

Blocking "Japanese Version of White-collar Exemption" from Working Time Regulations

FURUYA Sugio

Secretary General
JOSHRC: Japan Occupational Safety and Health Resource Center



"Labour Big Bang"

- Japanese big business and the Liberal Democratic Party have been accelerating deregulations and privatizations accompanying with violations of workers and trade unions' rights under the good names such as "innovation" or "opening-up". Recently they are using a new catch-phrase, "Labour Big Bang".
- Now the public concerns about "working poor", "widening disparities in our society", "camouflaged contractor (self-employer)", increasing accidents and diseases including KAROSHI (death due to overwork) and KAROJISATSU (suicide due to overwork) etc have been increasing.
- Those should be consequences of the above politics.



Privatization of Workers Compensation

- A few years ago, they attempted to privatize the Workers' Compensation Insurance scheme that was operated by the government now, among other things may affect workers' health and safety.
- At that time not only victims, workers, all trade unions, OSH campaigners and specialists, but also Japan Medical Association, Japan Federation of Bar Association, all members of a tripartite government council on workers compensation (including employer members) and Ministry of Health, Labour and Welfare (MHLW) opposed to it.
- Finally the idea was withdrawn before drafting an amendment bill of relevant laws and regulations.



"Japanese version of white-collar exemption"

- Then they targeted working time regulations under the Labour Standards Law and tried to introduce so-called "Japanese version of white-collar exemption" which was a term used in the USA.
- According to a proposal published by Japan Business Federation in June 2005, expected targets are workers with 4,000,000 JP Yen (approx. 33,000 US \$) or more annual income, and with discretionary power to arrange own working time, style and method.
- If new system is applied to a worker by employer, he/she will be excluded from the coverage of regulations concerning working time, break, holiday and night work.



"Japanese version of white-collar exemption"

- JBF (as well as the government) said that under this system workers would be allowed to decide hours they put in at office, reckoning workers will become more efficient.
- However in reality this system will mean that workers may be forced to work with no time limitation and no overtime payment. Also worker's agreement is not required.
- Employer shall take measures to pay attention to worker's health - this will mean only that worker will have interview by company doctor.
- It is unassured that this system will be applied only for "white-collar" workers.
- This is really a repeal of working time regulations.

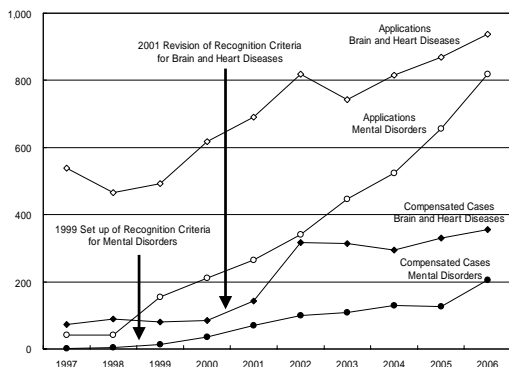


KAROSHI and KAROJISATSU

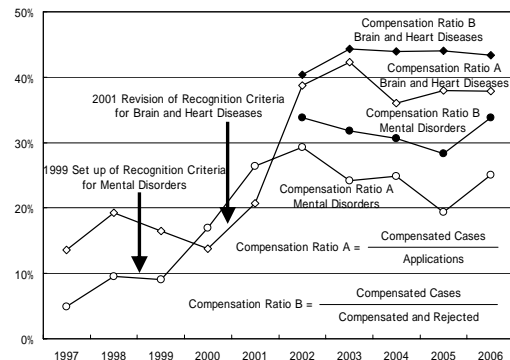
- Even now, workers in Japan are working too long, and KAROSHI and KAROJISATSU remain still as serious problem.
- The number of brain, heart and mental disease cases compensated by the workers compensation insurance has been essentially increasing.
- We would have to say that current Japanese Labour Standards Law and its enforcement has not been effective in preventing workers' health and safety.



Applications and Compensated Cases



Compensated Ratio



Flexibilities of Working Time

Current Japanese Labour Standards Law already offers too much flexibilities to employers in arranging working time systems for their workers with options such as;

- Exclusion (exemption) from the coverage of working time regulations for supervisors and managers
- Variational working time system
 - Monthly basis type
 - Yearly basis type
- Flexible working time system
- Deemed (de facto) working hours system
 - for out-of-office works
 - for "discretionary working system"
 - planning work type
 - professional work type



Managers/Specialists die

- Among increasing compensated brain, heart and mental disease cases, cases of managers/supervisors and technician/specialists have been taking hold on upper positions.
- Even supervisors and managers who are legally excluded from the coverage of working time regulations, and planning/professional workers who work under the "discretionary working system" are working too much resulting in diseases and deaths at worst.
- In addition, not a few workers are forced to overwork illegally excluded from the coverage of working time regulations, and under illegal "discretionary working system" without no time limitation and no overtime pay.
- In Japan overtime work without pay not only at workplace but also at home is a common illegal practice.



Compensated Brain and Heart diseases by Occupation

	Fiscal Year	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006					
1 Specialist		3	10	10	12	15	25	41	40	53	44	44					
		3.8%	13.7%	11.1%	14.8%	17.6%	17.5%	12.9%	12.7%	18.0%	13.3%	12.4%					
	2 Manager		17	27	26	20	20	26	71	63	53	62	53				
			21.8%	37.0%	28.9%	24.7%	23.9%	18.2%	22.4%	20.1%	18.0%	18.8%	14.9%				
		3 Office work		19	14	21	15	16	18	57	32	20	33	49			
				24.4%	19.2%	23.3%	18.5%	18.8%	12.6%	18.0%	10.2%	6.8%	10.0%	13.8%			
			4 Sales work		2	1	3	5	3	5	20	29	26	38	37		
					2.6%	1.4%	3.3%	6.2%	3.9%	3.9%	6.3%	9.2%	8.8%	11.5%	10.4%		
				5 Service work		1	0	3	2	3	6	17	29	17	23	25	
						1.3%	0.0%	3.3%	2.5%	3.9%	4.2%	5.4%	9.2%	5.8%	7.0%	7.0%	
					6 Driver		13	9	7	12	12	30	62	80	74	82	90
							16.7%	12.3%	7.8%	14.8%	14.1%	21.0%	19.6%	25.5%	24.8%	24.8%	25.4%
						7 Technician		12	10	18	8	6	20	34	34	42	34
							15.4%	13.7%	20.0%	9.9%	7.1%	14.0%	10.7%	10.8%	14.3%	10.3%	12.4%
8 Others							11	2	2	7	10	13	15	7	9	14	13
		14.1%					2.7%	2.2%	8.6%	11.8%	9.1%	4.7%	2.2%	3.1%	4.2%	3.7%	
	Total		78				73	90	81	85	143	317	314	294	330	355	
			100.0%	100.0%			100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%		



Compensated Mental diseases by Occupation

	Fiscal Year	1999	2000	2001	2002	2003	2004	2005	2006				
1 Specialist		4	12	16	21	29	43	40	60				
		28.6%	33.3%	22.0%	21.0%	26.9%	33.1%	31.5%	29.3%				
	2 Manager		3	10	15	18	14	9	14	24			
			21.4%	27.8%	21.4%	18.0%	13.0%	6.9%	11.0%	11.7%			
		3 Office work		0	2	11	19	9	14	17	34		
				0.0%	5.6%	15.7%	19.0%	8.3%	10.8%	13.4%	16.6%		
			4 Sales work		1	4	8	4	10	16	10	14	
					7.1%	11.1%	11.4%	4.0%	9.3%	12.3%	7.9%	6.8%	
				5 Service work		1	1	4	13	12	11	13	17
						7.1%	2.8%	5.7%	13.0%	11.1%	8.5%	10.2%	8.3%
6 Driver						1	0	5	9	8	12	12	16
					7.1%	0.0%	7.1%	9.0%	7.4%	9.2%	9.4%	7.8%	
	7 Technician				4	3	9	11	24	24	20	33	
			28.6%		8.3%	11.4%	11.0%	22.2%	18.5%	15.7%	18.1%		
		8 Others		0	4	3	5	2	1	1	7		
			0.0%	11.1%	4.3%	5.0%	1.9%	0.8%	0.8%	3.4%			
Total			14	36	70	100	108	130	127	205			
		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%				



Situation will be Worse

Introducing the “Japanese version of white-collar exemption” system should make the situation substantially worse.

- Under the “exemption” system workers will be forced to work with no time limitation and no overtime pay.
- Also under this system an employer doesn't need to grasp and record the worker's real working time which means that his/her family as well as the Labour Inspection Office responsible for investigation in compensation claim cannot trace the worker's working time when he/she unfortunately died of due to overwork.
- Furthermore this system will encourage illegal long working hours more than the current level.



MHLW Expectation

- Early in last year, the Ministry of Health, Labour and Welfare (MHLW) asked a tripartite council on working condition its opinion concerning necessary amendments of the Labour Standards Law including introduction of “Japanese version of white-collar exemption”
- MHLW expected that their proposals would be accepted until autumn in 2006.
- MHLW also proposed to rise up the premium rate for overtime works and considered that this could be quid-pro-quo for workers representatives in exchange of accepting “white-collar exemption”



MHLW Expectation

- However according to MHLW proposal, the premium rate for overtime works will be increased from 25% to 50 % only when total overtime exceed more than 80 hours a month and only for the excess hours.
- Workers demand is more than 50% rate for all overtime as already enforced in the US, Korea and other countries.
- "More than 80 hours overtime per month" is referred as "KAROSHI line" in the compensation criteria by MHLW.
- So ironically saying, this increased premium may be "a reward for KAROSHI".



Joint Appeal Movement

- In the tripartite council all workers representatives strongly opposed to "white-collar exemption" even if in exchange for increased premium rate for overtime.
- However concerns with this issue had been sadly low not only in the public and media but also even among trade union activists.
- We launched the "Joint appeal movement opposing repeal of working time regulations and calling for Labour legislation for decent work" in last August.
- I was asked to being one of three originators (other two are attorneys).



Joint Appeal Movement

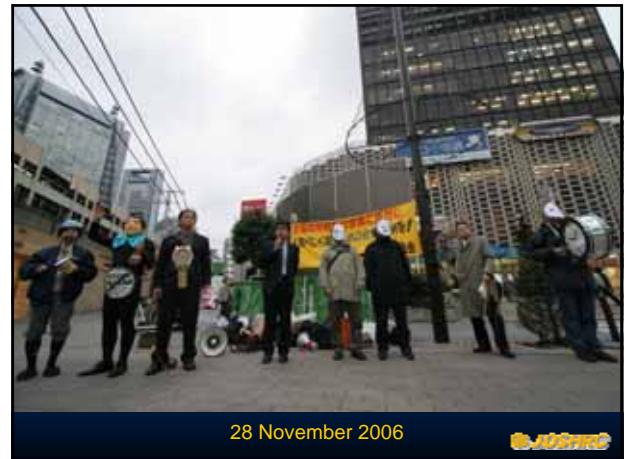
Aims of this initiative are

- to raise awareness among workers and the public (and the media),
- to gather various workers efforts climbing over a fence of different trade union national centers into an all workers' opposition, and
- to build coalition between workers and other social parties, such as victims and their families, medical, health care, legal and other specialists and the public.



1 August 2006
Set up meeting of “Joint Appeal Movement”





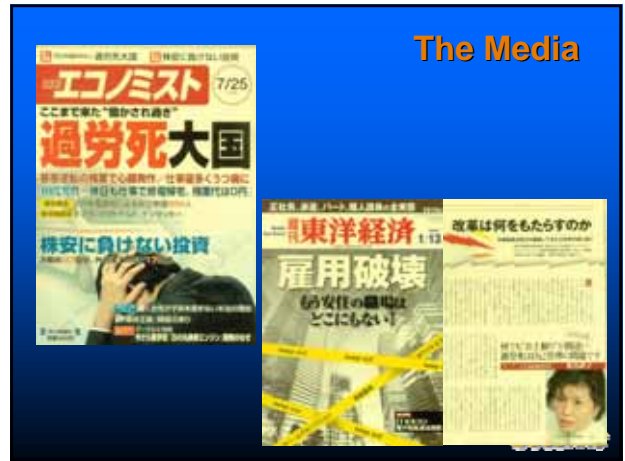
KAROSHI Relatives

Among other efforts Japan Occupational Safety and Health Resource Center (JOSHRC) in cooperation with labour attorneys;

- to publicize the acuteness of this issue to relatives of KAROSHI and KAROJISATSU cases and workers whose health was affected by overwork and
- to organize them into actions.

Actions of KAROSHI Relatives

- First action of relatives was that 15 representatives visited RENGO-JTUC to meet its president Mr. Tsuyoshi Takagi on 24 October, 2007.
- They asked RENGO president never to accept "white-collar exemption" and to make more efforts for achieve KAROSHI free, KAROJISATSU free and decent workplace and society. "We don't want to see another miserable family like us".
- Then they visited MHLW to say the same things and hold a press conference.
- The representatives have called other KAROSHI/KAROJISATSU relatives throughout the country to join/take actions against "white-collar exemption" everywhere.



Youth Actions

- Also young people have joined and taken original actions.
- Some of them became aware of this issue through the internet and formulated an action group.
- They made "clock masks" and picture-story show set, wore various costumes to take advertising campaigns on the occasions of Christmas, New Year Day, Coming-of-Age ceremony, etc.
- Some of idea were learnt from experiences in other countries.





3 January 2007
New Year Days



8 January 2007
Coming-of-Age Ceremony



8 December 2006
Mass Meeting

許すな過労死促進法！ 人らしく生きるための
労働時間・労契法制を！ 12.5 全国集会



8 December 2006
March

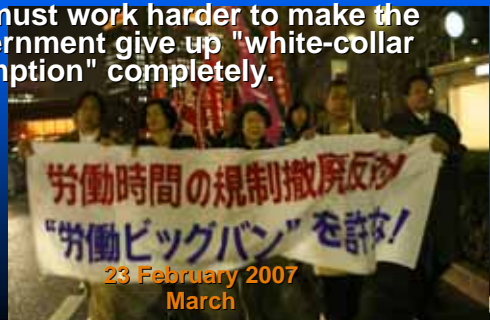
許すな過労死促進法！ 人らしく生きるための
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Gov shelved the Bill

- MHLW has finished all arrangements to send a bill introducing "white-collar exemption" (amendment of the Labour Standards Law) to the National Diet in this February.
- But the government finally shelved the bill for this session.
- Prime Minister Mr. Shinzo Abe explained its reason as that "'white-collar exemption" hadn't yet won understanding from the public.
- A business leader said that the bill was misunderstood as "No overtime pay bill" or "KAROSHI promotion bill".
- They were afraid if this bill became controversial during this July House of Councilors election race and prevented from occurring such situation.

Conclusion

- We are considering that this will definitely come up again.
- We must work harder to make the government give up "white-collar exemption" completely.



23 February 2007
March