In the footsteps of Shimaji Mokurai (1838–1911)

The Shin Buddhist priest Shimaji Mokurai was at the vanguard of Buddhism's struggle for survival when the young Meiji government used a newly constructed form of Shinto as a means to unify the Japanese people in the formation of a modern state. The way Mokurai conducted his intellectual battle is reminiscent of other Meiji period thinkers. He introduced concepts with which he had become acquainted during a trip to Europe in 1872—such as 'religious freedom' and 'separation of church and state'—and, since they had been developed in the 'civilized' West, used them to legitimize his discourse. However, Mokurai developed understandings of these concepts that were rooted in Japan's own religious traditions, and therefore greatly differed from their European cognates.

Mokurai's intellectual efforts to develop a modern theory of religion certainly merit a place in Japan's history of ideas. The majority of studies on Mokurai thus focus on the period 1872–1875, during which time Mokurai submitted a number of memorials to the Meiji government that introduce Western conceptions of the relationship between religion and state, whilst applying them to Japan's situation. Some studies highlight the contexts within which these memorials were written, beginning with Mokurai's participation in a Buddhist mission to Europe in 1872–73, which took place in the wake of the Iwakura mission. It is during this trip that Mokurai wrote his most famous (and most discussed) *Critique of the Three Doctrinal Standards*.[1] Other scholarship focuses on the development of Mokurai's views on Shinto from the early 1870s onwards, taking into account some of his later writings as well.[2] At present, only two monographs about Mokurai have been published; one concerns his ideas on education and the other is a biographical account.[3] Yet, other aspects of Mokurai's life and thought also deserve to be researched further. To name a few: his Chōshū background and acquaintance with Meiji statesmen from Chōshū (especially Kidō Kōin); his active involvement in social work; his publishing endeavours and establishment of associations; his views on Enlightenment (*bunmei kaika*); and his support of Japan's nationalist expansionism in the late nineteenth century.

Using existing scholarship as my point of departure, my PhD research project (which has the working title "An intellectual biography of Shimaji Mokurai") concerns these understudied themes. As the five volumes of the *Collected Works of Shimaji Mokurai*

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[1] See for example Breen, John. 1998. ''Earnest Desires': the Iwakura Embassy and Japanese religious policy', *Japan Forum* 10 (2): 151-165.

[2] See for example Fujii Takeshi. 1988. 'Meiji shoki ni okeru shinshū no shintōkan: Shimaji Mokurai to Nanjō Jinkō no baai', *Tōkyō gakugei daigaku kiyō, dai 2 bumon, jinbun kagaku* 39: 147-156; Nose Eisui. 1994. 'Shimaji Mokurai no shintōkan', *Indogaku bukkyōgaku kenkyū* 43 (1): 184-188; Okazaki Masaoki. 1996. 'Kindai tennōsei kokka seiritsuki ni mita shūkyō to seiji: kokka shintō no seiritsu to Shimaji Mokurai', *Kokushigaku kenkyū* 21: 24-44; Tonami Hiroyuki. 2008. 'Shimaji Mokurai no shintōron keisei – 'kami = senzo' ron no keisei katei wo chūshin ni', *Kokugakuin daigaku kenkyū kaihatsu sentā kenkyū kiyō* 2: 97-123.

[3] Kawamura Kakushō. 2004. *Shimaji Mokurai no kyōiku shisō kenkyū: Meiji ishin to ibunka rikai.* Kyōto: Hōzōkan; Murakami Mamoru. 2011. *Shimaji Mokurai den.* Tōkyō: Minerva Shobō.

testify, Mokurai was a prolific writer and many of his essays—if not the majority—have not yet been the subject of a detailed study.[4] However, the limited timeframe of my PhD study also necessitates the (ongoing) process of refining and narrowing my scope. One of the purposes of my research trip to Japan with the Toshiba grant was to facilitate direct contact with Japanese scholars and gain access to sources that are difficult to obtain in Europe, with the ultimate aim of finding material that might help me further structure my thesis and pinpoint its main arguments.

I structured my research trip around places where Mokurai spent a significant period of his life: Kyoto, Yamaguchi, Tokyo and Morioka. In theory, I could conduct my research entirely in libraries and archives, without necessarily visiting the places linked to the life of this Meiji figure. However, my visits proved to be extremely useful and provided me with a concrete image of the places, happenings, and local atmospheres that I hitherto had only experienced vicariously as 'book knowledge'. I realize that to have been able to do so is a luxury, and I am profoundly grateful for the Toshiba grant that gave me this opportunity.

Kyoto was my base of research, not the least because of the presence of the Nishi Honganji—the Shin (True Pure Land) Buddhist temple Mokurai belonged to—and the affiliated Ryūkoku University. The Ryūkoku University libraries in particular helped me amass many of the materials I was looking for, including both journal articles and rare books. At Ryūkoku, I was also introduced to Professor Fujiwara Masanobu, the author of a number of articles I had previously read. This was only the first of many fortuitous meetings to follow. Before my departure, I had established contact with Professor Isomae Jun'ichi from Nichibunken, who has written on the relation of modernity and secularization (among other things); a theme closely related to my research. During my stay in Kyoto, I attended a conference at Nichibunken that was organized by Professor Isomae, and subsequently met up with him to discuss my research project. He very kindly introduced me to a network of young scholars with whom he works. Moreover, he advised me to contact certain scholars at Ōtani University, which resulted in yet another five useful connections. While it would take up too much space to detail each and every scholarly contact from my trip, I wish to mention my meeting with Professor Horiguchi Ryōichi of Kinki University. Not only did I enjoy our animated discussion of Shimaji Mokurai, but to my great surprise he also offered to send me two boxes of books directly related to my research (including the *Collected Works of Shimaji Mokurai*), since he no longer required them, having moved on to a different subject. In short, with a minimum of contacts at the outset, I was able to enjoy a snowball effect that gradually led to the formation of a broad network of contacts, thanks to the kind help and support of the

[4] Futaba Kenkō and Fukushima Kanryū, eds., 1973. *Shimaji Mokurai Zenshū*, 5 v. + 1 suppl., Kyōto: Honganji Shuppan Kyōkai; Nihon Bukkyō Fukyūkai (hatsubai).

various individuals I met.

In Yamaguchi I planned to visit the Senshōji (the temple where Mokurai was born), as well as the Myōseiji (the temple he was adopted into to become its head priest). I obtained the contact addresses through the Board of Education (*kyōiku iinkai*) of Yamaguchi Prefecture, as well as through a priest-scholar I had met in Kyoto. The temples were located in the deep mountains, and due to a lack of bus services I ended up taking a taxi from the nearest station. The little inconveniences I experienced in reaching these locations lent perspective to the routine journeys by foot undertaken by the Japanese of the Meiji period. The head priests of both temples offered me a warm welcome. I had heard that the temple of Mokurai's birth possesses a number of Mokurai's documents that have not been made public as of yet. Upon inquiring, the head priest told me that the temple does, indeed, own a number of letters Mokurai wrote to his older brother, who had succeeded their father as the head priest of the Senshōji. I was also informed that Professor Kodama Shiki, a retired priest-scholar of Ryūkoku University living in Yamaguchi Prefecture, had just started a project to type out the letters. Following our conversation, the head priest of the Senshōji arranged for me to meet him that evening. Having read a book by Professor Kodama, it had actually been my wish to meet him, but I had given up on the idea due to a lack of contact details.[5] This encounter was yet another unexpected bonus. Thanks to all the contacts I established, I was able to meet most of the authors of the secondary works that I have read so far, as well as scholars who are currently working on related topics but have not yet published their results, thus enabling me to map out a large part of the scholarly activity in my field that is taking place in Japan.

The Myōseiji—the temple where Mokurai was installed to succeed as head priest—is located in Tokuji Shimaji village, which Mokurai eponymously adopted as his family name. The current head priest of the temple told me about the history of the village around the time Mokurai was head priest. Mokurai seems to have loved the place and enjoyed returning there later in his life, even when he had already become the head priest of the Gankyōji in Morioka. The villagers of Tokuji Shimaji built a small dwelling (*uden sōdō*) for Mokurai to stay whenever he visited their village. Near the *uden sōdō* they put a large stone with an inscription starting with *jifu Mokurai* (loving, affectionate father Mokurai), testifying to the villagers' affection for the priest. The current head priest of the temple kindly drove me to the place, which can only be reached by car, and showed me around. The hut and the stone are still there and have been maintained by Shin Buddhist adherents living in the surrounding area, but recently with renewed *élan* on account of the 100th anniversary of Mokurai's death (2010–11), which was accompanied by a number of ceremonies and events at the different locations I mentioned above.

[5] Kodama Shiki. 1976. *Kinsei Shinshū no tenkai katei – nishi nihon wo chūshin to shite.* Tōkyō: Yoshikawa Kōbunkan.

My last stop in Yamaguchi was Hagi, where Mokurai often used to go during the summer for the *ango*. Here, in the Seikōji temple, he set up a school for literary and martial arts with some of his fellow priest-scholars as part of their efforts to reform and modernize the Shin Buddhist institution in Chōshū in the late Tokugawa period. I wanted to find out whether any documents relating to the time when Mokurai taught at the Seikōji were preserved in the temple. Unfortunately, the current head priest explained that the temple completely burnt down in 1980, destroying all of the documents that may have been preserved, and could not provide any further information about that part of the temple's history.

Of particular interest in Hagi is the relationship between the historical figures Yoshida Shōin (1830–1859), Murata Seifū (1783–1855) and the Shin Buddhist priest Gesshō (1817–1858), all of whom played an active rôle in the politics of the Chōshū domain one generation before Shimaji Mokurai. I had the opportunity to meet both the curator of the Shiseisho (which exhibits writings by Yoshida Shōin) and the curator of the Hagi Museum. Both confirmed that Gesshō's ideas had a substantial influence on Yoshida Shōin's thinking and, by extension, on the many disciples of Shōin's school (Shōka Sonjuku) who not only played an important part in bringing about the Meiji Restoration but who also participated in the formation of the Meiji government and policies of the time. Through his close friendship and shared interests with the priest-scholar Ōzu Tetsunen (1834–1902), a direct disciple of Gesshō, Mokurai was also related— albeit indirectly—to this school of thought.

I would like to add an anecdote about my visit to the Shōka Sonjuku and the Shōka Jinja, the Shinto shrine dedicated to Yoshida Shōin. As I walked through the precincts, a group of soldiers arrived and headed for the shrine. They first attended a Shinto ceremony, then listened to a lecture from a Shinto priest inside the Shōka Sonjuku (the school's sliding doors were open for the general public to look inside since entry is otherwise restricted) before finally visiting the Shiseisho, where the Shinto priest showed them around. When I asked what was going on, I was told that they were military cadets from the Self-Defense Force. The next day I brought up the subject with the curator of the Hagi Museum. He told me that he has been increasingly asked to give talks about Yoshida Shōin to students and young employees. Since Yoshida Shōin is considered a symbol of the 'spirit' (*seishin*) Japan needs in times of crisis (such as today), he provides a good example to young people and helps inspire them to nurture *kokorozashi* (will, resolution). The experience at the Shōka Sonjuku demonstrated to me that the idea of linking Shinto ceremonial, the military, and the teaching of a certain 'spirit' (as developed from the Meiji period onwards) has far from disappeared. It confirmed my idea that contemporary research on the historical development of the relationship between politics, religion, and the military—one of the themes of my research—is more relevant than ever.

After my travels in Western Japan, I continued up north, spending some time in Tokyo and finally arriving in Morioka, my last destination. In Tokyo, two days of work at the National Diet Library allowed me to successfully complete my search for the articles I was hoping to obtain during my stay. I was also invited to a lunch meeting by the Toshiba International Foundation, during which I had the pleasure of meeting its President, Mr. Namekawa Fumihiko and Mrs. Ohbayashi Masae, a representative of the Foundation.

I visited Kokugakuin University to meet Dr. Tonami Hiroyuki, as I had heard that he was planning on publishing a booklet on Shimaji Mokurai. While this does not seem to be the case, he confirmed that Shimaji Mokurai is (and will remain) the primary focus of his research. The *Collected Works of Shimaji Mokurai* unfortunately do not include all of Mokurai's existing writings. That is to say, it is a generally known fact among specialists on Shimaji Mokurai that the Gankyōji in Morioka owns many documents that have not been made public. While some scholars have given up their research on Mokurai due to the Gankyōji's tenacity in keeping its archives closed, Dr. Tonami advised me to continue with an attitude of doing all that is possible with the materials presently available, while patiently waiting for the day when full access will be granted to all existing archives—advice that I have taken to heart. Not only are scholars refused access to the Gankyōji's archives, but many of the people I met warned me that requests for an encounter with the temple's current head priest, Shimaji Kōrin, are usually refused, and they wished me best of luck. The purported obstinance of the Gankyōji triggered my curiosity, giving me all the more reason to visit this temple where Mokurai served as head priest during the later years of his life, and to try and meet the head priest. After repeated refusals I was finally granted a meeting. Once we started our discussions the head priest turned out to be very generous in sharing his knowledge of anecdotes of Shimaji Mokurai's time in Morioka. He also went into the archives more than once, returning with documents he wished to show me. Of particular interest is his mention of letters by Saigō Takamori (1828–1877), Yoshida Shōin, and Sakuma Shōzan (1811–1864) that are addressed to Shimaji Mokurai. Full access to Mokurai's correspondence with such famous figures of the late Tokugawa and early Meiji periods would undoubtedly shed a new light on Mokurai's position in the historical landscape of the Meiji period, and it is to be hoped that these documents will be released sooner rather than later. In the Iwate Prefectural Library and the Morioka Memorial Museum of Great Predecessors, I was granted access to the rare books room and the curators' room respectively. Both institutions hold original documents and calligraphies in the hand of Mokurai, and I ended up finding additional source materials, including an essay by Mokurai on *bushidō* that I had heard about, but had not yet been able to locate.

Although I tried to get in touch with a number of Japanese scholars prior to my trip, it did not prove an easy task and the lack of contacts was one of my main concerns. However,

the few contacts that I had proved sufficient for establishing contact with an amazing constellation of scholars, priests, curators and people with general interest in my field. This is one of the main outcomes of my field trip, and an invaluable asset for further research. The meetings and discussions with specialists in Japan have strengthened my interest in Shimaji Mokurai and have provided me with new and precious insights, thus giving a welcome boost to my PhD project. I therefore would like to express my heartfelt thanks once again to the Toshiba Foundation for enabling me to undertake a period of research in Japan at this stage of my PhD.

Mick Deneckere

Global Consciousness in Early Modern Japan

Starting points

The thesis questions the dominant paradigm in Western historiography that Tokugawa Japan's interaction with the world was limited and restricted, and therefore Japan's integration into world economy and society could have only begun with the "black ships" from the United States in 1853 and the "opening of Japan" one year later. It is based on the understanding that the history of societies is a history of global entanglements. These entanglements produce cultural adaption but also accentuation of distinctions. Because of European colonialism in the 18/19th century this dialectic aspect of trans-cultural interactions became a global phenomenon.

Since the 18th century Russian ships pushed into the Northern Pacific. In 1771 letters by a Hungarian soldier of fortune, who escaped his Russian imprisonment on Kamchatka and landed at Japan, marked the starting point for the so-called "coastal defense literature" among Japanese intellectuals. In 1792 and 1805 Russian emissaries landed in Matsumae respectively Nagasaki, returning Japanese castaways of whom some had spent years in Russia teaching Japanese, and urged Japanese officials to open their ports for trade. In 1806/07 Russian ships raided Japanese settlements on the Kuril Islands. Already in 1799 the *bakufu* incorporated Ezo (Hokkaidô) into their direct authority and formed coastal defenses, border posts, and representations of state boundary on Ezo; even before the "Edict to Repel Foreign Vessels" in 1825 and the First Opium War in 1839-42.

Therefore the thesis investigates the discourses the early engagements with Russian actors started among Japanese intellectuals. Did early 19th century intellectuals' consciousness evolve into a more global understanding of the world and developed a new sense of distinction, i.e. a sense of a Japanese nation, because of Russian encounters?

To answer this question the thesis focuses on five forms of representation of the global and the national respectively, the "self" and the "other": (1) the formation of borderlands among Russia and Tokugawa Japan in the Northern Pacific in late 18th century, (2) the representation of the "other" via Japanese castaways, (3) the representation of the "self" via Japanese maps of Ezo and proper Japan, (4) the imagining of a national history by the Nativist Studies (*kokugaku*) provoked by the Russian engagements, and (5) the formation of state institutions by Edo at the Northern boundary. Sources by intellectuals, like Hirasawa Kyokuzan, Honda Toshiaki, Mogami Tokunai, Mamiya Rinzo, Hayashi Shihei, Hirata Atsutane, and Kondo Juzo, will be analyzed regarding a change in their understanding of the epistemological categories "global", "Japan", and "national". The methodological approach is the discourse analysis. The research stay from January to March 2012 at the Institute of Social Sciences (ISS), Tōkyō University, supported by TIFO provided an excellent base for successful research.

Aims and activities

The aim of my research stay was to revise and to develop the research outline by:

1. Getting familiar with the vast Japanese research literature of my topic. Since it was my first independent research stay in Japan, one very basic task was getting familiar with the institutions relevant to my work, like the Tōkyō University libraries, Oriental Library, and National Diet Library.
2. Verifying the research hypothesis by checking the Japanese historiography on Russian-Japanese relations and on intellectual history as well as by viewing historical sources.
3. Meeting with distinguished scholars in Japanese history to help me to improve my research question and to master the vast literature on Russian-Japanese relations, Edo intellectual history, and Ezo representations.
4. Presenting research results to colleagues and the public in Japan.
5. Further improving my Japanese language skills with a Japanese language class.

Results

A first review of the Japanese historiography confirmed my hypothesis. In contrast to the American and European historiography on early modern Japan, the Japanese historiography comprises the role of Russian-Japanese engagements for the development of intellectual discourse in late 18th and early 19th century much more. Most Japanese literature on the "opening of Japan" starts with the Russian embassy in 1792. Concerning Japanese intellectual history the majority of the literature incorporates the Russian engagements since 1800. Most agree that the starting points of a new discourse were the letters to the Dutch in *Dejima* by the Hungarian adventurer Benyowski in 1771. Because of these letters intellectuals like Kudo Heisuke and Hayashi Shihei started the "coastal defense literature".

However, the majority of Japanese literature lacks a global perspective. The changes in intellectual discourse in late Tokugawa Japan are usually not analyzed as part of research on globalization and colonialism. Therefore my aim is to develop my thesis from the perspectives of global history. To put it in a nutshell, this perspective of history analyses the effects of global entanglements and focuses rather on the boundaries of societies than the center. Most Japanese literature stills focuses purely on a Japanese perspective. But more recent works start to incorporate a transnational Russian-Japanese perspective. An embedment of the history of Russian-Japanese relations and the change of early modern intellectual discourse into a history of globalization is generally still being neglected.

Nakabayashi Masaki and Iokibe Kaoru (both Tōkyō University) provided me with in depth discussions on the historiography of intellectual discourse in Japan. Sven Saaler and

Bettina Gramlich-Oka (both Sophia University) provided an overview of Japanese historiography on Ezo and the Northern Pacific. All talks helped me greatly to gain an overview of Japanese research.

Even though it turned out unnecessary to make extensive use of archives at this stage of research – as I was primarily concerned with getting an overview on the vast historiography on the subject – Tōkyō University provided me with extensive source materials on late 18th and early 19th century intellectual discourse. A first review of the historical sources lead to the realization, that further training in *kanbun* is beneficial.

At the end of the research stay I was able to present preliminary results at a talk at the History & Humanities Study Group, German Institute of Japanese Studies in Tōkyō (DIJ). Especially Alexander Bukh (Tsukuba University) challenged my research outline with new questions and interesting comments. At the Japanese History Group, Institute of Social Sciences, Tōkyō University, by Nakamura Naofumi I was allowed to present further ideas and received interesting feedback by Mitani Hiroshi and Michael Burtscher. I will present further qualified results at the Conference of German Japanese Studies in Zurich in August 2012.

Furthermore, I was able to take advantage of the stay for other research-related purposes. I gathered materials for a German speaking article on the construction of race in Meiji Japan and improved an existing article on globility and Japanese fascism. I plan to submit both articles to peer-reviewed journals in 2012.

I would like to express my gratitude to the people who supported me in my research, in particular to my PhD advisor at Freie Universität Berlin, Professor Verena Blechinger-Talcott, who is constantly providing advice and the much needed incentive, to Professor Suehiro Akira, Director of the Institute of Social Science, Tōkyō University, who kindly accepted me as a Visiting Research Fellow, to Professor Nakabayashi Masaki, who acted as my advisor at ISS, as well as to Professor Iokibe Kaoru (ISS), Professor Sven Saaler and Professor Bettina Gramlich-Oka (both Sophia University), who patiently listened to my ideas and kept me on the right track; last but not least to Ms. Ōbayashi Masae, who welcomed me on behalf of TIFO, and to all the other colleagues at Freie Universität, the ISS, TIFO and the EAJS who contributed to the success of my research.

Thanks to the TIFO grant, I feel I am now in an excellent position to focus my hypotheses and to finish my dissertation successfully through archival work in the course of a second stay at the German Institute for Japanese Studies (DIJ) from October 2012 to February 2013.

Julian Plenefisch

–(De)regulated Flexibility

– Recent Developments and Outcomes of Japanese Labour Policy and Labour Market Reforms

The starting point of my research project was to propose an evaluation of the impact on Japanese labour market of the liberalization of labour dispatching and private employment placing made possible through the amendments of the *Haken Rōdōsha Hō* (Workers' dispatching law, first enacted in 1985) and the *Shokugyō Antei Hō* (Employment security law, first enacted in 1947).

The research was carried on mainly at the Japan Institute for Labour Training and Policy with the valuable support of its International Affairs Department and built essentially on:

- a literature review on Japanese industrial relations, with a particular focus on non-regular forms of employment;
- an analysis of the specific regulations related to Japan's deregulation policy;
- literature and available data review on the reforms' outcomes and interviews with legal scholars.

Research results

As pointed out by many observers[6], Japanese labour market has had traditionally a dual nature. The so-called *shūshin koyō seido* (life-time employment system) has for a long time been considered the hallmark of the Japanese system of employment relations. The practice – according to which a worker is hired soon after graduation and is expected to remain within the same firm until the age of retirement[7]– developed around 1920 when the Japanese economy boomed in the aftermath of WWI although it became embedded in the Japanese system of employment relations as an institutionalized custom only with the onset of the fast economic growth in the late 1950s[8]. Nonetheless, the rise in non-regular forms of employment is part of a long standing trend, whose origins can be traced back to 1970s - soon after the two oil shocks - and that somewhat strengthened during the 1990s economic crisis, subsequent to the burst of the bubble economy [9].

The system of employment relations – based on the equilibrium between regular and non-regular employees – seemed to be quite functional to the economic growth of the country. On the one hand, the *shūshin koyō seido* allowed a high degree of the so-called functional or internal flexibility (i.e. the employers' possibility to move employees from

[6] Among the others, see Goka Gazumichi, *Koyō no Danryokuka to Rōdōsha Haken ・Shokugyō Shōkai Jigyō* [Deregulation of Employment, Labour Dispatching and Private Employment Agencies], Tokyo, Ōtsuki shoten, 1999; and Tsuneki Atsushi – Matsunaka Manabu, 'Labour Relations and Labour Law in Japan', Pacific Rim Law & Policy Journal association, vol. 20, n. 3, 2011, pp. 529-561.
[7] Odagiri Hiroyuki, *Growth through Competition, Competition through Growth*, Clarendon Press, 1992, ch. 3.
[8] Schaede Ulrike, *Choose and Focus*, Ithaca, Cornell University Press, 2008, ch. 9.
[9] Keizer B. Arjan, 'The Dynamics between Regular and Non-Regular Employment: Labour Market Institutionalization in Japan and the Netherlands', Japan Institute for Labour Policy and Training (reports by visiting professors), http://www.jil.go.jp/profile/documents/Keizer.pdf.

one task or department to another). On the other, the share of non-regular employees (namely, part-time workers and fixed-term subcontractors) was used as a buffer and stabilizer to keep the economy well balanced in periods of economic recession and, as a consequence, employment for permanent employees[10]. However, starting with the burst of the 'bubble economy' and the subsequent economic crisis, the model started to falter and, from the mid-1990s, substantial steps towards deregulation – namely in the area of labour market regulations – begun to be taken[11]. Behind the deregulation drive, there was the thought that the inactive external labor market was impeding the flow of workers from declining industries to emerging new businesses and slowed the restructuring of the economy. At the same time, it was worried that global competition and the high appreciation of the yen might induce many Japanese companies to shift their production to other countries with cheaper labor cost. To cope with these economic problems, the "Deregulation Promotion Program" ratified by the Cabinet on March 31, 1995 expressly listed employment and labour relations as one area of deregulation targets.

The reforms, therefore, were aimed at:

- the activation of the external labour market through the liberalization of the labour supply business;
- the diversification of the labour force through a relaxation of the norms on non-regular forms of employment (labour dispatching in particular) [12].

From this point of view, of capital importance were the 1999 and subsequent amendments to the aforementioned *Haken Rōdōsha Hō* and the *Shokugyō Antei Hō* which brought about drastic modification of the Japanese labor market regulations[13].

The latter was first enacted in 1947 with the purpose of 'provide every person with an opportunity to obtain a job conformed to his/her ability and meet the labour needs of industry through the provision of [public] employment placement businesses' (art. 2, 1947/141). The law actually prohibited private employment placement businesses, with the exception of 29 permissible occupations ('positive list system') designated by the Enforcement Ordinance of the law and with a permit from the former Labour Minister (Art. 32, Para. 1). The list of the permitted occupations expanded slowly throughout the post-war history until the fundamental liberalization of the system in 1999 (Imai, 2004). Now, even though private employment placement agencies still need to obtain a permit from the *Kōsei Rōdōshō* (Ministry of Health, Labour and Welfare), the occupational restrictions have been abolished except for designated categories of occupations (Art. 32, Para. 11).

The 1999 saw also the revision of the *Haken Rōdōsha Hō*. Labour dispatch is a peculiar

10 Bredgaar Thomas – Larsen Flemming, 'Comparing Flexicurity in Japan and Denmark', Japan Institute for Labour Policy and Training (reports by visiting researchers), http://www.jil.go.jp/profile/documents/Denmark_final.pdf.

11 *Araki Takashi*, "*Changing* Japanese *Labor Law in Light of Deregulation.Drives*: A Comparative Analysis," 36 Japan Labor Bulletin, no. 5, *1997*.

12 *Ibid.*

13 *Araki Takashi*, '1999 Revisions of Employment Security Law and Worker Dispatching Law: Drastic Reforms of Japanese Labor Market Regulations', 38 Japan Labor Bulletin, vol. 9, 1999.

form of work arrangement based on a triangular relationship which involves the 'supply' of workers from a dispatching agency to a client company in order to meet some particular business needs. Due to the dissociation it realizes between the formal and actual employer, workers' dispatch has often been considered to undermine workers' protection and, as a consequence, has always been strictly regulated[14]. Japan was no exception to this rule and, until 1985, *haken rōdō* was actually totally prohibited. During the 1970s, however, Japanese firms developed some forms of illegal dispatching which attracted attention from the government agency. In 1978 the Gyōsei Kanri Chō (Administrative Management Agency) conducted an audit that resulted in a statement in which, together with pointing the growing misuses of practices as subcontracting, it also highlighted the positive sides of the use of *rōdōsha haken* in the labour market, e.g. labour mobility[15]. Based on the statement, the former Ministry of Labour started the legislative process to legalise the system which lead to the enactment of the *Haken Rōdōsha Hō* in 1985. As the aforementioned Employment security law, also the Workers' dispatching law was based on a positive list system, i.e. it allowed the business for only 16 highly professional occupations. However, the *Haken Rōdōsha Hō* as well was gradually relaxed with a substantial liberalization of dispatching business except for some job categories[16]. The law distinguishes two types of dispatching work arrangements: specified worker dispatching (*tokutei haken rōdōsha*) in which the worker is hired on a permanent basis by the dispatching company and general worker dispatching (*ippan haken rōdōsha*) in which workers register with a company which will conclude a contract only at the moment of dispatching[17]. It is important to notice that, in origin, agency work in Japan was meant to target highly skilled workers only, which is the reason why at the time of the enactment of the law the business was termed 'worker dispatch' instead of the more common 'temporary work' – in other words, the law did not require this kind of work arrangement to be necessarily temporary in nature[18]. The 1999 and 2003 revisions of the law, however, altered somewhat this situation. The 1999 reform, adding an upper limit on the duration of dispatching and the 2003 reform lifting the ban on *rōdōsha haken* in the manufacturing sector – the risk, therefore, is for labour dispatching to become a form of precarious and cheap labour[19].

What has been the impact these laws have had on the Japanese labour market?

As a result of the revision of Employment security law, *shokugyō shōkai jigyō* (fee-charging placement businesses) have now become a main actor in the field of private labour supply industry, expanding their activities especially in the area of the so-called

[14] Roccella Massimo, *Manuale di diritto del lavoro*, Giappichelli editore, 2011, ch. 4.
[15] Imai Jun, 'The Rise of Temporary Employment in Japan – Legalisation and Expansion of Non-Regular Employment Forms', Duisburg Working Papers on East Asian Studies, n. 62/2004.
[16] *Araki Takashi*, '1999…', *op. cit.*
[17] Imai, *Ibid.*
[18] Hamaguchi Keichirō – Ogino Noboru, *Non-regular work: trends, labour policy and industrial relations. The case of Japan*, International Labour Office, Working Paper n. 29, 2011.
[19] Araki, *ibid*.

jinzai business with a particular growing importance of outsourcing and outplacement services requested by Japanese enterprises as alternatives to the traditional *shukkō* and *tenseki* labour relocation practices[20].

As for *haken rōdō*, though it has been pointed out that it represents still a small percentage of the Japanese workforce, it is also the one which is expanding the fastest[21], a fact which may raise more than one issue for the future. *Haken rōdōsha* find themselves in a quite unstable situation, given the particular nature of the job arrangement (being agency work a tripartite labour relationship) and the fact that the law, as far as balanced treatment is considered, requires the employer (i.e. the dispatching agency) only to give 'due consideration' to the welfare of the employees, which, however, most *shokugyō shōkai jigyō* have been unwilling to do[22].

When, in the early 1990s, the Japanese government was confronted with the issue to deregulate, the *shingikai* of the Ministry of Health, Labour and Welfare begun to analyze labour market policies in the USA and Europe[23]. Following a pattern that had proved safe in the past[24], it opted out for a Japanese 'third way' to avoid the high social inequalities due to high flexibilities (American model) and, at the same time, the European labour market sclerosis due to high labour protection[25]. It is quite clear now that the reforms – which were meant to increase labour mobility, through the activation of the external labour market, and to help solve the problem of mismatches – missed their aims. Japanese labour market is still dual, probably even more so since the deregulation process was carried on without due consideration to the issue of equal treatment for non-regular workers. As a matter of fact, mobility has increased but only in the non-regular sector of the workforce and – also due to the absence of measures to promote uptrend mobility to regular status – the precarity risk remains very high[26].

Activities

My stay in Japan with the Toshiba grant also allowed me to carry out many others research-related activities. For instance, I was able to make contact and speak to many scholars whose advice and inputs greatly benefited my own research. Moreover, I was given the possibility to give a presentation at the *Rōdōhō Kenkyūkai* of Kobe University where I was invited by professor Ouchi Shin'ya, associate professor of Labour Law at the named university. Finally, I could take the opportunity to attend seminars as well as a workshop on Japanese Law and the Economy organized by the Ritsumeikan School of Law.

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[20] Imai, *Ibid.*
[21] Imai, *Ibid.*; Ishiguro Kuniko, 'Japanese Employment in Transformation – The Growing Number of Non-Regular Workers', Electronic Journal of Contemporary Japanese Studies, art. 10, December 2008.
[22] Imai, *Ibid.*
[23] Mizumachi Yuichiro, 'Why are there Many Expendable Workers in Japan? Issues and Mechanisms Underlying the Non-Regular Worker Problem' in *Changing Employment in Japan*, Social Science Japan, vol. 41, 2009, pp. 7-10.
[24] Haley John O., *The Spirit Of Japanese Law*, University of Georgia, 1998.
[25] Mizumachi, *Ibid.*
[26] Seifert Hartmunt, 'Atypical Employment in Japan and Germany', Japan Institute for Labour Policy and Training (reports by visiting researchers), http://www.jil.go.jp/profile/documents/Seifert.pdf.

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