
Examining Potential Future Developments in the Principles of Employment Policy and Measures to Address Long-Term Unemployment in Japan

Yasuyuki Konishi

Meiji University

In Japan, rapid progress in globalization and technological innovation is likely to result in acute labor shortages in certain industrial fields, while in other fields decrease in the demand for labor may lead to severe structural unemployment. This paper discusses the principles of employment policy and measures to address long-term unemployment that will be required in the future in order to respond to such social and economic changes, focusing mainly on the role of “employability” (the ability and adaptability required to enter and maintain employment, and find new employment as necessary) in these policies and measures. This paper argues that: (i) in the context of an ever more dynamically changing labor market, when developing future employment policies it will be important to ensure renewed awareness of the fact that a worker’s capacity to work is the object of transactions in the labor market, and, on the basis of this awareness, to improve the employability of workers so that they are able to adapt to changes in the labor market as the situation requires; and (ii) in order to improve employability, it will be necessary to establish an environment which allows workers not only to improve the practical skills that will be demanded of them in the labor market, but also to maintain their mental and physical health and ensure that they are always prepared for changes in the labor market.

I. Introduction

It is likely that in the future Japan will face economic and social conditions that are shaped by further progress in globalization and technological innovation. Such economic and social changes are also likely to have a significant effect on the structure of the employment of workers in Japan.¹ Namely, it is anticipated that while decrease in the labor force population will create acute labor shortages in certain industrial fields, at the same time, in other fields progress in globalization and technological innovation will lead to a decrease in the demand for labor within Japan, resulting in severe structural unemployment.

Failure to take appropriate measures to respond to such developments will result in more long-term unemployment. This will not only demonstrate the ineffective utilization of the domestic labor force across Japan’s labor market as a whole, but also potentially prevent Japan’s economic strength from developing, due to increased national costs generated by

¹ For more on the effects of technological innovation on labor, see Erik Brynjolfsson and Andrew McAfee, *Kikai toni Kyoso (Race against the Machine: How the Digital Revolution is Accelerating Innovation, Driving Productivity, and Irreversibly Transforming Employment and the Economy)*, trans. Akiko Murai (Tokyo: Nikkei BP-sha, 2013).

the need to provide people in long-term unemployment with benefits to guarantee a minimum standard of living. Furthermore, long-term unemployment may also lead to effects such as social unrest caused by an increase in crime, or other such effects that will cause a decrease in the level of living standards across society as a whole.

It is also important not to overlook the effects of unemployment on workers. People who are unemployed are highly likely to have difficulty maintaining a livelihood as a result of their lack of employment. At the same time, they also lose their connection with society and progressively lose the readiness (including not only abilities in specialized fields but also universal and general abilities such as mental drive and physical energy) required to pursue employment activities in the labor market. This trend is even more so the case if people remain unemployed for a long period of time, making it increasingly difficult for such people to engage with the labor market.

The rate of unemployment in Japan is 3.4% (as of March 2015). However, while the rate of unemployment was still below 4% in 2015, the percentage of people in long-term unemployment as a percentage of the total number of unemployed people has been increasing for a significant number of years.²

In light of such circumstances, the key issue which needs to be addressed in Japan is what approaches can be taken to tackling long-term unemployment. Namely, with globalization and technological innovation expected to progress rapidly in the medium-to-long term future, it is important to consider what measures can be taken to deal with the issues of structural long-term unemployment and limit social unrest by maintaining favorable economic conditions as far as possible.

The following points need to be kept in mind when addressing this issue:

Firstly, it is necessary to not only offer concrete policy proposals, but also to reexamine the principles of employment policy. The Constitution of Japan stipulates that “all people shall have the right and the obligation to work” (Article 27 [1]). The interpretation of this provision will form the backbone of future measures to address long-term unemployment. Secondly, the ultimate objective of measures addressing unemployment—including long-term unemployment—is to improve the match between the supply of labor and the demand for labor. It is important to address the potential for increasing the “employability” (used here to refer to the ability and adaptability required to enter and maintain employment, and find new employment as necessary) of workers as a means of improving the match in labor supply and demand.

This paper builds on awareness of such issues to examine potential future developments in the principles of employment policy and measures to address long-term unem-

² The percentage of people in long-term unemployment (unemployment lasting for one year or more) among the total number of unemployed people was 18.1% in 1995, 25.5% in 2000, 33.3% in 2005, 37.6% in 2010, and 38.5% in 2012. The Japan Institute for Labour Policy and Training (JILPT), *Detta Bukku Kokusai Rodo Hikaku 2014 (Databook of International Labour Statistics 2014)* (Tokyo: JILPT, 2014), Table 4–5.

ployment, focusing mainly on the role of employability in these policies and measures.

II. The Principles of Employment Policy in Japan

1. The Conventional Principles of Employment Policy³

Article 27 of the Constitution of Japan provides that all people shall have the right and the obligation to work. According to general understanding, the right to work is interpreted as the obligation of the Japanese government to establish policies that: (i) provide a labor market structure in which workers are able to obtain opportunities to engage in work in which their individual abilities and aptitudes are utilized; and (ii) guarantee a minimum living standard for workers who are not able to obtain such work opportunities. The fulfillment of this obligation to provide such policies is supported by legislation which concerns policies in the labor market, including laws such as the Employment Security Act, Worker Dispatching Act, Human Resources Development Promotion Act, Employment Insurance Act, and the Act on Support for Job Seekers in Finding Employment.⁴

In order to understand the conventional principles of employment policy, it is necessary to start by clarifying the foundations for the existence of the right to work and the obligation to work, and the relationship between the two concepts.

Firstly, the obligation to work can be understood in relation to the guarantee of the right to a certain standard of living (The Constitution of Japan, Article 25). Namely, the Constitution of Japan guarantees the people of Japan “the right to maintain the minimum standards of wholesome and cultured living” (Article 25 [1]) and ensures the provision of public assistance (in Japan, this is provided in the form of *seikatsu hogo* [lit. livelihood protection] under the Public Assistance Act). At the same time, in order to be eligible to receive public assistance, the person receiving assistance is expected to utilize their own assets, abilities, and other such means available to maintain a minimum standard of living (see the Public Assistance Act, Article 4 [1] “Supplementary Nature of Public Assistance”). This design in the framework for providing public assistance has the same fundamental concept as the obligation to work. The relationship between the right to a certain standard of living and the obligation to work is implied by the fact that in the process of discussions to prepare the Constitution of Japan for enactment, the provision regarding the obligation to work was added to the constitution along with the establishment of the provision regarding the right to a certain standard of living.⁵

Under Japan’s public assistance system, it is possible that, due to the concept of the supplementary nature of public assistance, the abilities and aptitudes of a recipient of assis-

³ See also Yasuyuki Konishi, “Rodo Shijo no Ho Seisaku [Legal policy of the labor market],” in *Rodoho no Soten* [Issues in labor law], ed. Michio Tsuchida and Ryuichi Yamakawa (Tokyo: Yuhikaku, 2014), 240.

⁴ Kazuo Sugeno, *Rodoho* [Labor law], 10th ed. (Tokyo: Kobundo, 2012), 21ff.

⁵ See the minutes of the plenary session of the House of Representatives on August 24, 1946, etc.

tance will not be sufficiently taken into consideration when it comes to the utilization of their abilities. Moreover, recipients of public assistance have also historically been seen as excluded from the labor market, and in reflection of this and other such circumstances, receiving public assistance was often perceived as potentially attracting stigma.

In response to the situation above, discussions regarding the right to work have developed as the argument that it is obligation of the national government to provide people who have the will and ability to work with opportunities to work.⁶ Moreover, pursuing this further, arguments have developed which suggest that the nation is expected: (i) to provide opportunities for work in which workers can utilize their abilities and aptitudes; and (ii) to guarantee a minimum living standard for workers who are unable to acquire such opportunities. It is now typical in Japan to adopt an interpretation of the meaning of the right to work which reflects such arguments.

In this way, the *right* to work and the *obligation* to work have not been interpreted as making up two sides of the same standard, but instead as concepts which incorporate elements with different foundations of existence and policy aims. This is also reflected by the way in which work opportunities are regarded. Namely, with respect to the *obligation* to work (and public assistance), workers are expected to use all possible opportunities to work as means of utilizing their abilities, and in order to be eligible to receive benefits, people are expected to have used all opportunities to work. On the other hand, with respect to the *right* to work, there are demands for work opportunities in which workers can utilize their abilities and aptitudes, and workers are seen as having in a sense the “right” to such opportunities which utilize their skills. The approach to work opportunities differs greatly depending on whether it is looked at from the perspective of the *obligation* to work or from the *right* to work.

Moreover, according to the above interpretations of the right to work, people deemed to possess the will and the ability to work are not considered the target of public assistance schemes but different policies. In addition to this, historically former professional experience has been of great significance when judging whether or not a worker has the will and ability to work. This can also be seen as related to the fact that workers are granted a certain type of “status” based on the professional experience that they have built up over the years, and maintaining that “status” has been regarded an important issue in labor market policy⁷

⁶ For more on the history of arguments concerning the right to work, see Masayuki Uchino, *Shakaiken no Rekishiteki Tenkai: Rodoken o Chushin ni shite* [The historical developments of social rights: With a focus on the right to work] (Tokyo: Shinzansha, 1992).

⁷ Yasuyuki Konishi, “Vaimaruki ni okeru Shitsugyo Hoken Seido Seiritsu no Dotei: Shitsugyo e no Torikumi to Sono Genkai [The process of establishment of the unemployment insurance system in the Weimar period: Approaches to tackling unemployment and their limitations],” *The Meiji Law Review* 73, nos. 2–3 (2000): 365, addresses how the will and ability to work have been reflected in the unemployment benefits system, arguing that the way in which the system was devised with respect to these concepts can be understood by drawing a connection between these concepts and the formation of the “status” of a worker.

(it is possible to apply this point of view not only to the unemployment benefits system, but also restrictions on dismissal).

To summarize, the right to work as seen in the context described above is based on the fundamental principle that workers should be provided with work opportunities that are suited to the vocational abilities that they have acquired and developed up until the relevant point. This approach is more compatible in employment systems in which, even if the worker becomes unemployed, the work abilities they have acquired and developed over the years are valid (even if only to a certain extent) in the external labor market.

2. Future Prospects for the Principles of Employment Policies in Japan

(1) The Positioning of the Labor Market in Employment Policy

Many of the existing employment policies in Japan have been implemented with the right to work as a foundation. However, the following three points can be raised regarding the typical understanding of the right to work as described above:

Firstly, according to the conventional understanding of the right to work, the provision of employment placements and unemployment benefits is assumed as a given, but points of view on developing the employability of workers are not always clear.

Secondly, the conventional understanding of the right to work demands that a worker is provided with work opportunities suited to the vocational abilities that the worker has developed up until the relevant point, and that the worker be provided with unemployment benefits when such opportunities are not available.

However, due to the fact that in the so-called “Japanese employment system” workers engage in various duties within a company, it is often the case that when a worker becomes unemployed, even if they have acquired and developed vocational abilities that can be applied in their company, they do not possess vocational abilities that can be evaluated in the external labor market. This in turn makes it difficult to take into account the professional experience of said worker when looking for employment placements for them. Namely, “work opportunities which allow a worker to utilize their abilities and aptitudes” take on a less clear and more broad-ranging meaning and scope than they would do if the worker had been able to adopt skills in their company which were also valid in the external labor market. As a result, it is possible that when such workers become unemployed they may be given a placement of employment which they are unwilling to engage in because the work is not related to their previous professional experience, and there is the possibility that if they do not take the employment placement they may not receive unemployment benefits⁸ (see the Employment Insurance Act, Article 4 [3], Article 15 and Article 32). The fact that workers who have left or lost their employment may be forced to engage in employment which they are unwilling to engage in is similar to the situation in which a worker is required to utilize

⁸ Hereinafter unemployment benefit essentially refers to the basic allowances of unemployment benefits prescribed in the Employment Insurance Act.

all of their abilities in order to be eligible to receive public assistance. That is to say, while the concepts of the right to work and the obligation to work may have developed with different foundations of existence, the situations in which problems arise in relation to these concepts overlap considerably on the level of concrete labor market policy.

Thirdly, it is certainly true that given the social and economic circumstances up until now it has been possible to provide workers with employment opportunities that are suited to the vocational abilities that they have already acquired and developed. As a result, providing such opportunities has been seen as the fundamental demand in employment policies. Namely, employment policies were not planned for a dynamic labor market in which the required techniques and skills change in the short-term. Workers have therefore been regarded as being in the position of the “subject”—as opposed to the “object”—a position which allows them to dictate what kind of work they wish to engage in.

This view of employment policies fitted well with former ventures which interpreted the right to work from the perspective of the potential for workers to feel fulfilled in their professional lives.

However, in the labor market a worker’s capacity to work is the “object” of transactions. For this reason, it is anticipated that placing key emphasis on the worker as the “subject”—in the sense that the worker is considered to be in the position to select work opportunities—creates an all the more higher risk of workers becoming alienated from the labor market. It is not possible to overlook this fact when considering the state of employment policies in the medium-to-long term future, particularly given that globalization and technological innovation are expected to progress at an unprecedentedly rapid pace. Namely, the techniques and skills that were required in the labor market up until now will quickly cease to suit the needs of society and the economy and the skills and techniques that are newly required in the labor market will also change in the short term. It is anticipated that in the future the society and economy will no longer be concerned with the aptitudes and abilities that workers have developed in their previous work experience, and such skills will be quickly rendered obsolete in the process of rapid and ongoing social and economic progress. In the context of such progress, it will be difficult for workers to demand the government to provide “work opportunities suited to individual aptitudes and abilities” which are persistently limited to the scope of their former professional experience. If, in spite of this, such demands are accepted and incorporated in employment policy, and benefits to guarantee a minimum living standard are provided to people who are unable to acquire such work opportunities, people will remain in unemployment for even longer periods of time.

(2) The Concept of the “Right to Develop a Career”

An influential opinion regarding the principle of employment policies conceives the “right to develop a career” and asserts that this right should be used as the focal point for

developing employment policy.⁹ This opinion notes that ensuring that workers develop professional careers (professional experience) provides opportunities for them to feel fulfilled in their professional lives, and suggests that employment policy should be based on the fundamental principle of exploring what needs to be done in order to ensure that people's professional careers continue to develop without interruption.

As under this concept of the "right to develop a career," a "professional career" can be interpreted as "professional experience," it is thought that here the concept of a "career" is essentially formed on the basis of vocational abilities that a worker has acquired and developed through previous experience.¹⁰

It is certainly true that in the circumstances up until now, in which the progress of globalization and technological innovation was relatively less pronounced, maintaining and developing an existing career was useful not only for the worker concerned but also for society. This concept is also highly significant as it lays the foundation for the development of vocational abilities as the fundamental pillar of employment policy and raises the possibility of review of the direction of employment policy.

However, as just mentioned, it is anticipated that the unprecedentedly rapid progress that globalization and technological innovation are expected to achieve in the future will lead to an even higher possibility that the careers that workers have established up through previous experience will no longer suit the needs of society.

Up until now it has therefore often been the case that in practicality careers have been associated with a sense of identifying with certain work duties or a company organization. As a result, workers' outlooks toward their future professional life have been significantly influenced by their sense of identifying with the experiences that they had accumulated in the past. At the same time, such a sense of identifying is thought to cause workers to develop an outlook toward their career which is not suited to adapting to changes in industrial structure and other such shifts in the market, and which does not fit with the prospects for the future of the market.

(3) The Principles of Employment Policy and Employability

A worker's capacity to work can be regarded as the object of transactions in the labor market. At the same time, the market is anticipated to change significantly in the future within a short period of time. Unless a worker takes the appropriate action to respond to rapid developments in the market, the market value of their capacity to work will decrease, and in some cases the worker may be at risk of being excluded from the labor market. To address such risks, the most pressing issue which needs to be tackled as employment policy

⁹ Yasuo Suwa, "Kyariaken no Koso o meguru Ichi-shiron [An essay on the right to develop a career]," *The Japanese Journal of Labour Studies* 41, no. 7 (1999), 54.

¹⁰ However, it is necessary to give adequate consideration to the fact that *career changes* are also the topic of discussions regarding the development of the above concept of the "right to develop a career."

is developed is increasing the employability of workers and establishing an environment in which workers are prepared to adapt to the labor market.

In order to improve the employability of workers to allow them to adapt to the labor market, it is necessary to implement measures in the following three stages:

In the first stage, it is necessary to ensure that workers maintain their mental and physical health, to ensure that they are able to adapt to the various needs of the labor market as the situation requires. The implementation of initiatives in this first stage will provide the foundation for workers to pursue a professional life in the future and allow them to avoid being excluded from the labor market.

The second stage requires adopting measures that allow workers to actually respond to the needs of the labor market as the situation requires. In this stage it is first necessary to establish an environment in which workers are able to engage in work that they wish to engage in and for which there is also a demand in the labor market. More specifically, this may involve workers focusing on potential future developments and responding to the needs of the labor market by utilizing the career they have developed up until now as a starting point from which to establish a new career.¹¹ However, in going beyond this and establishing a society in which workers can pursue a living based on labor relationships without being excluded from the labor market it will be necessary to establish an environment which allows workers to engage in work in such a way that they adapt to the needs of the labor market more widely as the situation demands, through means such as providing programs to develop vocational abilities suited to the needs of the labor market.

Finally, as the third stage it will also become important to develop an environment in which workers are able to take an overview of the labor market and be constantly aware of what kinds of needs exist in the labor market and what kinds of labor will be required in the future.

It is possible to respond to the reconsideration of the principles of employment policy set out above with the assessment that such an approach involves less emphasis on the worker as the subject—that is, the worker being able to choose the work they engage in—and that this in turn may lead to workers achieving less professional fulfillment than they would if they engaged in a certain type of work that they wish to engage in.

However, even if the career that a worker has developed through their previous experience is of value to the worker themselves, if the labor market does not need that career, it will be difficult to pursue that career in the labor market and it will therefore be inappropriate to make ensuring the pursuit of such careers a focal point of employment policy.

Reinterpretation of the principles of employment policy with employability—for which an important element is workers developing the abilities described in the three stages described above—as a focal point stems from renewed awareness of the fact that a worker’s

¹¹ The concept of the “right to develop a career,” described in the previous part of this section, is thought to have been envisioned mainly in the context of cases such as these.

capacity to work is the object of transaction in the labor market. Although this reinterpretation may be based on the concept of a worker's capacity to work as the object of transactions, improving employability by implementing the initiatives set out in the three stages above will allow workers to adapt to the labor market flexibly and with a positive attitude. Moreover, such initiatives may allow workers to engage in the work that they wish to engage in. Increasing employability in this way will consequently provide workers with a greater sense of professional self-fulfillment, and create other such opportunities for workers to improve the quality of their professional lives.

III. Concrete Measures to Address Long-Term Unemployment

1. Legal Restrictions on Dismissal

In Japan, when a dismissal lacks objectively reasonable grounds and is not recognized as appropriate on the basis of socially accepted ideas, the dismissal can be found to be an abuse of the right to dismissal and rendered invalid (Labor Contract Act, Article 16). Relaxing these restrictions on dismissal is one of the potential means of fixing the problem of long-term unemployment. This argument is that relaxing restrictions on dismissal will increase mobility in the labor market and ensure that even if workers become unemployed it will be easy for them to find employment again without remaining unemployed long term.

However, there are two points that need to be kept in mind when approaching this argument:

Firstly, even in the United States, where restrictions on dismissal are relatively less strict,¹² in recent years the rise in the number of people in long-term unemployment has become a problem.¹³ This suggests that it is difficult to overcome long-term employment (in other words, to limit the number of people who become unemployed long-term) simply by relaxing restrictions on dismissal.

Secondly, when a worker is dismissed or leaves their employment, they: (i) lose the

¹² The results provided in the *OECD Employment Outlook 2013* (page 86) show that the United States has the second lowest level among OECD countries—behind New Zealand—of protection of regular workers against individual and collective dismissals.

¹³ The harmonized unemployment rate in the United States is 8.1% in 2010 (JILPT, *Databook of International Labour Statistics 2014*, Table 4–1). The percentage of people in long-term unemployment among the total number of unemployed people was 6.0% in 2000, but by 2012 it had risen to 29.3% (JILPT, *Databook of International Labour Statistics 2014*, Table 4–5). Moreover, similar to the workers' accident compensation insurance system in Japan, in the unemployment insurance system in the United States, a merit system has been introduced by which the insurance rate is decided according to the insured event (in the US unemployment insurance system this is in proportion to dismissal by the employer). It depends on specifically how the merit system is devised, but generally it is assumed that the merit system will have the effect of curbing dismissals by employers. While this means that there is a higher possibility that employment relationships will continue, if the vocational abilities of workers decline while they are kept in employment, in the event that they lose their employment, they will not possess the vocational abilities demanded by the labor market, and this may increase the risk that they will remain unemployed long-term.

wages which were their source of a livelihood; and (ii) lose the social relationships that they formed and maintained while they were in employment. There is also the risk that: (iii) while they are unemployed the worker will see a decline in their vocational abilities, which are the abilities upon which they are evaluated in the external labor market. When considering changes to restrictions on dismissal as a potential measure for tackling long-term unemployment, it is therefore necessary to look at what kinds of effects such changes may have on the loss of income, social relationships, and vocational abilities that workers may suffer.¹⁴

For example, loss of income due to reasons such as dismissal may be dealt with by providing support through the unemployment benefit system, but providing unemployment benefits alone will not restore lost social relationships. Moreover, in order to tackle the decline in vocational abilities it is necessary to review and investigate the possibility of measures which do not only involve the payment of unemployment benefits but also incorporate elements such as vocational training tied-in with the payment of benefits.

When such points are taken into account, there may also be cases in which it is deemed reasonable for the employment relationship to be maintained at the expense of the employer.

However, in the event that the employment relationship is maintained, although the possibility of the worker losing income is low, there is the possibility that while remaining in employment they will fail to maintain or develop—and may even lose—vocational abilities that can be evaluated in the labor market, particularly those which are recognized in the external labor market (such concerns may also be valid in cases in which government subsidies for employment adjustment [“employment adjustment subsidies”] are paid to employers to supplement the wages of workers on temporary leave of absence). In such cases, when the employer ultimately becomes unable to maintain the employment of a worker, and said worker finds him or herself unemployed and sent out in the external labor market, there is a high risk that they will remain in unemployment long term because they do not have skills that are suited to the labor market. On the other hand, if appropriate occupational training is also provided alongside the adoption of policies intended to maintain employment, and said occupational training allows workers to acquire skills which are recognized by the company that they work for, this will allow them to remain in employment, and in turn act as an effective strategy against the problem of long-term unemployment.¹⁵ Moreover, even if the vocational abilities that the worker obtains through such training are eventually no longer needed by their company, and the worker has their employment terminated as a result, if the worker has acquired abilities which are recognized in the external labor market, there will be a somewhat lower risk of long-term unemployment (for more on systems

¹⁴ Naturally it is also necessary to take into consideration the effects on industrial policy.

¹⁵ The employment adjustment subsidies system also includes a system under which education and training costs (1200 yen per person per day) are added to subsidies if the recipient engages in education and training.

in which greater weight is placed on improving vocational abilities as opposed to maintaining employment, see Part 3 of this section).

2. Revision of Long-Service Incentive Systems

While in Japan there are no laws enforcing the payment of severance pay, many companies have systems in place for providing severance pay.¹⁶ In many cases these systems are such that workers whose employment is terminated at the convenience of the company receive a higher amount of severance pay than those who terminate their employment voluntarily. This difference in the amount of severance pay according to the grounds upon which employment was terminated decreases workers' motivation to resign from employment. Namely, even if a company gives insufficient consideration to supporting the improvement of workers' vocational abilities, workers are likely to hesitate to resign due to concerns that they will receive a low amount of severance pay if they terminate their employment voluntarily.

Under the aforementioned severance payment systems and other such employment systems in which benefits are provided to employees in the long-term for remaining in the service of a company, such as higher remuneration for employees who have worked for a company for a long period of time, even if a company is not providing sufficient opportunities for employees to improve their vocational abilities, employees are more likely to choose to remain in employment with that company. Such circumstances make it difficult for labor to be utilized effectively across the Japanese economy as a whole. Moreover, when workers who remain in employment at such companies are ultimately forced to leave their employment due to dismissal by the employer or other such reasons, it is all the more difficult for those workers to find opportunities to work again, and there is a higher likelihood that they will remain in unemployment long-term. Given such risks, it is necessary to discuss conditions and other such measures which can be introduced to ensure that severance pay systems and other such employment systems offering long-term incentives are consistent with the principles of employment policies in the future.

The employment insurance system may also have the effect of discouraging workers from resigning from their employment. Workers who have been dismissed or become unemployed due to other such reasons are able to receive unemployment benefits under the category of "specific qualified recipient," which means that the prescribed number of days for which they receive unemployment benefits (the number of days for which they can re-

¹⁶ According to the *Overview of the Results of the 2013 General Survey on Working Conditions*, the percentage of Japanese companies which have severance benefit systems (lump-sum payments and pensions) is 75.5%. The figures for each of the categories based on the scale of the companies suggest that the larger the company, the more likely the company is to have a severance benefit system: 93.6% of companies with 1000 or more employees, 89.4% of companies with 300–999 employees, 82.0% of companies with 100–299 employees, and 72.0% of companies with 30–99 employees have severance benefit systems.

ceive the basic allowance) is longer than in the case of workers who terminated their employment voluntarily.¹⁷ This differential treatment may reduce workers' motivation to resign voluntarily. Moreover, if an insured person is dismissed due to grounds attributable to said person, or if they voluntarily terminate their employment without just cause, they do not receive payments of basic allowances (in other words, their benefits are restricted) for a period defined by the head of their local public employment security office (government-run agencies which offer job placement and consultation services) within the range of one month or more and less than three months (the period is three months in principle¹⁸).¹⁹ In the event that such restrictions are applied and the payment of unemployment benefits is started three months late, the end of the benefit payment period (which is normally one year [Employment Insurance Act, Article 20 (1)]) is pushed back respectively in order to ensure that the recipient receives benefits for the full prescribed number of days for which they would normally be entitled to payment (Employment Insurance Act, Article 33 [3]). This may result in people who left employment feeling less motivated to make efforts to secure new employment promptly. This is unavoidable to a certain extent given the potential for moral hazard and other such factors (see Part 6 of this section), but at the same time it is necessary to recognize that the provisions of the unemployment benefits system can potentially encourage workers to approach finding reemployment less proactively.

3. The Expansion of Education and Training Systems

Providing measures which allow workers to improve their basic and specialized vocational abilities not only while they are unemployed but also while they are still employed will ensure that even if workers have to leave their employment, there is a higher potential

¹⁷ Moreover, cases in which workers fall under the category of “specific qualified recipients,” for whom the prescribed number of days of payment is longer, also include—in addition to cases in which the worker was dismissed—cases such as those in which workers leave their employment on the grounds that they were subject to verbal or physical behavior which significantly damaged the working environment in which they were employed by the business holder or relevant employer (more specifically, cases in which workers were repeatedly subject to “deliberate” exclusion or considerable harassment by a superior or colleague, etc. fall under this category) (Ordinance for Enforcement of the Employment Insurance Act, Article 36).

¹⁸ Section 52205 (5) of the Operational Guidelines regarding Employment Insurance (also known as the “Administration Guide”) published by the Japanese Ministry of Health, Labour and Welfare.

¹⁹ Such treatment is based on the thinking that in order for an insured person who has left employment to receive payments of basic allowances, the unemployment must be socially approved as involuntary termination of employment and must be based on grounds on which it is socially recognized as a necessity for protection to be provided for the insured person. At the same time, such treatment is also based on the idea that the will to work is nonexistent or weak in the case of voluntary unemployment (The Institute of Labour Administration, ed., *Shinban Koyo Hokenho* [Employment insurance act: New edition] [Tokyo: The Institute of Labour Administration, 2004], 545). However, it is thought that potentially the grounds for said regulations could be the assumption that when a worker enters unemployment voluntarily (even more than in the case of a dismissal or other such circumstances), the existence of the will to work is unclear—as opposed to nonexistent or weak.

for such workers to find new employment opportunities promptly and avoid remaining unemployed long term. Moreover, as it is then possible to allow workers to take the initiative in increasing their vocational abilities, this may also generate higher potential for workers to feel fulfilled in their professional life.

The expansion of professional education and training systems in Japan involved the establishment of the Vocational Education and Training Grant System in 1998. The introduction of this system made it possible for people who have been employed as insured people for a certain period of time and who engage in education and training designated by the Minister of Health, Labour and Welfare to receive grants which amount to a certain percentage of the costs of receiving the education and training from the employment insurance system on completion of said education and training.²⁰

The Vocational Education and Training Grant System has remained in place and certain revisions have been made to the content of the system over the years, but no system was established to provide income security for the period during which the education and training is received.

Against this background, systems involving education and training were enhanced as part of the 2014 revisions to the Employment Insurance Act.

Firstly, vocational education and training benefits (payment of 20% of the attendance fees, with a maximum receipt limit of 100,000 yen) were improved, such that the benefits for people who attend courses designated by the Minister of Health, Labour and Welfare as specialist or practical education and training were increased to 40% of the attendance fee, in turn supporting medium-to-long term career development. In addition to this, provisions were also introduced such that people who find employment as a result of acquiring qualifications and other such skills receive an additional 20% of the attendance fees as benefits. Moreover, a new type of grant known as the “grant to support vocational education and training” was also introduced. This grant is provided to people under 45 years of age who have left employment and are receiving vocational education and training, on the basis of their wage before leaving employment (the equivalent of half of the basic allowance for employment insurance).

While the latter grant has been introduced as a provisional measure in place until the 2018 fiscal year and only covers unemployed people who are under 45 years of age, it is a significant development as it decreases the cost of the worker’s loss of wages by providing a certain amount of income security during the period for which the worker engages in education or training to update their vocational abilities. It is hoped that in the future consideration will be given to measures such as further expansion of the range of eligibility and the potential for providing income security while employment is still ongoing.

²⁰ The theoretical grounds upon which said system was established are thought to be the concept of the “right to develop a career” (see Section II. 2 [2] of this paper) put forward by Professor Yasuo Suwa, the then chairperson of the Employment Insurance Subcommittee of the Central Employment Security Council, an advisory body of the former Japanese Ministry of Labor.

4. Revision of Regulations concerning Leave and Working Hours

As noted in the previous section of this paper (Section II. 2 [3]), in order to ensure that workers are able to pursue a professional career throughout their lives, it is necessary for workers not only to consistently brush up their specialized or specific skills, but also to ensure that they make efforts to maintain the basic level of mental drive and physical energy that they need to pursue a professional lifestyle. This ensures that, even if they find themselves unemployed, they are always prepared to adapt as the situation requires and find new employment promptly.

On the basis of this point of view, another potential subject for consideration is the revision of regulations concerning leave and working hours, with the aim of increasing the free time available to workers. Such measures would allow workers to improve their own skills and create foundations for generating ideas, as well as providing the opportunity for them to become conscious of the future of the labor market. Maintaining and increasing employability in this way decreases the risk of workers who leave their employment remaining unemployed long term.

5. Employment Measures for Young People

The majority of the measures discussed in the previous four parts of this section are aimed at workers who are (or were formerly) employed. However, as is already the case in Europe, there is a high possibility that in the future long-term unemployment will become a serious trend among young people who have not yet entered employment. It is therefore highly important, also from the perspective of overcoming long-term unemployment, to take employment measures aimed at supporting young people²¹ (see also Part 7 of this section).

Here the key challenge is ensuring a smooth transition from education into starting work. The tasks will be to review the possibility of adopting work formats which include practical training elements for young people who do not possess sufficient vocational abilities and to use such formats as a foothold for young people to enter into employment society, while also establishing mechanisms to support young people in increasing their employability on an ongoing basis.

6. The Employment Insurance System

The Employment Insurance Act defines the term “unemployment” as the state of an insured person whose employment has been terminated and who is unable to enter new employment despite having the will and the ability to work (Article 4 [3]). Under the employ-

²¹ Increasingly greater weight is being placed on employment measures for young people within employment policies as a whole, as suggested by developments such as recognition of the importance of initiatives to encourage the career development of young people, etc. in the “Basic Policies of Economic and Fiscal Management and Reform 2014,” which was approved by a meeting of the Japanese Cabinet on June 24, 2014.

ment insurance system, such “unemployment” is classed as an insured event and unemployment benefits are paid to unemployed people who also fulfill certain other conditions.

However, the above definition of “unemployment” consists of elements such as “will” and “ability,” which are hard to measure, and judgements regarding whether or not a person has the “will and ability to work” are inevitably imprecise.²² This may have the effect of encouraging workers to choose to continue receiving benefits for the maximum prescribed number of days of payment (and discouraging them from embarking on proactive efforts to look for new employment before the prescribed number of days of payment ends). Such moral hazard in the employment insurance system is a serious issue which needs to be overcome not only from the perspective of the financial demands it places on the insurance system, but also from the perspective of ensuring that more people enter reemployment promptly and avoid long-term unemployment. Namely, when a worker chooses not to take active efforts toward reemployment in this way, their vocational abilities gradually decline during the period for which they remain on unemployment benefits, and therefore when they begin looking for employment after they are no longer able to receive unemployment benefits, they no longer possess the vocational abilities required in the labor market. This makes it all the more difficult for them to find employment, and all the more likely that they will remain in unemployment long term. In order to avoid this, it is necessary to incorporate approaches in the existing employment insurance system (particularly regarding the interpretation of the “will and ability to work”) which take sufficient consideration of the importance of maintaining the employability of workers.

It is also necessary for legislative debates to investigate various possible means of guaranteeing a minimum living standard for people who are without employment, such as the potential for a benefits system in which “the will and ability to work” is not treated as an insured event and a benefits system which does not entail significantly different treatment depending on whether the worker was dismissed or resigned (see Part 2 of this section).²³

7. The Support System for Job Seekers

Basic allowances paid under the employment insurance can only be received, in prin-

²² According to the Operational Guidelines regarding Employment Insurance (also known as the “Administration Guide”) published by the Japanese Ministry of Health, Labour and Welfare, in the case of judgements regarding whether or not people have the will and ability to work, care must be given to ensuring that consideration is given to the specific circumstances regarding individual cases, as opposed to making judgements mechanically across the board. Moreover, people who, despite receiving vocational guidance, insist on requesting occupations deemed unsuitable or labor conditions deemed unreasonable by the Public Employment Security Office, or the fulfillment of other such conditions for their employment placement despite having no special grounds for those requests, will be tentatively presumed to not have the will to work (Administration Guide, Section 51254 [4]).

²³ It is also worth considering a statutory severance pay system or similar such system by which workers in employment pay a fixed amount each month into a designated institution, and receive payments from said institution when they are unemployed, regardless of the grounds for leaving employment.

ciple, for up to one year starting from the day after the date of leaving employment (Employment Insurance Act, Article 20 [1]) and do not cover the long-term unemployed.²⁴

The Support System for Job Seekers, which came into effect on November 1, 2011, is in place as a system for providing functions to secure a minimum standard of living for people in long-term unemployment.

Under this system, “training to support job seekers” is provided to people who are unable to receive employment insurance benefits—such as people who have already received employment insurance benefits for the full period of entitlement, or people who have graduated school or university and not yet entered employment—and wish to receive support for finding employment. In addition to this, if people receiving support under the system fulfil certain conditions, they also receive grants for attending vocational training (100,000 yen per month plus [a prescribed amount of] travel expenses) during periods for which they engage in training which is aimed at assisting them in finding employment.

A considerable number of people eligible for support under the Support System for Job Seekers do not necessarily find it easy to enter employment and are already in long-term unemployment or at high risk of being unemployed long term. In view of such trends among people eligible for the system, in order to ensure that it actually assists people in finding employment, efforts have been made within the system to approve training programs which assist job seekers in finding employment and establish strict conditions concerning attendance of training, as well as incorporating elements implemented by local public employment security offices, such as devising support plans for each person receiving training under the system, and ensuring that they have regular contact with each person receiving training. Such systems may assist people in entering employment promptly by providing them with vocational abilities that are suited to the needs of the labor market, but it is necessary to constantly verify whether or not such results are actually being achieved, and conduct reviews of the system when required. Furthermore, as grants for attending vocational training also function as benefits to guarantee the minimum standard of living of recipients, they involve a high risk of moral hazard. Participation in the Support System for Job Seekers exclusively for the purpose of receiving benefits to guarantee a minimum living standard is contrary to the purpose of the system, which aims to improve the vocational abilities of job seekers, and job seekers who use the system in this way are at high risk of losing employability. It is therefore also necessary to constantly verify that the system is functioning effectively from this perspective.

²⁴ Unemployment benefits were originally established under the system of employment insurance with the aim of protecting workers in short-term unemployment. The period of payment of unemployment benefits was limited to one year in principle, under the thinking that measures in response to constant long-term unemployment should be dealt with as part of efforts to develop employment policies. Masao Endo, *Koyo Hoken no Riron* [The theory of employment insurance] (Tokyo: Nikkan Rodo Tsushinsha, 1975), 396.

IV. Conclusion

Up until now employment policies have not sufficiently taken into account the fact that a worker's capacity to work is the "object" of transactions in the labor market, and has instead placed emphasis on workers feeling fulfilled in their professional lives. More specifically, a key issue for policies has been securing opportunities for workers to achieve such a sense of professional self-fulfillment, by starting with ensuring that they are able to utilize their previous professional experience. However, with globalization and technological innovation anticipated to progress at a rapid pace, when developing future employment policies it will be necessary to ensure renewed awareness of the fact that a worker's capacity to work is the object of transactions in the labor market, and, on the basis of this, to adjust employment policies so that they are focused on the future of the labor market and allow for initiatives which increase the employability of workers.

Moreover, it is also possible that the conventional employment system has encouraged workers to try to maintain the "status" which they acquired in the past and consistently avoid addressing changes in the labor market throughout their working lives until they are safely beyond the "goal line"—that is, the age from which they are eligible to claim their pension. Workers have therefore tended to lack proactivity toward adapting to new environments and developing their own vocational abilities as required. Employment policies in the future will require workers to take a very different stance toward work opportunities and the labor market. Namely, it will be necessary to establish an environment which allows workers to approach situations with greater energy and proactivity, to develop a readiness with which they are always able to respond to the needs of the labor market as necessary, and to acquire work opportunities suited to the needs of the labor market. If workers adopt such a positive stance toward the future, this will lead to improvements in employment systems such as workers taking an active role in exerting influence on the labor market and in turn feeling fulfilled in their professional lives. Such social developments would also be consistent with the concept of a "society in which all people are able to work, regardless of their age," which is a topic which merits investigation on a future occasion.