

Overtime or the cure -- which is worse?

Ruling bloc gives to white-collar ranks with one bill but takes away with another

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More than 15 years have passed since a 26-year-old male employee at a major nonlife insurer died of a heart attack caused by overwork in Tokyo, after spending two weeks in a coma, but his mother remembers the time as if it were yesterday.

"He loved mountain climbing and had a tough constitution. . . . We had hoped he would somehow manage to bounce back," the mother said. The family asked that no one be named.

The man managed his company's customer database and was often called into work in the middle of the night and on holidays to fix problems in the system.

The unnamed company and the government denied any link between his death and his job, but his parents sued the local labor office for workers' compensation, arguing their son died from "karoshi" -- death from overwork. They finally won their nearly 12-year legal battle in October 2003.

"We decided to take action because we didn't want people to think that my son willingly worked (long hours) and that his death was (from natural causes), which would have been too miserable" to accept, she said.



Relatives of victims of "karoshi," or death from overwork, hold a rally to protest long working hours in December in Tokyo's Marunouchi district. PHOTO COURTESY OF A GROUP OF VICTIMS' KIN

This family's story is not unique. As the Diet discusses new labor legislation to try to deal with what is considered excessive overtime, management and unions continue to battle over how to regulate the time spent in the office.

According to the Health, Labor and Welfare Ministry, the average full-time employee worked 2,041.2 hours in 2006, compared with 2,028 hours the previous year. Another government survey shows that one out of every four male employees in their 30s worked more than 60 hours a week in 2005. No job category breakdown was provided.

In 2003, a worker in the manufacturing sector in Japan worked on average 1,975 hours, compared with 1,525 hours in Germany and 1,538 hours in France. Closer to Japan, but still lower, was the United States at 1,929 and Britain at 1,888.

To deal with the high overtime rate, the government prepared a revision to the Labor Standards Law to increase pay for such work.

However, it also wrote another bill to exclude senior white-collar employees from overtime pay, the so-called white-collar exclusion. Management ranks are already excluded from overtime pay.

Strong public opposition to the exclusion forced the ruling bloc -- the Liberal Democratic Party and New Komeito -- to shelve the bill. But labor experts and unions fear it is only being held back so it won't affect the bloc's chances in the July House of Councilors election, and that after the poll they will submit it to the Diet.

"The issue will definitely come up again," labor lawyer Ichiro Natsume said. "We must work harder to make the government give up the bill completely."

Under the white-collar exclusion, senior office workers would be excluded from the maximum work hours -- eight hours a day and 40 hours a week -- in the Labor Standards Law. The law already stipulates that firms must pay 1.25 times regular pay for all overtime worked.

The government and employers have said that with the exclusion, employees would be allowed to decide the hours they put in at the office, reckoning workers will become more efficient. But unions fear firms will exploit employees by such

tactics as giving them heavy workloads, compelling them to stay late, without pay, to finish the job.

The Japan Business Federation (Nippon Keidanren), the top business lobby, wants the cutoff to be any white-collar worker with an annual income of 4 million yen or more. In 2005, the average annual salary for a male white-collar employee was 5.38 million yen.

According to an estimate released in November by Japan Research Institute of Labor Movement, a private think tank, if the exclusion is applied to workers earning 4 million yen or more a year, 11.6 trillion yen in overtime pay, or 1.14 million yen per employee, would not be paid.

The mother of the young man who died of a heart attack said the contentious bill would do more damage than just ending overtime pay.

"Removing the hour limitations could make the term *karoshi* a thing of the past," she said, noting it would not be illegal and almost impossible to hold firms accountable if employees were forced to work well beyond the 40-hour limit.

She also doubted if workers will be able to take the days off they are entitled to -- her son couldn't -- even if the legal requirement remains that employers must provide a minimum 104 days off a year, normally two days off a week.

"We don't want to see another miserable family like us. But unfortunately, the number of people dying of overwork is increasing," she claimed.

Labor ministry data show *karoshi* deaths have remained high over the past three years, with applications for workers' compensation due to *karoshi* numbering a record 336 in fiscal 2005, up from 319 in fiscal 2003, the first year the government began to collect the figures. However, only 157 cases were recognized by the government in fiscal 2005, compared with 158 in fiscal 2003.

The bill to increase overtime pay, now being deliberated in the Diet, is being backed by unions. The legislation would require large companies to increase overtime pay to time-and-a-half when overtime exceeds 80 hours a month.

Unions say the legislation would stop firms from making

workers put in excessively long hours, while employers argue that if the bill becomes law, it would only encourage their employees to work more to get more money.

Still, the bill represents a compromise. Initially, unions sought to raise the additional payment for all overtime work, saying that in other industrialized countries, including South Korea, the United States and Canada, companies have to pay time-and-a-half for all overtime.

But as companies, particularly small and midsize firms, opposed the increase, saying they cannot pay the higher rate, the labor ministry decided to apply the higher rate to overtime exceeding 80 hours a month.

Yoshio Higuchi, a business professor at Keio University in Tokyo, said the debate over work hours is unlikely to move forward anytime soon because employers and workers are too far apart on how to regulate the time spent on the job.

He said both sides must hold constructive debate to come up with effective, workable ways to fix the situation. Higuchi agreed employees should have more say over how many hours they have to work. But he said simply removing legal restrictions on regular hours would leave workers vulnerable.

"If the government introduces the white-collar (exclusion) system, it should be coupled with a ceiling on overtime hours," Higuchi said. "Both labor and management are aware that something must be done to change the current working style of white-collar employees."

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