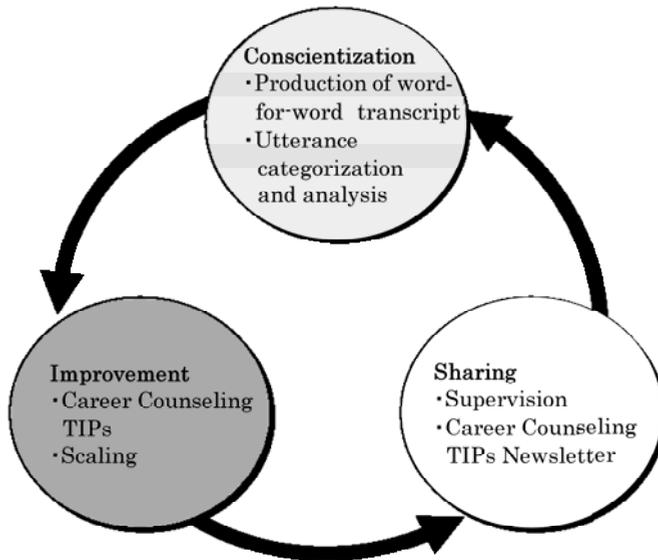


Figure 2. Improvement of Career Counseling

Expressional Technique<sup>2</sup> used in constructing a story, the career counselors will be able to help job seekers build their Career Concept more effectively.

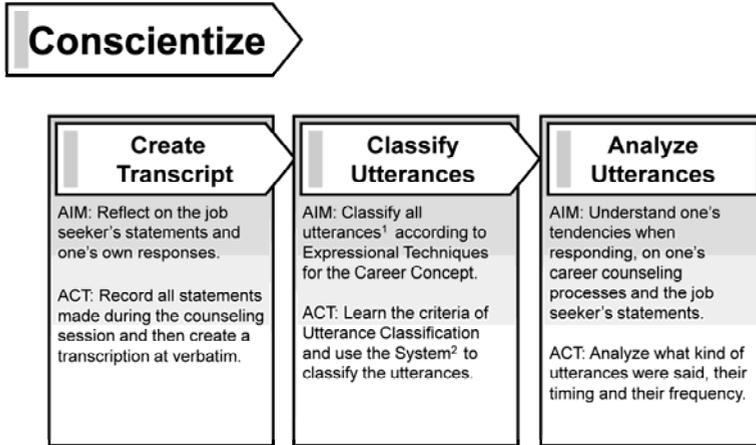
Second, as a way of mastering the techniques for career counseling, the program places more importance on making career counselors conscious of the various techniques at the counseling counter rather than focusing on a specific technique. Since the flow of a career counseling session may change in various ways depending on what the job seeker says and the career counselor's response, it is more important in the program that career counselors become conscious of different techniques and have them at their disposal, rather than being able to put a specific technique.

Third, the program not only provides training but it also intends to improve the career counseling services provided at the counseling counter. By making career counselors conscious of different techniques, the program supports them in considering which technique should be used at which time, in order to provide better career counseling.

### 3. Processes of the Program

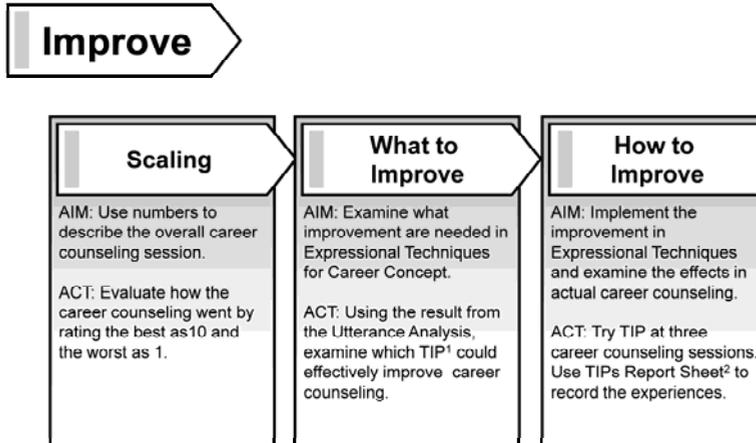
The program consists of three phases as shown in Figure 2. First, in the "conscienti-

<sup>2</sup> The Expressional Technique is defined as "techniques constructed from multiple linguistic expressional methods used to express one's Career Story that enables one to select and carry out an appropriate method of expression in response to the status and flow of the career counseling between the job seeker and the counselor." The Expressional Technique is divided into "Subject," "Viewpoint" and "Tense." Each Expressional Technique is subdivided into three categories of the Expressional Method; Past, Now, Future for Tense; Outer, General, Inner for Viewpoint; and Matter, Sentiment, Reasoning for Subject.



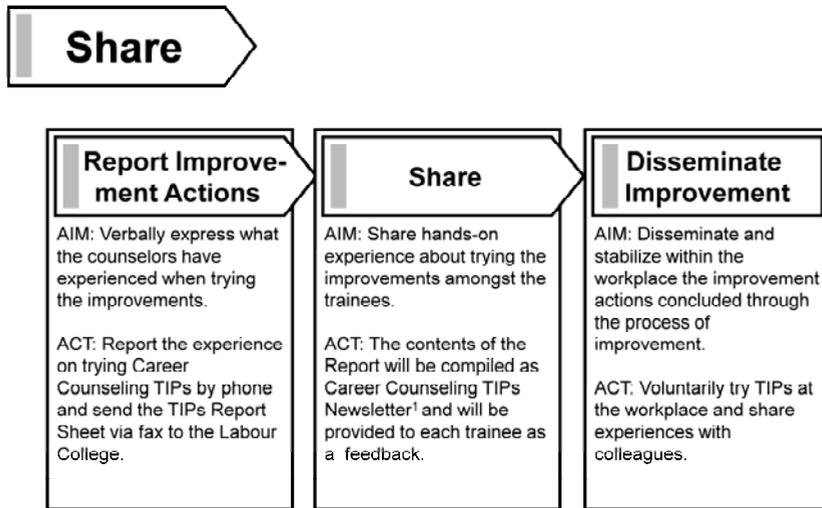
- Notes:* 1. Utterance is defined as “a string of words that expresses a certain organized meaning.” To be specific, the following are considered to be utterances: (1) Anything leading up to a period [. ] or a question mark [?]; (2) Anything up to the point where one person ceases speaking and the other person begins; and (3) A period of silence or a pause that continues over a certain length of time.
2. System means “System for Preparing and Analyzing Transcripts on Career Counseling and Job Introduction.”

Figure 3. Process of Conscientization



- Notes:* 1. Career counseling TIPs are defined as “a small technique in choosing expressions and a little device on phrasing the words.” The Labor College has compiled a standard career counseling TIPs consisting of 15 items based on the result of the analysis on utterance transcripts that were reported by the trainees. These TIPs will be amended based on the report from the improvement activities of the trainees.
2. The TIPs Report Sheet is used to record the experiences of counselors upon trying a TIP at the career counseling sessions and their effects.

Figure 4. Process of Improvement



*Note:* 1. Career Counseling TIPs Newsletter is a booklet that compiles the trainees' experiences on trying TIPs based on their reports. So far we have issued eight Newsletters (4th Newsletter has not been issued). It is set to be distributed at the Professional Training for Career Consultant Development Program.

Figure 5. Process of Sharing

zation" phase, career counselors become conscious of the process of their career counseling session (Figure 3). Next comes the "improvement" phase, in which the counselors consider how they should change their responses during conversations with job seekers and put this knowledge into practice at the counseling counter (Figure 4). Then, in the "sharing" phase, career counselors share with each other practical cases, mainly concerning verbal communication with job seekers, where the Labour College plays a central role (Figure 5).

The program provides support for one cycle of these phases. Even after completing the program, career counselors become more conscious of the process of career counseling through "sharing" and have more options to respond to what job seekers say, which will lead to further "conscientization" and "improvement." Thus, the practice is expected to continue in cycles.

#### (1) Changes in Evaluation of Counseling after the Program

Each career counselor has three opportunities to grade his/her own counseling performance, giving 10 points for the best and 1 point for the worst performance called "Scaling"<sup>3</sup>: (i) prior to participating in the program (hereinafter referred to as "pre-participation") but immediately following a counseling session of which the production of a word-for-word

<sup>3</sup> "Scaling" is a technique used in Brief Therapy. By using numbers to describe the overall impressions under various situations and matters, it becomes easy to convey the impression in a concrete manner to others.

transcript<sup>4</sup> has been assigned; (ii) after the word-for-word transcript has been analyzed in the program (hereinafter referred to as “post-analysis”); and (iii) after the practice activity of what has been learned upon returning to the counseling counter (hereinafter referred to as “post-practice”).

We conducted two types of analysis on the scores of scaling: a comparison between pre-participation and post-analysis scores and a comparison between post-analysis and post-practice scores. In the comparison between the pre-participation and post-analysis evaluation of 80 career counselors who participated in the program in fiscal 2007, the largest proportion of participants, or 65.0%, lowered the evaluation of their counseling performance, followed by those who did not change and those who raised the evaluation, at 17.5% each. The same tendency is also observed among the 47 participants in the program in fiscal 2008.

This is probably because by participating in the program, the career counselors became conscious of what the job seekers said as well as their own responses during the process of career counseling, and as a result paid more attention to the problems of their own responses.

In the comparison between the post-analysis and post-practice evaluation of 41 career counselors who participated in the program for fiscal 2006 and 2007, the evaluation of all three post practice counseling performances was raised by more than 70.0%. This result may indicate that career counselors became more conscious of the process of career counseling during their pre-participation time and were able to better control their activities and improve their counseling skills through practice.

However, considering that this is just one of many programs in a professional training course, these changes in the evaluation of their own counseling performance by career counselors may be attributed by the effects of other programs. Therefore, we cannot say, only based on this analysis that conscientization of a career counseling process caused the improvement in their counseling skills.

We need to further study the conscientization of a career counseling process derived by the program through works in practice.

## (2) Conscientization of the Career Counseling Process

In the utterance analysis, career counselors experience conscientization of a career counseling process from the perspective of building a Career Concept by analyzing the word-for-word transcripts of career counseling sessions that they provided by using Caree-Talk. There are six kinds of worksheet in this training. They are:

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<sup>4</sup> The transcript is made based on an actual dialogue during career counseling which was recorded and following “the 10 Rules for Formatting Transcripts Using Carritalk,” (Kayano 2009), every single word was transcribed from the recorded dictation. Not only verbal communication but also non-verbal communication (including facial expression, gesture, and posture) was transcribed.

1. Number of Turns and Utterances
2. Processing of Utterances
3. Tense of Utterances
4. Viewpoint of Utterances
5. Subject of Utterances
6. Career Counseling TIPS<sup>5</sup>

Program participants are scheduled to work on each worksheet for about 30 minutes according to the instructions provided on the worksheet. After the completion of Case Study Programs I and II, participants are expected to write their reviews on the review sheets.

Conscientization of a career counseling process proceeds in three steps. The first step is “comprehension of fact” based on an analysis of the word-for-word transcript. The second step is “interpretation of fact,” which is to understand the utterances of the job seeker, responses of the career counselor and characteristics and tendencies in the career counseling process. The third step is “verbalization of interpretation,” by writing the above results on a worksheet.

Using the KJ method,<sup>6</sup> we sorted out and summed up the information written on the worksheets as well as the participants’ opinions and comments written on the review sheets. By doing so, we examined to what extent the career counselors experienced conscientization of a career counseling process and what opinions and comments they had.

### (3) Method

#### 1) Program Period and Number of Training Participants

In 2008, the professional training course for career counselors was held three times. The area covered in this analysis consists of Case Study Program I performed on February 19 and Case Study Program II performed on March 5 as part of the professional training course for career counselors held from February 18 to March 7. A total of 57 counselors participated in the training.

#### 2) Protocol for the KJ Method

The KJ Method was implemented according to the following protocol.

##### (i) Creation of basic elements

The content of the worksheets and review sheets are divided into sentences to create the basic elements. For that purpose, the following rules are applied.

- When multiple meanings are included in a sentence, the sentences are divided so that each sentence has only one meaning.
- When there are omitted words and the sentence cannot be understood on its own,

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<sup>5</sup> Career Counseling TIPS are defined as “a small technique in choosing expressions and a little device on phrasing the words.”

<sup>6</sup> This is the method proposed by the cultural anthropologist Dr. Jiro Kawakita on compiling data collected during research. “KJ” refers to Dr. Kawakita’s name.

words with curly brackets { } are inserted to make out the meaning.

- Incorrect or missing letters are corrected and placed in curly brackets { }.
- Explanations are added in curly brackets { } after the coding of Utterance Classifications and abbreviations.

(ii) Creation of mid-level elements

When basic elements contain the same meaning, they are grouped together and a sentence is created to represent the meaning. This is written on a card as a mid-level element.

(iii) Mapping the relationship between mid-level elements

Mid-level element relationships are organized by placing elements that are related close to each other on simili paper, while unrelated elements are placed far apart.

(iv) Creation of primary elements

Related mid-level elements are collected and grouped together and assigned a title which represents their meaning, and the title is then written on a card to create a primary element.

(v) Relationships between primary elements.

Lines and arrows are written on the simili paper to represent the relationships between the primary elements, and are labeled with the number of primary and mid-level elements included.

#### (4) Results

##### 1) Summing Up Information on Worksheets

Table 1 is a summary of the information provided on the worksheets, which shows what a career counselor experienced during the program from the perspective of (i) clarification of fact by quantitative analysis, (ii) clarification of fact by qualitative analysis, and (iii) interpretation and verbalization of fact.

These results indicate that the career counselor experienced both “comprehension of fact” and “interpretation of fact” in terms of the number of remarks and utterances, Processing, and Tense, while in terms of Viewpoint and Subject, the career counselor only comprehended the fact and did not go further to interpret it.

##### 2) Summing Up Information on Review Sheets

There are two kinds of review sheets. Review Sheet 1 is for reviewing the first day of the program, mainly focusing on learning the criteria for Utterance Classification<sup>7</sup> and practical training of Utterance Classification. Review Sheet 2 is for reviewing the second day, mainly focusing on the analysis of the word-for-word transcript.

Program impressions can be divided into three primary elements. They are “high ap-

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<sup>7</sup> Utterance Classification is performed in accordance with the Coding Manual compiled the Utterance Classification criteria (Kayano 2007).

Table 1. Result of Worksheet Analysis

Worksheet	Conscientization of a Career Counseling Process		
	Clarification of Fact		(iii) Interpretation and Verbalization of Fact
	(i) Quantitative Analysis	(ii) Qualitative Analysis	
Number of Turns and Utterances	The counselor realized how many opportunities to speak were provided to the job seeker through quantitative analysis of the number of utterances.	The counselor realized the contents of the job seeker's utterances by searching his/her utterances.	The counselor interpreted whether the job seeker could say what he/she wanted to say.
Processing	The counselor realized the tendency of career counselor's questions through quantitative analysis of his/her "Question" and the job seeker's "Response."	The counselor realized the contents and effect of his/her question by searching utterances in his/her "Question" and the job seeker's "Answer."	The counselor interpreted the appropriateness of his/her own questions.
Tense	The counselor realized which tense was used most often in the utterances through quantitative analysis of "Past," "Now" and "Future."	The counselor realized which point in time the participants were referring to by searching utterances in "Past," "Now" and "Future."	The counselor interpreted the time span of the topic.
Viewpoint	The counselor realized to what extent each participant expressed his/her ideas and feelings through quantitative analysis of "Inner."	The counselor realized what ideas and feelings the participants expressed by searching utterances in each participant's "Inner."	N/A
Subject	The counselor realized to what extent each participant expressed his/her sentiments and desires through quantitative analysis of "Inner" and "Sentiment" and "Inner" and "Reasoning."	The counselor realized what sentiments and desires were expressed by each participant by searching utterances in "Inner" and "Sentiment" and "Inner" and "Reasoning."	N/A

praisal of the program," "problems with the program" and "expectations for the program/disseminating the program."

The relationship between the primary elements is that while there is "high appraisal of the program," "problems with the program" are being pointed out. Additionally, with

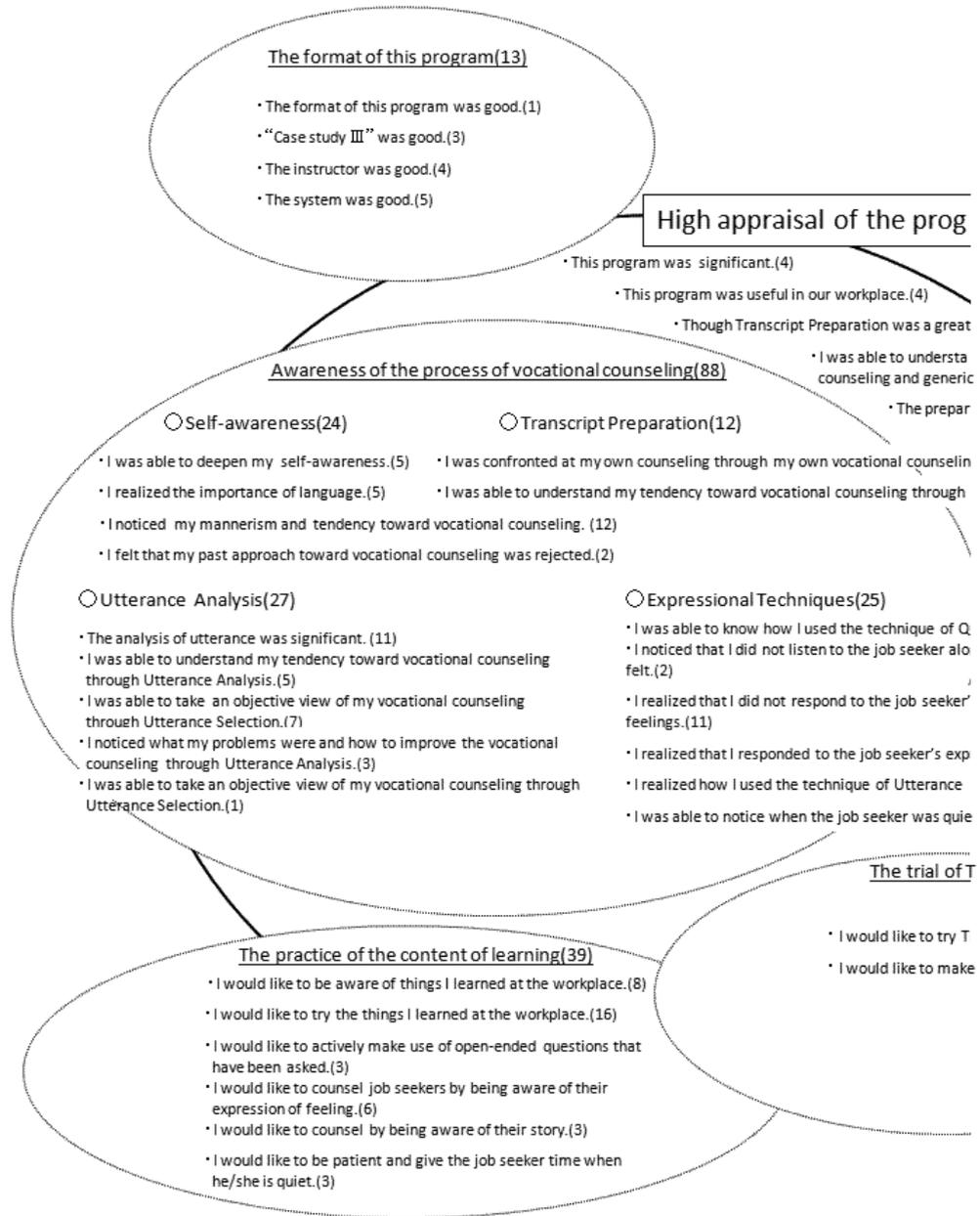
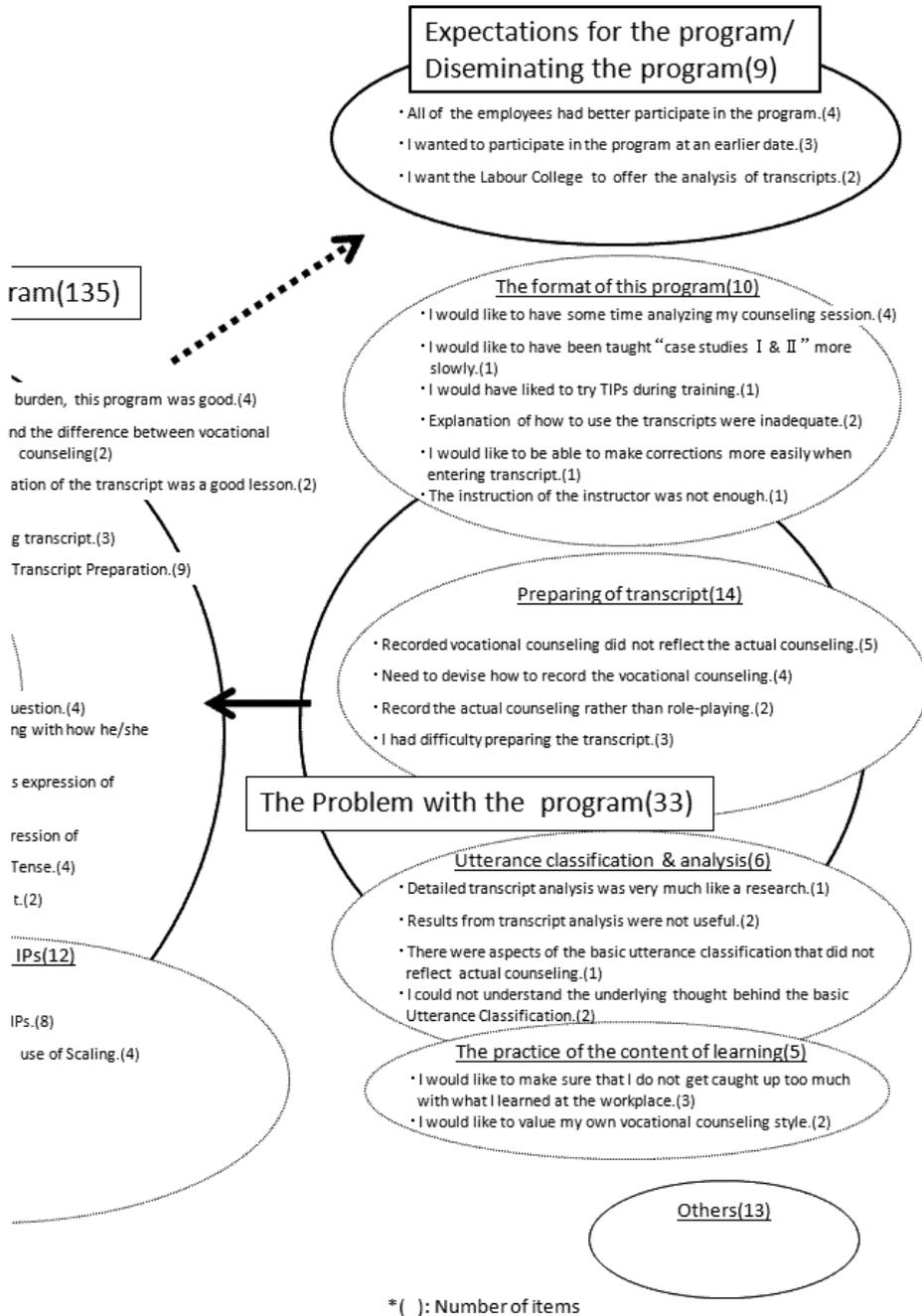


Figure 6. Result of the Review



Sheet Analysis of “Case Study II”

regards to “high appraisal of the program,” after Case Study I, there are high expectations for the verbatim transcript analysis in Case Study II, and after Case Study II there are high expectations for disseminating the program in the workplace, showing a connection to “expectations for the program/disseminating the program.”

Looking at the number of elements per primary element, the trend is that “high appraisal of the program” has the most elements, followed by “problems with the program.” The number of elements in “expectations for the program/disseminating the program” is extremely low. Comparing the impressions written after Case Study I with those of Case Study II, the former have a total of 192 elements with 91 elements in “high appraisal of the program” compared to 72 elements in “problems with the program.” Among the mid-level elements in “problems with the program,” “problems with the Utterance Classification” appears most at 42 times (JILPT 2009).

For Case Study II, the latter have comprised of a total of 207 elements, 152 of which are “high appraisal of the project” whereas only 33 elements are “problems with the program,” a reduction of only a fifth. Within “high appraisal of the program,” “consciousness on vocational counseling” is the most common with 88 elements (Figure 6).

According to the results from both review sheets as sorted out by the KJ method, the advantages for career counselors in participating in the program are that, mainly through the production and analysis of word-for-word transcripts, they can realize the characteristics and tendencies of their career counseling sessions in which they took part and they become aware of practical issues.

Their evaluation of the program is higher for the second day than for the first. This is probably because they understood the significance of troublesome work such as (i) the production of word-for-word transcripts, (ii) learning the criteria of Utterance Classification and (iii) classifying the utterances from the word-for-word transcripts.

#### **IV. Practice—Activity Case Report**

##### **1. Career Counseling TIPS**

Using the analysis of the word-for-word transcripts through CareeTalk as a reference, the career counselors try to find better ways of expressing a Career Concept that can improve their career counseling and be to try them at the counseling counter. To help them find such ways, we developed the Career Counseling TIPS, which consists of 15 items as shown in Table 2. TIP 1 through 6 emphasize listening to the job seeker. TIP 7 through 15 emphasize constructing a Career Concept based on the content of the job seeker’s speech.

The thinking behind Vocational Counseling TIPS is as follows. If the counselor follows the Career Counseling TIPS in his or her own statements, this will affect the statements of the job seeker. In turn, the statements of the counselor will change upon receiving such statements from the job seeker. These changes in interaction lead to a more effective overall counseling session. The protocol for Career Counseling TIPS is shown in Figure 7.

Table 2. Career Counseling TIPs

TIP 1	Be aware of the number and length of interruptions.
TIP 2	When the job seeker uses words such as 'well' or 'but,' wait patiently until he/she finishes his/her thought.
TIP 3	Give more verbal responders to make a conversation go smoothly than in a normal conversation.
TIP 4	Pay attention to changes in the job seeker's facial expression and body language after you pose a closed question.
TIP 5	Pay attention to changes in the job seeker's facial expression and words after you offer directions or advice.
TIP 6	For the first half of the career counseling session, ask as many open-ended questions as possible.
TIP 7	When the job seeker begins to speak about their feelings, try to repeat their words in your mind even if it delays your response.
TIP 8	After you have spoken on a general topic, always allow time for the job seeker to speak.
TIP 9	At least once a session, attempt to explain in your own words how you are currently feeling and what observations you have made.
TIP 10	Pay attention to the job seeker's emotional expressions.
TIP 11	When the job seeker expresses his/her emotions, repeat his/her words in your mind several times and then respond.
TIP 12	When the job seeker begins to express his/her emotions, think about how you felt when you heard about it and put those thoughts into words.
TIP 13	Be aware of what tense the job seeker uses most often in his/her speech.
TIP 14	When the job seeker is explaining his/her previous experience, think about what your impressions are of his/her experience and put those thoughts into words.
TIP 15	Try to draw a timeline linking the past, present and future from the job seeker's words.

Career counselors are requested to report their experiences of the training by filling in the prescribed TIPs report sheet and submitting it to the Labour College by facsimile or other means. This is not mandatory but left to the discretion of each counselor. These practice activities started in fiscal 2006 and have continued up to now (January 2007). During this period, 229 career counselors participated in the program, and 60 reported on their experiences.

Interviews were conducted for these 60 counselors, and the summaries of the reports and the interviews were disseminated in the form of the Career Counseling TIPs Newsletter to all career counselors who participated in the program. To date, 10 issues have been published and 41 cases have been reported.

Using these 41 cases, we examined two points. First, we examined how career counseling services improved through practicing TIPs, and identified future issues. Next, we examined the impact that conscientization of a career counseling process had on the improvement of career counseling services.

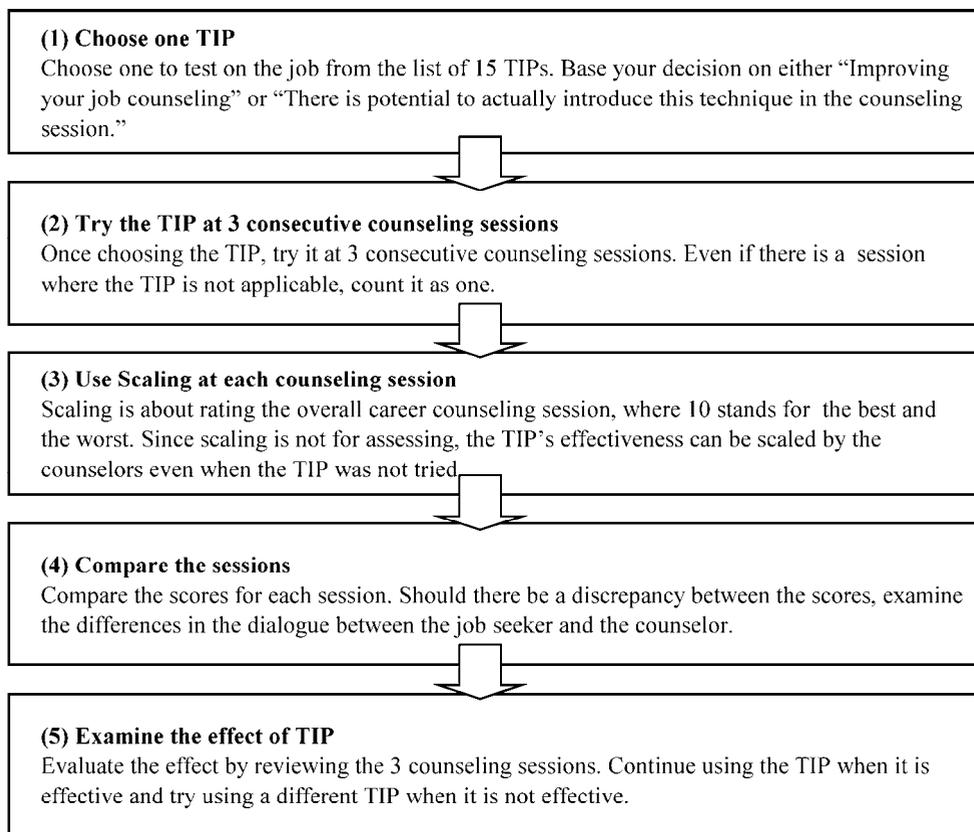


Figure 7. Protocol for Career Counseling TIPs

## 2. Effectiveness of Career Counseling TIPs

On the TIPs report sheet, the career counselors are requested to evaluate the effectiveness of the TIPs that they practiced using four grades from “very effective” to “not effective” (Figure 8).

According to the analysis of the evaluation by 58 career counselors who submitted TIPs report sheets, the proportion of those who evaluated them as “fairly effective” was the largest at 72.4%, followed by those who said “very effective” at 17.2% and “not very effective” at 8.6%. Nearly 90.0% of these career counselors practiced TIPs at the counseling counter and evaluated them as effective.

In the case study of the practice activity, the effects of Career Counseling TIPs can be classified in three ways: (i) the job seeker finds it easier to talk (TIPs 2, 3, and 4); (ii) the career counselor can understand how the job seeker feels (TIPs 6, 7, and 10); and (iii) the career counselor can provide information and advice to the job seeker more effectively (TIPs 5, 8, 9, and 15).

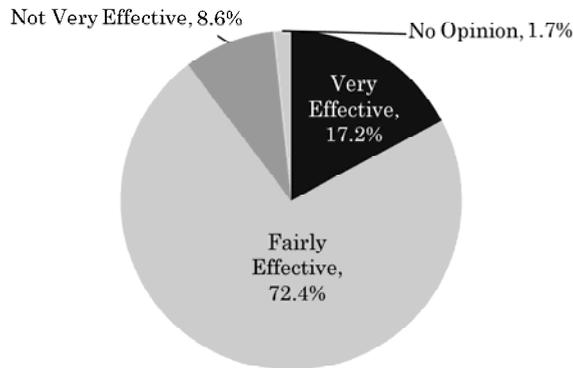


Figure 8. Effectiveness of Career Counseling TIPs (N = 58)

Most of the Career Counseling TIPs demonstrate these three effects when they are put into practice, generally in the order of (i) → (ii) → (iii). We can say that the career counselors carefully listened to what the job seekers said and then gave advice or information.

The problem with Career Counseling TIPs is that, by creating a comfortable atmosphere for job seekers, they tend to talk longer or talk about broader subjects not directly related to job seeking, thus resulting in longer counseling sessions.

### 3. Effect of Conscientization of a Career Counseling Process

The effect of conscientization of a career counseling process is that the career counselors learn to control their activities depending on how the counseling proceeds and further improve their career counseling services. Using the cases of practice activity, we studied how career counselors have become able to control their activities through conscientization of a career counseling process (JILPT 2009).

The study suggested that as a result of conscientization of a career counseling process, career counselors have become conscious of the changes in their own activities and the influence of how the changes in their own activities have influenced the changes in the activities of the job seeker.

## V. Conclusion and Future Issues

### 1. Issues in the Development of the Program

The first issue is to make it easier to classify utterances and improve training materials to help master Utterance Classification. Considering that many career counselors expressed opinions regarding the difficulty in classifying utterances, immediate action may be required.

The second issue is to revise the program so that the participants will be less pressed

for time. Under the current program, career counselors learn 4 Expressional Techniques and 21 Expressional Methods within 160 minutes. We may consider lessening their burden by reducing the program's content.

The third issue is to make it easier to produce a word-for-word transcript. Under the current schedule, career counselors are required to produce the transcript in less than a month, while performing their daily tasks. It is necessary to extend this period and at the same time simplify the formal procedure for producing a word-for-word transcript.

## 2. Issues in Action Research

The first issue is to introduce more of the instructors' viewpoints. In this study, the researchers had two roles, one as an instructor and the other as an observer. The experiences of instructors and the comments and evaluation by observers are valuable information for proceeding with action research. For the future, we need to actively take up these personal experiences with the program. Such a viewpoint should not remain strictly personal, but should be expanded into a more generalized viewpoint by discussing them in connection with the reviews of past studies and the results of research and experiments.

The second issue is to establish indicators for building a Career Concept. In career counseling process, we posit that matching the job offer's information with the job seeker's information is to make a story based on the job seeker's information, interpret the vocational skills of the job seeker based on the story, and then determine whether those skills satisfy the needs of the employer based on the job offer's information. By verbalizing the above matching process, it will be made clear what is important for a Career Concept, i.e. how the job offer's information should be selected and processed in order to make an activity plan for the future on the basis of the past and present, which includes a plan for activities to obtain employment with a specific job-offering company. Also, the development of indicators will help determine the degree of progress in the formation of a Career Concept in career counseling and thereby help assess the effects of career counseling and training in a more efficient manner.

The third issue is to develop a training program where career counselors can build their own Career Concepts. In career counseling according to the constructivist approach, an individual cannot control events but can change the interpretation of the events and make a new story. By doing so, it is possible to make the future activities of an individual more active.

An important point is whether the career counselors can understand the active nature of the job seeker. In order to do so, the counselors themselves experience this, and through their own experience, try to understand the active nature of the job seeker. For that purpose, we hope to develop a program in the future in which career counselors create various career stories by interpreting their own career and, using these various stories, construct their own Career Concept.

## Appendix: Schedule of Case Study Program

## Case Study Program I: Basics of Utterance Classification

Item		Content	Time (min.)
1. Objective of Case Study Program	Lecture	There will be an explanation of the objective of the Case Study Program and this schedule.	20
2. Career counseling and Expressional Technique	Lecture	In career counseling, the counselor and the job seeker cooperate to construct, deconstruct and reconstruct the career concept while looking for matches with available job offerings. In this regard, techniques to express career concepts are essential. These techniques have been named "Expressional Techniques" and are defined as "techniques constructed from multiple linguistic expressional methods used to express one's career, or the career counseling process that enables one to select and carry out an appropriate method of expression in response to the status and flow of counseling between the job seeker and the counselor." There will be an explanation on the relationship between career counseling and Expressional Techniques.	20
3. Flow on preparing transcripts, classifying and analyzing utterances	Lecture	There will be an explanation on the flow of the preliminary transcription preparation, Utterance Classification in Case Study Program I, and Utterance Analysis in Case Study II.	10
4. Criteria for Utterance Classification	Training	There will be an explanation on the criteria for Utterance Classification, such as Utterance Processing, Subject, Direction, Tense, and Silences/Interruption, according to the Manual of Coding. The counselors will be required to answer questions on classifying utterances in relation to the criteria, and they will be required to grade their own exercise.	20 10 [Break] 20 20 10 [Break] 10
5. Training on Utterance Classification	Training	There will be an explanation on how to operate the system. The trainees are required to use a computer to operate the system and to classify the utterances on the transcriptions of their own career counseling sessions.	60 [Break]
6. Review I	Review	The trainees are required to fill in <i>Review Sheet 1</i> with their thoughts on Case Study I.	10

Case Study Program II: Utterance Analysis

Item		Content	Time (min.)
7. Review of Case Study Program I	Review	Review Case Studies I referencing the <b>Review Sheet 1</b> filled in by the trainees.	10
8. Utterance Analysis and Utterance Selection	Lecture	There will be an explanation on Utterance Analysis and Utterance Selection through an analytical method for the transcripts.	10
9. Training on Utterance Analysis and Utterance Selection	Training	The trainees operate the system and run a series of analyses on the transcripts of the career counseling sessions they actually conducted. They are required to interpret the results of the analysis while filling out <b>Work Sheets 1-5</b> .	30 30 10 [Break] 30 30 10 [Break]
10. Career Counseling TIPS	Lecture	There will be an explanation on methods to improve everyday counseling duties using Scaling. There will also be an explanation on Career counseling TIPS. The counselors will examine what techniques are required to improve the Scaling rate. They will also think of which technique can be used when they are back at work while filling out <b>Work Sheet 6</b> .	30
11. Review 2	Review	The counselors will be required to fill out <b>Review Sheet 2</b> with their thoughts on Case Study Program II.	10

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## JILPT Research Activities

### ***Publication of Various Research Results in Response to Global Requests***

In response to requests from the mass media and experts in Japan and abroad, JILPT has its research fellows, researchers, and other staff provide briefings on specific themes related to labor issues, based on their research results, at various seminars and external workshops. Also from this May to August, JILPT actively responded to various requests from outside concerning labor policy studies based on its regular research activities, which included a presentation made by a JILPT research fellow in charge of labor economics, at the request of the U.S. embassy, on the theme of “countermeasures against the graying of the population and labor shortage in Japan,” and a domestic media interview given by a JILPT researcher closely watching labor trends in foreign countries on the theme of “society and employment problems of young people in the UK.”

### ***Research Reports***

The findings of research activities undertaken by JILPT are compiled into Research Reports (in Japanese). Below is a list of reports published in 2010 and 2011. The complete text of these reports in Japanese can be accessed from the JILPT website (<http://www.jil.go.jp/english/index.html>). We are currently working on uploading abstracts of reports in English onto the JILPT website as well.

#### Research Reports

- No.138 *Study on the Current Status of the Employment Portfolio System: From the Perspectives of the Necessary Personnel Management and Overall Labor Cost Administration* (June 2011)
- No.137 *Study on the Current Status of Employment among the Elderly* (June 2011)
- No.136 *Continued Employment during Periods of Maternity and Child-Rearing: Trends from 2005 Onward* (May 2011)

#### Research Series

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