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Modernization and the Japanese Habitual Employment Practice

In Japan, various opinions concerning habitual employment practices (lifetime commitment, seniority system, and in-company labor union) are currently being discussed. Japan achieved high economic growth after World War II and succeeded in achieving its economic reconstruction within a short time. However, this high economic growth had been supported by these habitual employment practices, which are now being confronted with many difficulties and require revisions.

Several interesting problems are present in these habitual employment practices in relation to the theory of Western modernization. Here, I investigate the reason why these practices require revision. In this treatise, I intend to provide a rough sketch of the Japanese employment practice but do not aim to study it comprehensively.

I. Lifetime commitment, seniority system, and in-company labor union

James Abeggren's "The Factory of Japan" was published in 1958, about ten years after the end of World War II. This book was written to indicate the reasons why premodern Japan was able to achieve its industrialization in the Western style. In this book, he defined Japanese employment practices in three points: lifetime commitment, seniority system, and in-company labor union. These points are peculiar to Japanese employment practices and are not seen in the employment practices of Europe, America, and other countries.

Whatever their similarities in technology and external appearance, the American and Japanese factory organization differs in important ways. Examining in turn the nature of the basic relationship between employee and firm, the recruitment of personnel by the company, and the system to rewards employed in the factory, consistent differences will be seen, differences which have immediate and important effects on the kind of technology and management methods that can be used in the organization. Further, it will be seen that within the organization the extent and nature of the involvement of the firm in the life of the worker are based on different assumption as to the nature of the work relationship.

In short, in the critical areas of interpersonal relations and group interaction, in the definition of the nature of the relationship between worker and company, and in the way in which skills and energies are mobilized and directed in the group, the Japanese factory is a variant of industrialization from the American factory.²

Abeggren pays attention to the point that these three peculiar aspects of Japanese employment practices are clearly different from those of modern Europe and America. Over 150 years have passed from the Meiji Restoration but these employment practices of Japan have not changed significantly.³

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² James Abeggren, "The Japanese Factory: Aspects of Its Social Organization", pp.9-10 (1958, MIT)

³ R. Dore, "British Factory-Japanese Factory: The origins of National Diversity in Industrial Relations", preface (1973). M. Aoki & R Dore, "The Japanese Firm: Sources of Competitive Strength" (1994).

II. From status to contract

In the modernization theory of the West, Sir Henry Maine argued that Western progressive societies had moved “from status to contract.”⁴ A status society was operated on the basis of the paternalistic principle. In contrast, the modern society attaches a high value to freedom and is based on the individualistic principle. It replaced numerous customary laws with the agreement of the individual (contract).

Before the modern age, communities were ruled by strong paternalism. These communities were compared to family, and some old men in a village played the parent’s role. In these communities, the liberty of the individual was strictly limited to successfully maintain order.

However, the industrial society of the modern age changed this paternalistic society. In progressive societies, the rule of status collapsed, and the contractual relationship between people grew to keep and enlarge the liberty of the individual. The liberty of the individual was extended widely, and people’s intimate relationships in the village community changed to businesslike relations. People cannot easily seek help from their neighbours for their personal matters because neighbours prioritize their freedom more than helping their neighbours.

In the industrial society, several types of manufacturing products were made in numerous factories, and a large number of factory workers constituted a class of workers. Capitalism had progressed in the 19th century and the market had become a place where its laws played an important role.⁵

III. Reception of the Modern Western Legal System in Japan

Japan received the modern Western legal system from German Codes in the latter half of the 19th century. German societies took two or three centuries to receive this modern legal system; however, Japan received this German legal system merely within 10 years. In addition, Japan had no social element or theoretical basis to receive such a system in those days.

This is because, during the Edo period (1603–1868), Japan enforced a seclusion policy, which excluded the influence of foreign countries, for three centuries. Through this policy, Christianity was prohibited in Japan, and the European modern enlightenment thought was introduced in Japan fully through the Netherlands, whose trade with Japan was permitted by the shogunate administration.⁶

During the Edo period, Japan had no theoretical basis to receive the European modern thought. Therefore, Japanese intellectuals would have learned the ideas of the Western enlightenment in a form limited to practical knowledge, such as medicine or botany (pharmacy). Japan came to know the European modern scientific thought in its entirety after the Meiji Restoration.⁷

Therefore, the German legal system might have been received by Japan in the context of this limited intelligence regarding the European thought.

The Meiji Restoration occurred in 1868. It is believed that the Japanese embraced the Western style of the modern society in this Restoration. However, this is not true because it is

⁴ Sir Henry Maine, “Ancient Law”, ch.5.

⁵ Robert Heilbroner, “The worldly philosophers: The lives, Times, and Ideas of the Great Economic Thinkers”. ch.2 (1995, 7th ed.)

⁶ Andrew Gordon, *A Modern History of Japan: From Tokugawa Times to the Present*, ch.3. (2003)

⁷ S. Nishimura, “Natural History and Civilization” (Japanese)

difficult to accept a foreign culture in a short time. Before the Restoration, Japan had been using the Chinese feudal legal system (criminal and administrative law) for more than 1200 years.

The status society under the Chinese feudal law was abolished by the Meiji Restoration, and people became theoretically equal under the reception of the German legal system. Furthermore, a large scale conversion of the legal system was attempted from Chinese feudal laws to German modern codes all at once. Certainly, there was no continuity between the Chinese feudal legal system and the German modern legal system.

Within these social conditions of the early Meiji era, Japan received six German legal codes: Constitution, Civil law, Commercial Law, Criminal Law, Law of Civil Procedure, and the Law of Criminal Procedure, merely within 10 years (1889–1898).⁸

Why was Japan in such a hurry to receive these German legal codes? It was because of its desire to abolish the unequal treaty, which the Tokugawa shogunate government had been forced into by powerful Western nations.⁹

Modern European societies had experienced a long-term change from the feudal society to the modern civil society. But Japan had no experience of such a long-term change. In such a social condition, Japan needed to pretend to be a modern society to abolish the unequal treaty. Therefore, it accepted six German legal codes within a short time.

About 150 years have now passed since the Meiji Restoration and several Japanese people do not doubt that Japan has achieved the westernized modern society. One of the reasons behind this belief is that Japan has developed a high level of modern scientific technologies globally, and many Japanese scientists have received the Nobel Prize in natural sciences.

However, on the contrary, when we see the interpersonal relations of the Japanese society, there still remain numerous premodern human relations within the village community, and several Japanese people embrace these relations in their everyday life under the rule of warmhearted paternalism. However, these premodern human relations prevent the Japanese from becoming independent.

IV. Prosperity of classical economics and stock companies in the West

After the mid-19th century, capitalism rapidly developed in Europe and America, and numerous stock companies prospered. Before then, mercantilism was the predominant policy in several European nations. Under mercantilism, public-service companies held a special existence; therefore, the profit-making company aiming only to pursue private interests was not easily permitted.

However, as capitalism and classical economics developed, various private companies came to be admitted as profit-pursuing organizations, and the company became an equal participant of the market who requested the capital, labor, and various products and services.¹⁰ By the prosperity of the stock company, competition was promoted among market participants and they obtained countless advantages peculiar to themselves in the management of the company.

⁸ T. Kawashima, “Japanese Mind and the Modern Western Law” p.1.(Japanese)

⁹ Andrew Gordon, A Modern History of Japan: From Tokugawa Times to the Present, ch.4. Kawashima, Ibid, pp.2-3.

¹⁰ H. Hovenkamp, “Enterprise and American Law”, pp.13-14.

In Western societies, these profit-making companies developed under the classical economics that was influenced by Newtonian mechanics. As these companies had expanded rapidly under classical economics, the basic idea of the company had changed dramatically.¹¹

V. Markets and the Mechanistic theory of nature

In the modern enlightenment thought, not only the natural world but also human societies are ruled by the law of nature. As Newtonian mechanics had achieved numerous important and useful results, this mechanical theory was strengthened and this view of nature and society popularized in the Western societies of the 19th century. As a result, many empirical sciences developed, such as economics, sociology, anthropology, geology, and biology. In addition, under the influence of the industrial revolution, various concrete and useful items were invented, and capitalism also developed rapidly throughout the 19th century. These strengthened the idea that not only the natural world but also the human society was ruled by natural laws.

In contrast to this Western modern scientific thought, during the mid-19th century Japan had no mechanical view of nature and the market. Japanese economic principles had been under the influence of the Confucianism philosophy since the Edo era. Confucianism strengthened the paternalistic idea that the government should help the poor. Therefore, Japan was unfamiliar with the Western capitalistic view that not only the natural world but also the market was ruled by natural laws.

This mechanical view of nature is the archetype of the modern science of Europe. Therefore, modern science brought the view of atomistic, mechanistic, and naive realism. However, in 17th century, Japan had no theoretical foundation of this atomistic and mechanistic view. As for the law of nature, it is unique to Christian cultural conviction that law is set by God and there is universal laws in nature.

But this Christian thinking did not root social sciences especially in Japan. This would be because of the restriction by Confucianism or Buddhism.¹²

However, the idea of this modern science of the Western world was rapidly absorbed by Japan after the Meiji Restoration, and today there are several Nobel Prize-winning scholars in Japan. But in Japanese economics, the mechanistic theory is unpopular, whereas a theory of the communistic view of society is more easily embraced.¹³ From this viewpoint, the idea behind the Western principles of the classical economy—that the market is ruled by universal laws—would be difficult to prosper in Japan.

Furthermore, until now, the Japanese have not generally considered themselves autonomous citizens, thanks to tacit Confucianism. Moreover, they believe that the role of helping the poor is owed to “*okami*” (government).¹⁴ Therefore, under these mental conditions, the ideas of classical economy are not inclined to be embraced by Japanese thought. In spite of this, Japan is formally a capitalist society.

¹¹ Hovenkamp, *Ibid.* Les Benedict, “Laissez-Faire and Liberty, : A Re-Evaluation of the Meaning and Origins Of Laissez-Faire Constitutionalism”, pp.298-99, 3 LAW and HISTORY REVIEW, p.293 (1985). O.Okazaki, ‘Laissez-faire and American Legal Pragmatism’ ch.2.(Japanese)

¹² T. Tsuji, “Japanese Scientific Thought”, p.47, 54 (Japanese)

¹³ Tessa Morris-Suzuki, “A History of Japanese Economic Thought”, (Routledge, 1989).

¹⁴ In Japan, there is no social contract theory. D. H. Bayley, “Forces of Order”, p.93. (1976, California). In Japan ‘*okami*’ means generally official (the upper status), and the most upper status is the government.

VI. Japanese view of a company

Numerous examples of this gap between formal institutions and the mental condition are found in the Japanese society. For example, the Japanese have a different conception of a company to that of Westerners.

In the view of classical economics, a company is the organization for the pursuit of private profits. However, this view of a company is not easily understood in Japan because the Japanese are inclined to think of human relations from a premodern communistic viewpoint. Until now, this viewpoint has been preserved tacitly but strongly in Japan. Therefore, the Japanese are inclined to think of a stock company not as an organization for the pursuit of private profit but as a community in itself.¹⁵

These different views of a company between Japan and the West also appear in the contrasting views about wages.

There are two kinds of workers in a Japanese company. One is the regular member, and the other is the non-regular member. The latter is hired temporarily by the company. These two kinds of workers are treated differently. In the Japanese view of a company, regular members are formal members but non-regular members are outsiders.¹⁶ These non-regular members are clearly discriminated against in their wages. Even though they do the same tasks as regular members, they receive lesser wages than regular members.

In Western societies, employment means an equal exchange between work and wage. Therefore, in Japan, non-regular workers are paid wages in respect of their task performance. This is the same in Europe and America.

Nevertheless, in Japan, the regular workers of a company are not paid wages for their task performance. For them, wages are paid for the reward of their status in the company, that is, a regular member of the company.

In terms of wages, the next important element involves the terms of employment to the company. In contrast to that of non-regular workers, the wages of a regular worker go up once every year automatically. This is peculiar to Japanese employment practices. In a Japanese company, the wage payment system for regular workers (subsistence pay) is quite different to that for non-regular workers.¹⁷

VII. Master of company and Paternalism: The role of father

In Western societies, the role of a company is limited to the payment of wages in respect of the worker's job performance. In contrast, the role of the Japanese company is not limited in such a way. It must also look after its workers' life and safety. For Japanese regular workers, the payment is not only for their job performance but is also in respect of their status in the company. Therefore, a Japanese company has obligations toward the regular worker's life, safety, and welfare. Like a father, the company takes care of all their worker's everyday aspects.

In a Japanese company, the welfare of its workers has been paramount for a long time. Companies consider it their obligation, and workers also expect it. *In these examples, we can clearly see the difference between the Japanese paternalistic culture and the Western individualistic culture.*

¹⁵ M. Morishima, "Japan at A Deadlock", pp.132-33 (2000, Macmillan).

¹⁶ K. Sugeno, "Japanese Society and its Employment Law", pp.250-51 (Japanese),

¹⁷ K. Sugeno, *Ibid*, pp.175-78.

In Western economies, wages are assumed to be the compensation for the work, and the company does not pay the worker any more than it has to. *The primary reason that several Japanese companies dislike this classical economic thought is its lack of humanity.*

In Japan, under the tacit but strong paternalism, several people believe that workers should be treated humanely. However, this is not the human rights theory of individualism, but of paternalism. Certainly, the Japanese are aware of the human rights theory of the Western society, but in many cases, they use it in a transformative style under the paternalistic model.

Therefore, when workers make a contract with a company, they do not decide their working conditions, aside from their wage. Instead, they trust them to the employer's discretion under this paternalism. Workers estimate their value of the status in their company higher than their human rights, whereas the employer assumes the responsibility for the numerous aspects of the workers' everyday life. Both company and worker are required to fulfill each of their obligations as a regular member of the company.¹⁸

VIII. Owner of a company

In the Western society, the owner of a company is considered mainly the stockholder. In a company, capitalists, managers, and workers are in conflict with each other regarding their struggle of interests.

However, in Japan, a company is managed on the basis of a communal human relationship, so this three-way conflict does not exist. The owner of a company is not considered a stockholder, but, including the workers, all members of a company are considered its owner. Therefore, workers are not outsiders of the company.¹⁹ However, Japanese Company Law is prescribed in the Western style, and thus, there are also many large gaps between the Western style of Company Law and the Japanese habitual practices.

The modern stockholder company is designed to make bigger profits. This view is influenced by the mechanical theory. However, many Japanese people accept this view in the context of the communal viewpoint. This Japanese viewpoint is not based on the mechanical theory but on the theory of life. Therefore, the Japanese tend to see a company in light of this life theory. According to this view, the company is not an artificial architecture that is constructed to make bigger profits but one that should be used for mutual aid between owners, managers, and workers.

Therefore, several Japanese views about a company are very different from that of Europeans and Americans. However, under these unique social conditions, Japan achieved industrialization and rapid economic growth after World War II. This phenomenon is very difficult to understand under the theory of classical economics.

IX. Japanese courts do not accept the easy dismissal of workers

These views of Japanese people about employment and labor have influenced the views of Japanese courts. Japanese labor law was introduced in 1947 under the influence of General Headquarters of the Allied Force (GHQ) after World War II. Under their precepts, there is nothing to prohibit the dismissal of workers. But Japanese courts have created a precedent that a company should not dismiss its employees easily. When Japanese workers

¹⁸ The soil of the enlightenment thought that supports the idea of classical economics is traditionally weak in Japan, in which Confucianism thought is still a tacit moral base. Tessa Morris-Suzuki, *Ibid.*

¹⁹ M. Morishima, *Ibid.*, pp.132-33.

make a contract with a company as newcomers, the working conditions are not generally decided except for their wage. If there are surplus workers in a company's department, workers' jobs are converted to new jobs within the company, as long as there are jobs in a different department. Such a job conversion is common in a Japanese company. On the basis of these conditions, Japanese courts defend the workers' rights in a company not to be dismissed from their jobs.

Under the Western philosophy, a company is an artificial organization designed to make profit. But, in Japan, a company is not only an organization designed to make private earnings but is also expected to fulfill the role of a family. Therefore, the managers of a company owe an obligation to protect the workers under warm-hearted paternalism. Obligations toward workers are not limited only to their work. They must also fulfill their tacit obligation to the community.

*Recently, the President of Toyota Motor Company, Akio Toyota, said "Directors and workers of Toyota Motor Co. are to me like my children."*²⁰ Almost all Japanese people would hear his comment as natural and not consider it strange. Some people may even be deeply moved by this comment.

X. Recruitment method

This character of the Japanese company as a family appears in its recruitment system. The lifelong employment, the seniority system, and the in-company labor union are the habitual practices of Japan.²¹ Under these conditions, graduates of a university or a high school usually get a job at once.

Since the premodern times till now, Japan has been developing a tacitly stratified society. This is not observed at the first glance, as a famous anthropologist of the United States, Ruth Benedict, once said. There are informal and almost unconscious social strata. Every day, the Japanese are unconsciously influenced by these strata, which form the foundation for the Japanese seniority system and are reflected in the Japanese recruitment method. There is almost only one chance a year for these graduates to be employed. Most graduates hope to become a regular member of a company.

In a Japanese company, there are many part-time or non-regular workers. They are discriminated from the regular workers of a company because they are outsiders.

Moreover, they are also discriminated from the regular workers of a company in the recruiting method. The applications to be a regular worker of a company are usually limited only to new graduates. Other applicants are excluded from this recruiting system. As a consequence, numerous middle-aged workers have almost lost the chance to be regular workers of a company.

XI. Worker's freedom or loyalty to a company?

In Europe and America, individualism rules; therefore, when workers enter into a labor contract with a company, working conditions are clearly decided, so workers can use the contract to secure their life, liberty, and health. These working conditions will generally be decided by the separate engagement that both workers and managers exchange terms on an equal footing.

²⁰ 2015.6.20. Yomiuri Daily News.

²¹ S. Sugayama, "The Birth of a Company as a Community" (Japanese).

In contrast, it is more difficult for Japanese workers. They cannot use their working conditions to secure their life, liberty, and health because of the influence of strong but unconscious paternalism. In Japan, people place their working conditions under the manager's tacit paternalism, and thus, workers and managers cannot exchange terms on an equal footing. Moreover, the evaluation of their work is decided not only by their productivity but also their term of employment or the intention of being faithful to the company. Therefore, a regular worker of a company, who is an independent citizen, becomes, in effect, a servant of the company.

James Abegglen says that in modern Western societies, it is important to impersonalize social interactions. In the 19th-century Western society, social organizations had grown up riding the big wave of industrialization. As a result, a capitalist economic society prospered, and people came to pursue their profit under this dry and impersonal relationship.

However, in Japan, many people believe that personal relationships must be strong and intimate, and thus, it is difficult to rebuild the Japanese society into a network of impersonal relationships.

In postwar Japan, the economic reconstruction was achieved under these intimate personal relationships. Therefore, numerous Japanese companies are still unorganized by these impersonalized relationships. *Many of them are mutual aid associations, so their organizations are like that of village communities or families.* When comparing the social organization of the factories in Japan and the United States, one difference is immediately noted and continues to dominate and represent much of the total difference between the two systems. At whatever level of organization in the Japanese factory, the worker commits himself on entrance to the company for the remainder of his working career. The company will not discharge him even temporarily, except in the most extreme circumstances. He will not quit the company for industrial employment elsewhere. He is a member of the company like members of families, fraternal organizations, and other intimate and personal groups in the United States.

This rule of a lifetime commitment is truly proved by its rare exceptions, and the permanent relationship between the employee and the firm imposes obligation and responsibilities on both the factory and the worker of a different order than that on which personnel practices and worker-company relationships in the United States are built. The difference between the two systems is not, of course, absolute, but one of degree.²²

In Japanese companies, several people consider owners, managers, and workers to be just like the members of a family or a fraternity; hence, they cannot work without forming intimate personal relationships. Because of these differences, when thinking about relations between the company and its worker, the function of the company in Japan is very different from that of Western societies.

XII. Autonomy and the spirit of "selfless"

Long working hours harm a worker's personal life, liberty, and health. In the Western modern society, workers are independent citizens and they have a give-and-take relationship with the company. Workers do not want to have more of a relationship with the company than the payment of their wages. However, numerous Japanese workers want to have a closer relationship with the company than this.

²² James Abeggren, *Ibid.*, p.11.

*In Japan, many workers are inclined to believe that they are not free and autonomous citizens. They tend to consider themselves subordinate members of the company, so their labors are regarded as services to the company.*²³ Sometimes, this service requires overtime.

Employment for a long term is not favored in Europe and America. This is because it prevents workers from getting the best chances or exercising their free choice, especially for highly skilled workers. In contrast, the Japanese are inclined to believe that the “freedom of contract” results in advantages only for highly skilled workers. Furthermore, the principle of the autonomy of the individual is considered unrealistic for almost all workers.²⁴

We cannot cancel unilaterally a contract. Therefore, if workers wish to have better conditions, it is important not to keep a long duration of contract. This is a principle of classical economics.

However, in Japan, this idea is unpopular and is considered unrealistic. The spirit of “selflessness” is still tacitly encouraged in Japan; therefore, many classical economic ideas are still not widespread. To get a job is to become a regular worker of a company. Japanese workers are generally inclined to make sacrifices to many important working conditions to get this regular position.

For Japanese workers, it is important to get the status of a regular worker in a company. When workers enter into a contract with a company, workers only get to confirm this status and their wages, other important working conditions are left undecided. Hence, for a regular worker, the risk of dismissal is comparatively small. Instead, they must receive various disadvantageous working conditions, for example, transfer, relocation or job displacement, and service overtime. These are sacrifices made for the comparatively small risk of dismissal.

In Japan, the majority of the working conditions are not decided with a contract. Instead, they are decided in the working regulation rules (*shugyokisoku*) that employers can decide in a unilateral manner. If judges of Japanese court consider the change of these regulations by the employers as reasonable, workers who refuse to accept the new rules are discharged.²⁵

People in Japan generally think of lifetime employment as a reasonable option, so they do not have to change jobs frequently. This opinion is remarkable in white-collar workers of big companies. If lifetime employments are the tacit assumption, it is natural that the labor market is so inactive. For several workers, the Japanese labor market is open only once within their life.²⁶ While finding jobs, priority is given to fresh graduates, and thus, middle-aged or older workers are excluded from the labor market.

XIII. Japan and the Modern Western Society

During the 18–19th centuries, Europe experienced enormous changes from a feudal society to the modern civil society, as a result of the development of capitalism. With these movements, the labor class evolved. As these movements developed, the modern civil law was born and the freedom of contract became its ruling principle. During the 20th century, the welfare society developed, and the freedom principle was needed to restrict. As a result, modern labor laws appeared. But in modern labor laws, individual freedom is still alive, and the free and autonomous people play a leading role. Workers are assumed to be autonomous individuals who can dispose of their goods by themselves.

²³ Y. Mizumachi, “Japanese Labor Law”, pp.41-44. (Japanese)

²⁴ Japan is a paternalistic society, but its labor law is individualistic.

²⁵ Mizumachi, *Ibid.*, pp.98-104.

²⁶ M. Morishima, *Ibid.*, pp.133-34 (2000)

However, in Japan, almost zero workers are autonomous; hence, they pay attention to their colleagues, and submit themselves to their company through numerous self-regulations. If modernizations have not been entirely achieved in the Japanese society, the protective regulations of labor laws are not as effective as in a modern society. This is because modern labor laws were made on the assumption that they were to be applied to a modern society. In spite of the advanced high level of scientific technology in Japan, interpersonal relationships have not been modernized in Japan until now. Therefore, a large gap has appeared between the various regulations of modern labor laws and Japanese habitual employment practices. It is not easy to fill this gap in a short time, because this is not a gap between legal institutions, but one between two different cultures.