Scott North* and Rika Morioka*

Hope found in lives lost: karoshi and the pursuit of worker rights in Japan

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Abstract: Japanese social order emphasizes a superior’s responsibility for their subordinates’ well-being. This traditional “right to benevolence” is a wellspring of hope for workers. This paper describes how, in the wake of changes in employment practices since the mid-1970s, citizens’ groups and labor lawyers creatively combined advances in medicine and legal knowledge with this right to benevolence in lawsuits seeking compensation for injuries caused by overwork. The social movement against karoshi (death due to overwork) that arose from these suits first sought workers’ compensation system reforms. Later, they won legislative remedies. Rulings in Japanese courts, including the Supreme Court, affirmed employers’ legal responsibility for worker well-being to include care for accumulated fatigue and mental health. Buoyed by these successes, activists and victims’ families hopes of preventing karoshi reached new heights with the June 2014 passage of the Karoshi Prevention Countermeasures Promotion Law (Karōshi tō bōshi taisaku suishin-hō). Karoshi compensation victories, administrative rule changes, and legislative reforms raised public awareness of overwork and exploitative management practices. Nevertheless, we must conclude that, although karoshi legislation gives hope for a legal regime of employee care rights, the current law is weak and remediation only addresses the worst cases. Moreover, participation in the legislative process risks limiting the movement’s future influence.

Keywords: overwork death, karoshi, overwork suicide (karōjisatsu), employment practices, worker rights movements

* Corresponding authors: Scott North, Osaka University Graduate School of Human Sciences, E-mail: north@hus.osaka-u.ac.jp
Rika Morioka, Myanmar Partners in Policy and Research, E-mail: rikamorioka@gmail.com

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1 Finding hope in the tragedy of karoshi

Stress from overwork obstructs family formation and reproduction, and contributes to depression and suicide (Bunting 2004; Gershuny 2000). EU nations have policies for ameliorating work–life conflict, but such policies are comparatively lacking in Japan (Boling 2015). Japan’s current priority is global competitiveness. This is manifest in employment practices, labor market structures, and work ethics that relegate recalcitrant human needs for care and leisure to the realm of minor individual concerns (Mouer and Kawanishi 2005: Ch. 4). However, when these needs are neglected, worker health may suffer. Worst-case outcomes are karōshi (death caused by overwork or job-related exhaustion), a cause and effect relationship between overwork and cardiovascular disease, and karōjisatsu (suicide resulting from overwork-related harassment and/or depression).

Karoshi was first conceptualized in Japan and is more common there than in countries with strong unions, worker protections, or leisure entitlement. Early postwar Japanese struggles between labor and capital that seemed to herald the emergence of worker-centered industrial democracy ended instead in the 1980s with the triumph of unimpeded management authority (Gordon 1993). At roughly the same time, karoshi and then karōjisatsu were identified and elaborated into medico-legal discourses by concerned Japanese doctors and labor lawyers. The causes of particular cases are complex and contested, but long, usually illegal work hours are the common thread. From the activist point of view, adequate time for sleep and meals is all that it takes to prevent karoshi. Not meeting those minimum conditions indicates seriously degraded employment relations: if subordinates cannot count on their superiors to meet care obligations, karoshi may occur. In this paper, we explain how hope sustains the survivors of karoshi tragedies, and how those hopes shaped the social movement strategies that they and their activist allies have thus far deployed.

Although activism in Japan is often associated with radicalism, our analysis reveals anti-karoshi activists, especially the wives of deceased male workers, as conservative traditionalists at heart. Their appeals to higher authorities in the courts and the government are not driven by zeal for revolutionary change, but stem from earlier ethical notions that acknowledge the lower status of workers. Emphasizing traditions of worker dependency on employers, they seek restoration of a social order in which employers care for workers. This strategy is an example of what Miyazaki (2006: 151) called “the method of hope,” that is, “a reorientation of knowledge” to find alternatives and repair the damage caused by Japan’s increasingly neoliberal employment practices. Moreover, anti-karoshi activism exemplifies well Zigon’s observation that hope is in part
passive, part active. Passive hope requires, and provides, “patience and perseverance” because its “realization depends on an other” (Zigon 2009: 256). In karoshi cases, the others are bureaucracies and the courts. Active hope, “the intentional and creative uses of the past and the future – that allows for intentional and ethical action” (Zigon 2009: 258), is evident in plaintiffs’ justifications for demanding compensation, the kind of apologies they seek, and the sort of legislation they pursue. Combining these two points of view, karoshi activism comes into focus as a manifestation of hope grounded in local, common sense knowledge of how social order is preserved. This knowledge supports the creation of karoshi narratives that permit citizen activism and enable the bereaved to cope with these tragic turns in their lives.

2 Investigating karoshi

Government recognized and compensated cases of karoshi are a fraction of the actual toll, which lawyers have estimated at 10,000 deaths per year (Karōshi Bengodan Zenkoku Renraku Kaigi 1990). Each change to the guidelines for recognition and compensation brings more claims. Between 1988 and 2013, there were 29,598 total applications for workers’ compensation due to overwork. The majority of claims, numbering 19,994, were filed after 2002; nearly all victims were men (MHLW 2001, MHLW 2013).1 Companies universally decline requests to comment on cases, but in court they deny wrongdoing and downplay obstacles to self-care posed by work schedules and workloads, insisting, for instance, that because other workers are doing the same work, the fault lies with the injured or dead workers, or even with their wives and families. Families see blaming the victims as both coldhearted and illogical. Logically, the responsibility to care can only be borne by those who, by virtue of position and resources, can care about, take care of, and care-give (Tronto 1993: 104). Karoshi thus necessarily indicates employer negligence: “care, which seems to be such a central part of human life, is treated as so marginal a part of existence” (Tronto 1993: 111). From the activist side then, karoshi deaths are individual troubles that warrant litigation because they are prima facie evidence of employer failures to sincerely fulfill the social responsibility incumbent upon them to care for subordinates’ well-being. Litigated cases are reckoned to be the visible tip of the karoshi iceberg.

1 Consequently, most of the plaintiffs are women and gender is important to the organizational style of the movement. For full treatment of this dimension of the karoshi problem, see Morioka (2008) and Morioka (forthcoming).
Our concern in this paper is with karoshi from the point of view of workers and their families. To represent their stories and their hopes, we draw on evidence we have collected over more than 25 years of studying the problem and conducting fieldwork among principal members of the anti-karoshi movement (Morioka 2008, Morioka forthcoming; North 1999, North 2011; Weathers and North 2009). From observations and interviews of movement participants and karoshi plaintiffs, as well as primary documents and secondary sources concerning key cases, we trace movement influence on the trajectory of reforms to Japan’s standards for recognizing and compensating karoshi and karōjisatsu. We analyze these reforms as objective outcomes that form an index by which to gauge realization of movement hopes for improving worker protections. Participation in movement activities, including attendance at court trials, public protests, study groups, and social activities give us insight into the overall tenor of the movement. We are aware that long exposure to plaintiffs’ points of view influences our sympathies; yet we are unabashed about taking their side. At the same time, we also strive to avoid pitfalls inherent in ethnographic work (Burawoy 2013) through collaboration, independently confirming our discoveries and considering alternative interpretations.

We begin with a brief overview of workplace human relations and employer benevolence in Japan’s social order, noting the role of post-World War II judicial activism in establishing the reciprocal duties and obligations of employers and workers. We then trace the concurrent decline of caring in “Japanese-style management” and the emergence of karoshi following the 1973 Oil Crisis. Shifting from context to the movement itself, we document the early history of karoshi and the subsequent wave of litigation that expanded the concept, brought it into public view, and provided hope of widening the criteria for compensation to include accumulated fatigue and mental stress-related afflictions. Most significant was the 2000 Supreme Court decision proclaiming employer duty to care for individual worker health. Finally, we recount and analyze possible costs of movement success, as anti-karoshi campaigners broadened their activism from litigation to legislation.

3 Employment and Japanese social order

Despite becoming a leading example of industrial modernity, Japan’s social order remained a paternalistic one, in which fulfillment of ascribed roles was virtue, “a moral duty of individuals and institutions alike” (Rohlen 1974: 45). The embrace of this pre-industrial tradition in the midst of twentieth-century
industrial development was generally seen as an exceptional Japanese trait that aided the tasks of modernization by minimizing social disruptions, such as labor unrest and divorce (Goode 1963: Ch. 7). Hierarchical employment relations, in which superiors by age and rank cared for subordinates within somewhat solipsistic family-style corporate organizations, are well documented throughout the post-World War II period as a mostly unquestioned structure that sustained hopes for social harmony, economic growth, and national strength (Cole 1979; Dore 1973). Regular employment connoted membership in a corporate community of responsible leaders and loyal followers, collectively dedicated to perpetuating the enterprise that supported them and their communities (Rohlen 1974).

Postwar ways of working tended to disregard individual differences and needs, and work became the central life interest. Regular members, by definition, had little discretion over their time and long hours were accepted as a condition of membership (Hisamoto 2003: 53). The compensatory flipside of these nearly unlimited burdens of membership has historically been the obligation of the powerful to protect the weak, who, in turn, have the right to expect benevolence in unequal status relationships. These expectations have shaped the evolution of Japan’s labor relations. Historian Thomas Smith (1986) found that early twentieth-century worker movements and, even earlier, peasant demands for redress, used the same moral language of “status justice” rather than rights as the basis for their claims. Like peasants, workers did not protest inequality. They accepted that low status reflected their inferior character, but they insisted that low position entitled them to indulgence (amae). When, however, the paternalistic indulgence that made this unequal social order tolerable was not forthcoming, workers did not pursue redress with employers on the basis of equal human rights, but rather stressed “both in action and in words, their dependence upon the employer” (Smith 1986: 247). In other words, they hoped for mercy.

As Japan entered a postwar period of high-speed growth (1955–1973), employers made most new hires regular members in a bid to retain skilled workers and hold down wages in a seller’s market for labor. The reciprocal obligations of labor and capital were symbolized by company-provided welfare programs and facilities, including labor unions and culture groups, company housing, transportation to and from work, recreation facilities, health clinics, and childcare centers (Tsujimura 1983). In addition, companies paid a range of family benefits that cemented the paternal character of employment relations. Gordon’s (1997) study of the New Life Movement showed how home and family were brought into the company orbit through educational outreach that undermined labor unions and impressed members of the corporate family with the
naturalness and stability of interdependent role obligations and benefits within nested corporate hierarchies that encompassed the entire nation.

Although the actual number of workers who enjoyed the full range of regular membership benefits was never a majority, and “permanent employment” was rather more the exception than the rule (Levine 1983), the fealty ideal at the heart of regular employment was symbolically powerful: a Japanese dream that offered a path to virtue through role fulfillment. This trope was central to iconic TV programs bankrolled by major corporate sponsors, such as National/Panasonic’s flagship production, *Mito Kōmon*, and Toshiba’s take on postwar family life, *Sazae-san*, which promoted the vision of asymmetrical obligations formed within natural hierarchies of age, gender, and status as the foundation of a stable social order.

In the real social world, judicial interpretations of employment law emphasized the same vision of asymmetrical obligations as the basis of just employment relations. From the 1950s, Japanese courts legislated from the bench, handing down rulings severely restricting employers’ right to dismiss workers, although Japanese labor contract law clearly gives them that right (Foote 1996). The courts argued, in essence, that for the sake of social stability, modern employment relations should be bound by earlier social relationship norms (Foote 1996; Upham 2011). Consequently, employers’ right to dismiss workers can only be acceptably exercised by meeting all four restrictive conditions set by the courts or dismissals are overturned as “abuse of right” (Yamakawa 2011). Although workers enjoy strong protection against dismissal, the courts have also ruled that the employment relationship obliges workers to accept nearly unlimited employer authority with regard to the day-to-day operations of the firm. This includes orders pertaining to duties, work hours, transfers, and the like (Upham 2011).

Judicial support for this ideal of benevolent employers caring for loyal employees in a mutually beneficial, fictive family-style hierarchy that forms a stable, “naturally” moral social order is a source of worker hopes. Today’s jobseekers still hope to find employers who can be trusted to fulfill their obligations to care about, take care of, and give care to loyal workers (Brinton 2011: 12). Their search is complicated by changes in the business environment and management priorities.
4 Japanese-style management shifts and the emergence of karoshi

For much of the postwar period, Japanese firms famously pursued market share and operated on comparatively low profit margins. To expand market share, firms cut prices, causing profit per unit to fall even though more units were sold. This strategy worked during the high-speed growth period. With the yen fixed at the favorable exchange rate of 360 JPY to 1 USD, Japan’s economy benefitted from US market access. Employers provided corporate welfare, which, despite uneven quality, symbolized employer care and benevolence (Tsujimura 1983). However, after the sudden yen appreciation caused by the 1971 Nixon Shock, and the 1973 Oil Crisis, growth slowed and production costs rose. Firms continued to prioritize market share, but the squeeze on their already slim margins forced them to seek cost reductions through increased labor intensity and restructuring. This prompted Japan’s largest postwar wave of strikes in 1974 to 1975 (Morioka 2013: 50). Male employees accepted that they would face adversity in the process of becoming mature working adults (Rohlen 1974: Ch. 3), and the country’s enterprise unions sought primarily to protect members’ employment. They did not make major issues of long work hours or worker well-being (Cole 1992). Thus, while overwork was an inevitable outcome of corporate management strategies for growth, hegemonic masculine expectations of self-sacrifice at work as the basis for meaning in men’s lives (LeBlanc 2012) guaranteed that they would not protest long hours or heavy workloads.

After the 1970s Oil Crisis, the Bubble Economy (1985–1991) and its collapse brought more changes to employment relations. Although the façade of paternalism and expectations of caring employer benevolence remained strong, the organization-centered orientation described by scholars in the 1970s (Dore 1973) began an inexorable shift toward a market-centered orientation in which benevolent care was less likely. By the late 1980s, this shift was well underway; but the labor market for mid-career workers remained poorly developed, trapping workers in their roles as loyal members even when employers reneged on their part of the paternal-care-for-devoted-service bargain. Particularly in the smaller firms employing the bulk of the labor force, corporate welfare was greatly diminished by the late-1980s (Tokyo Shokokaigisho 1993: 9).

As the yen strengthened in the late 1980s, and especially after the asset bubble burst in the early 1990s, Japan’s export giants began offshoring to reduce costs. At home, their political influence won labor deregulation, which aided rapid expansion of non-regular employment from 15 percent in the 1980s to about 40 percent of the labor force today (Tsuru 2015). Regular workers’
salaries became somewhat more dependent on performance. The general picture is of Japanese firms imitating some American “lean and mean” practices to create more competition among workers, while still maintaining the façade of corporate familism. The tighter job market for regular workers after 1992 or so raised the costs of job loss, and in-house status competitions spurred regular workers to put in long, frequently unpaid hours. Increased use of non-regular workers, who, in principle, do not work overtime, increased workloads for regulars. Their career paths also became less certain due to cost-cutting reductions in middle-management posts. Because work hours were the most objective evaluation criteria, workers overworked without pay to please bosses, win promotions, or support co-workers. Such responsible workers comprise the majority of karoshi victims. More than one lawyer we interviewed told us, “Irresponsible people do not die from overwork.”

Although average hours of work for all workers recently declined to about 1,800 per year, average weekly work hours for regular workers remained at over 53 hours per week, higher than in the 1980s (Mouer and Kawanishi 2005: 74). The apparent overall decline is due to the shorter hours of the rapidly growing non-regular workforce (Morioka 2013: 263). As non-members, these part-time and contract employees are not obligated to show total devotion through unpaid overtime, but neither can they hope for indulgence (amae). As their numbers grow, income gaps and social inequality are also growing (Oh-take et al. 2013: 2). Under these circumstances, hopes for employer benevolence are unlikely to be realized.

5 Finding hope for turning tragedies into social problems

Amid the conformist practices and economic imperatives described above, how did karoshi become a social issue? In the last 25 or so years, coalitions of citizens’ groups, unions, academics, and labor lawyers combined medicine, law, and the moral vision implicit in the traditional right to benevolence in administrative filings and karoshi lawsuits that aim to win compensation for victims’ families. Additionally, to improve working conditions and workplace cultures of care, activists sought to discipline corporate society through legislative activism. Movement activists say that creating a social issue in Japan requires a death and a trial with lawyers. For subordinate classes such as peasants or workers to bring complaints, there must be clear evidence that higher status figures were negligent. A death provides that evidence. Because karoshi
deaths often rob families of their breadwinner, the degree of social responsibility is great.

However, before karoshi cases proceed to the courts, there are lengthy administrative filings for workers’ compensation with the Labor Standards Office (Rōdō Kijun Kyoku) and, possibly, time-consuming appeals to the Labor Standards Bureau (Rōdō Kijun Kantokusho) and the Workers’ Compensation Insurance Board (Rōdō Hoken Shinsakai) in Tokyo. These complex procedures require many months or even years. They cannot be accomplished without legal representation. Civil trials against organs of the state (when compensation has been denied in the three-stage administrative review process mentioned above) or against employers generally come after the administrative decisions have been rendered. If a case receives MHLW recognition as work-related and government compensation is paid, subsequent civil trials for punitive damages against employers are often easy wins for plaintiffs.

After karoshi was identified in the 1970s, medical explanations were elaborated and hope of state compensation for deaths grew. Several well-publicized karoshi cases were instrumental in reforming standards for granting workers’ compensation payments and raising consciousness about pervasive overwork. Recognition of karoshi claims by Japanese courts, including the Supreme Court, gradually expanded the conception of employer responsibility to care for worker health to include accumulated fatigue and mental health. Those decisions set the stage for subsequent legislative activism.

5.1 Defining karoshi

The first well-documented case of karoshi was the death of a newspaper company employee in 1969 (Morioka 2008). Occupational medicine specialists had noticed for some time correlations between cases that were then called pokkuri-shi or totsuzen-shi (‘popping-off’ or ‘sudden’ death) and long hours or intense workloads of younger, white-collar workers. The cases became more common after the 1973 Oil Crisis and subsequent intensification of workloads. Recognizing cause (overwork and stress) and effect (cardiovascular illness/death), they renamed these events karōshi in 1978 and subsequently published a book of that title (Uehata et al. 1982). Workers’ compensation then was paid primarily when death or injury resulted solely from industrial accidents. The doctors reasoned that the deaths they saw from strokes or heart attacks should be compensated because work caused them. Research abroad, such as the American “Framingham Heart Study” and Michael Marmot’s “Whitehall Study” of work and health of English public servants, suggested strong connections be-
between cardiovascular disease and stress of long work hours, heavy workloads, and hierarchical relations in organizations.

In league with labor lawyers, academics, and other medical professionals, the doctors argued for revising workers’ compensation laws to include illness or death caused by overwork-related stress. The doctors defined karoshi as “a cause and effect relationship between work and illness, life-threatening health statuses caused by the exacerbation of existing conditions such as high blood pressure and arteriosclerosis due to unsound health practices brought on by overworking” (Morioka 2008: 5).

Workers’ compensation is included in the Labor Standards Law (Rōdō kijun-hō). The initial 1961 compensation standards emphasized “heavy burdens” associated with physical labor. Compensation required some sort of “catastrophe” (saigai), but on occasion, the Ministry of Labor had compensated other sorts of cases. One doctor made a chart (see Uehata 1993: 103) listing 13 cardiovascular disease cases granted compensation by the Worker’s Compensation Insurance Board between 1956 and 1968. Although few in number, the cases stood as precedents. The period of labor taken into consideration at these compensation hearings was generally only up to one week prior to the onset of symptoms. The doctors’ understanding of the emerging science of cardiovascular disease emphasized extended stress. To gain compensation for karoshi deaths, it would first be necessary to convince the Ministry of Labor to expand the categories of disease eligible for compensation.

In the decade following the identification of karoshi, medical knowledge of cardiovascular disease progressed in parallel with economically driven changes in Japanese labor management that exacerbated such diseases. Experts of the Ministry of Labor met several times between 1982 and 1987 to reconsider the compensation requirements set out in Tsūtatsu 116 of the Labor Standards Law, the guiding ministerial statute for decisions about workers’ compensation. Citing the need to consider vascular disease from the perspective of recent advances in medicine, the experts’ final 1987 report led to redrafting of Tsūtatsu 116, expanding the range of medical problems eligible for compensation.

Aided by this subtle change in orientation by the Ministry of Labor, in April 1988, members of the Labor Lawyers Association of Japan, as well as academics and doctors, inaugurated the Stress Disease Labor Disaster Research Association. Their hopes rested on demonstrating the cause and effect relationship between work and death in particular cases. They aimed to convince the Ministry of Labor to establish karoshi as a statistical category, and then enforce regulations on overwork based on statistical trends. They needed to redefine overwork to include white-collar workers’ excessive hours as well as physical burdens of blue-collar work. To impress the bureaucracy, a wave of successful
litigation would be necessary, which required finding cases in which overwork fatigue clearly led to heart disease or stroke.

5.2 Expanding the karoshi concept: key cases

In order to find plaintiffs, the anti-karoshi campaign opened an emergency “karoshi hotline” in 1988. One of the first callers was Hiraoka Chieko, who suspected that her husband’s death was due to overwork. With the help of a lawyer, she and her children calculated his annual hours at 3,700 per year. As a production line foreman in a ball bearing factory, he was often forced to work double shifts on days when his team switched from day to night shifts on a two-week rotation. The Labor Standards Office recognized excessive work as contributing to his death and granted the family compensation. But the company’s refusal to apologize for, or even acknowledge, the role its labor practices played in the death of this uncomplaining and loyal employee drove Mrs. Hiraoka to sue in civil court. Her case became the first in which a company was found culpable. Taken up in the media, it symbolized the possibility of using the law to gain redress and helped recruit other cases (Morioka 2008; North 1999).

Karoshi first appeared in a government document in 1990 (see Morioka 2008: 13–14). Prior references were always to “so-called karoshi.” The concept spread in Japan and abroad, entering the Oxford English Dictionary in 2002. Domestic and foreign media reports on karoshi awakened the widespread latent understanding that overwork was often a direct consequence of management harassment in the context of changing employment relations. As successive cases demonstrated links between workplace practices and risks to employee health, the Ministry of Labor responded by reforming its criteria for recognizing karoshi. Gradually, the period considered prior to the onset of symptoms was lengthened (from one week to one month, and then to six months), reflecting medical knowledge of accumulated fatigue.

Another turning point came in 1989 when the first application for compensation for overwork suicide (karōjisatsu) was filed. In despair, an overworked metal press operator hung himself. Having been promoted, he felt he could not quit, even though his overtime was 90 to 150 hours a month. Like Mr. Hiraoka, the press operator was caught in a status trap. Kitanaka’s (2012: 160–164) account of the case confirmed the general image of karoshi victims as “responsible,” whether in middle-to-lower management or rank-and-file jobs. Suicide notes often included apologies to co-workers for the trouble (meiwaku) that their absence would cause, or instructions for projects left unfinished.
The Kamei case of 1991 was the first karoshi in which the common phenomenon of unpaid “service” overtime was recognized as the cause of death. Kamei was a stock salesman whose success was so noteworthy that his sales technique, including his grueling schedule, was printed up and distributed to new employees as an example of how to be a winner in the firm’s complex sales quota system and associated inner-office competition. This was structured like a sumo tournament in which teams as well as individuals faced off against each other. When the Tokyo Stock Market crashed due to the Persian Gulf War of 1990, Kamei’s efforts to make quota in a bear market were deemed the cause of his fatal heart attack at age 26 (see North 2011). Although the focus of many karoshi cases was simple assessment of the number of hours worked, mental stress due to management manipulations in cases like Kamei’s began to draw increased attention. Medical briefs (ikensho) filed on behalf of karoshi plaintiffs frequently made the point that the effects of overwork could be as much mental as physical.

In December 1999, the Ministry of Labor issued new guidelines to Labor Standards Offices around the country concerning recognition of mental illness caused by work stress (Kitanaka 2012: 161–162). These guidelines permitted compensation when the following were present: (i) mental illness; (ii) strong stress at work in the 18 months prior to illness; (iii) no non-work causes, such as alcoholism or personal reasons (such as previous history of mental illness). If these conditions were met, sources of stress were compared with “Stress Evaluation Tables” for work and non-work events, and then each event was given a number of points. This reform sped up and standardized processing of cases. Equally important, the change signaled Ministry acceptance of stress–mental illness links, in addition to the stress–physical illness links established earlier.

A watershed Supreme Court decision in 2000 affirmed employer responsibility to care for worker health. The case involved a young employee of advertising giant Dentsu. Pressured by his employer to meet very difficult targets, the 24-year-old man worked 17 months without a day off before taking his own life in 1991 (Kitanaka 2012; Morioka 2008: 279). When the case was finally heard in the Supreme Court, the 168 million yen in compensation it ordered was the largest-ever settlement to date. Moreover, the victorious plaintiffs argued that the Court’s decision affirmed the traditional obligation of superiors to care for those in their charge.

Dentsu’s defense revealed the elements common to company arguments in karoshi cases. They blamed the worker, arguing that he was obsessive-compulsive, his overwork was voluntary, and that other workers doing the same work were not dying, and therefore corporate negligence could not be the cause of
death. The Tokyo High Court agreed that some part of the young man’s overwork was due to his personality and reduced compensation by 30 percent. On appeal to the Supreme Court, however, the justices ruled that within a reasonable range of variance among workers doing the same work, personality should not be grounds for “comparative negligence” (Kitanaka 2012: 162–163). In other words, just because others do the same work, companies cannot ignore the possibility that the effects upon workers will differ.

The Supreme Court ruling thus followed earlier judicial activism in the service of social stability. It established a notion of care that required companies to know individual workers’ strengths and weaknesses and assign them accordingly to appropriate work. Activists saw the Dentsu case decision as confirming broad employer “duty to care for” both individual and social factors affecting workers’ physical and mental “health” (kenkō hairyo gimu). Subsequently, the categories of work-related mental illness that could be compensated were expanded. Leaving a suicide note was no longer deemed to represent “intentionality and free will” (Kitanaka 2012: 163–164).

The medico-legal precedent created in the Dentsu case inspired hopes for compensation in work-related mental distress cases. There were only seven such compensated cases between 1983 and 1995 (3 suicides), then two cases each in 1996 and 1997, then four cases in 1998, and 14 cases in 1999 (11 suicides). Under the post-Dentsu case revised guidelines, there were 26 cases in 2000 (19 suicides), 100 cases in 2002 (43 suicides), 269 cases in 2008 (66 suicides), and 475 cases in 2012 (93 suicides) (Kitanaka 2012: 164; MHLW 2013). The Prime Minister’s Suicide Countermeasures Office and the National Police Agency found 2,323 suicides to be work-related in 2013; and it is not unreasonable to think that work stress was a factor in some of the 13,680 “health-related” suicides (Naikakufu Jisatsu Taisaku Suishinshitsu 2014).

5.3 Post-Dentsu case trends and current workers’ compensation standards

Overwork remains a core social concern in Japan. Financialization of the economy and increased use of information technology are speeding up the pace of work and pushing it deeper into the sphere of personal time (Morioka 2013). When “voluntary” overtime practices common to many Japanese corporations were exposed as causes of karoshi, and collusion between corporate interests and MHLW bureaucrats intended to cover up the abuses became front-page news, some prominent firms publicly promised to mend their ways (see Weathers and North 2009). However, the major federation of employers, Keidanren,
and its political allies pushed for further deregulation of Japan’s worker protections. Attempts by governments under Prime Minister Abe Shinzō in 2006 and 2015 to enact American-style exemptions on overtime pay for various white-collar workers exemplified how the business community also employed the method of hope, reorienting borrowed Western knowledge to pursue immunity from regulatory and judicial scrutiny.

Following the Supreme Court decision in the Dentsu case, as well as a contemporaneous report by the Ministry of Labor Committee on Standards for Recognizing Brain and Heart Disease, the current standards for awarding karoshi compensation were established in December 2001 (MHLW 2001). Prior to the 2001 revisions, only “overburden” in the week before the “catastrophe” was considered. Thereafter, accumulated fatigue was linked with overburden. In the Dentsu case, the Court cited “accumulated fatigue due to overwork of long duration.” Moreover, in addition to “catastrophe” in the week before death, a roughly six-month period of accumulated fatigue is now considered in compensation decisions. In greater detail:

1. Starting from the day that symptoms appear, if less than 45 hours of overtime have been worked in the previous month, the link between disease and work is weak; however, if more than 45 hours of overtime have been worked, the link between overtime and disease/illness is considered stronger as the number of overtime hours increase.
2. If in the month prior to the onset of symptoms more than 100 hours of overtime have been worked, or if average monthly overtime is roughly 80 hours over the six months prior to the onset of symptoms, there is assumed to be a strong connection between work and illness, and this is to be included in the determination (MHLW 2001).

Overwork is evaluated “rationally.” That is, all work hours (not just overtime) are considered. However, the conditions of the work, such as whether hours were irregular, whether required presence in the workplace was long, whether many business trips were necessary, whether there was shift work or night work, whether conditions in the workplace were bad (noise, time-zone differences, heat, etc.), and whether there was emotional or psychological stress were not included in the Supreme Court’s decision. Work hours alone became the criteria for reaching compensation decisions, which became automated on the basis of hours worked.

Although the new criteria for recognition did not include all possible causes, the categorical determination of 80 hours average overtime as the “karoshi line” boosted recognized karoshi cases from several tens of cases per year to an average of 301 cases per year between 2008 and 2012 (MHLW 2013).
increase was due solely to overtime being the basis for recognition. When other stress-causing factors were not considered and compensation was denied, families declared the cases “unjust decisions” and filed suits to have these “not work related” determinations removed. In other words, the individual circumstances of particular jobs could only be part of the decision if the relatives were willing to take the case to court after a decision by the Ministry. Despite the hopes engendered by revised standards, the bar for compensation thus remained very high.

6 From litigation to legislation

Litigation to secure compensation was contemporaneous with Japanese employers’ mild neoliberal shift away from organization-centered employment relationships. While continuing to pursue litigation to hold employers accountable for maintaining social order, activists also sought legislation to have the state guarantee employer care as a worker’s right. That was a departure from passive hope for status justice, whose realization depended upon recognition by others, and a move toward active, agentic hope. It necessitated broader political mobilization, which took place on two fronts. First, activists filed suit to force the MHLW to publicize the names of companies with recognized karoshi cases. Second, they authored the Basic Law to Prevent Karoshi (Karōshi bōshi kihon-hō) and lobbied Japan’s parliament to pass it.

6.1 Exposing “black corporations” to public scrutiny

When activists requested the MHLW to make public the names of companies where karoshi occurred, the Ministry responded with lists in which company names were blacked out. Anti-karoshi activists thus dubbed these firms “black corporations.” “Black” soon became symbolic shorthand for a range of abusive practices, including long hours, unpaid overtime, management by fear or harassment, and pitting new workers against each other tournament-style to force weaker ones to quit. In a classic example, promising young workers in retail outlets and fast food stores were swiftly promoted to “management” positions, paid a small “management allowance” in lieu of overtime pay, and then forced by corporate-imposed targets to work so much that their pay, in hourly terms, fell below that of the hourly employees. Another black tactic was to initially promise a decent salary, informing workers only after hiring that the promised
amount was contingent on working over 80 hours of overtime per month, which is the karoshi line.

Many, if not most, of Japan’s top firms have adopted black practices to control labor costs and boost output. The three main types (see Inoue 2014) are:

1. Separation Type. Creating a hostile environment that leads people to resign for personal reasons.
2. Throw-away Type. Treating workers as disposable and forcing them to work long hours at low or no wages.
3. Disorder/Chaos Type. Constantly harassing workers throughout the enterprise.

Black corporations rule by fear. Their practices purposefully drive out some workers to motivate the others. The term sums up the karoshi-inducing character of the harsher, neoliberal employer culture.

Stung by negative publicity about black corporations, companies lobbied the MHLW, arguing that releasing their names might start rumors: they feared that the “karoshi company” label would take on a life of its own on the Internet. Activists countered that there would be no grounds for rumors if the truth were revealed.

As recounted in the *Tokyo Shinbun* (2013), Teranishi Emiko, representing the National Association of Families Concerned about Karoshi, filed suit in Osaka District Court in 2009, demanding that the Osaka Labor Standards Bureau compile and release as public documents the names of companies where karoshi was recognized. In the tradition of aggrieved peasants and workers, her suit called for “social supervision” of Japanese corporations by higher authorities and sought to compel the firms to “reflect upon their conduct” (*hansei*) in terms of morality and with an eye toward self-reform. Ms. Teranishi said, “If a worker has died, that is not rumor, that is fact. Companies that are taking steps to avert karoshi should have their names made public. This will change how people see things.” Employers argued that work-related death is highly subjective and a single incident should not be used to impugn a whole company or undermine the livelihoods of other workers. In ruling for the families, the District Court decision stated, “there is no proof that there would be any immediate loss of trust with customers or an effect on hiring, even if the names of corporations were made public.” The government appealed, arguing that the designation Black Corporation could cause “damaging rumors” (*Tokyo Shinbun* 2013).

The Osaka High Court agreed. In reversing the District Court decision in 2012, it also cited MHLW concerns that the release of names would have nega-
tive effects on corporate cooperation with Ministry data collection efforts, with subsequent consequences for the quality of Japanese labor statistics and labor administration.

Responding to the High Court’s reversal, Ms. Teranishi said, “The government protects the corporations, and the courts are giving the government more consideration than is necessary. This decision puts profit above people’s lives. Companies with ways of work that force people to work to death cannot be allowed to get off scot-free.” The bereaved parent of a young female karoshi victim, Mr. Sugiyama, said, “Karoshi is corporate murder. Not only should corporate names be made public, there should be punishments for executives, or karoshi won’t go away” (Tokyo Shinbun 2013). Ms. Teranishi appealed to the Supreme Court, but in September 2013, it declined to hear the case, thus confirming the Osaka High Court decision.

Although the suit failed, it helped draw attention to rampant excessive overtime. A Tokyo Shinbun (2012) survey of 100 of Japan’s largest firms showed that 70 of them had negotiated overtime agreements with workers, allowing overtime above the 80-hour-per-month karoshi line.2 The average for the 100 firms was 92 hours per month and some very famous firms permitted 200 hours, figures that mocked the MHLW overtime guidelines.

Although some corporations refused to accept Ministry decisions or even judicial decrees (see Weathers and North 2009), the struggle to expand corporate care obligations through the courts continued. In a recent case, a 35-year-old accountant for a lighting company died of cerebral hemorrhage. The Labor Standards Office and Labor Standards Bureau both denied compensation. The family then filed an administrative suit to have the denial lifted. In the six months prior to death, the worker’s overtime ranged between 25 and 74 hours, under the 80-hour karoshi line, but the judge ruled that continuously stressful work to establish a new accounting system, which included long-distance night driving on business trips, was the cause of death (Kyodo Tsushin 2013). The case introduced the concept that compensation could be based on “quality” of overtime and burden of the work.

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2 Under Article 36 of the Labor Standards Law, overtime agreements can be concluded between management and the representatives of labor. In principle, overtime is not permitted in Japan, but these Article 36 agreements open the door to as much overtime as management thinks it needs to meet production targets. The MHLW guidelines call for limiting overtime to under 45 hours per month or 360 hours per year.
6.2 Hope for a legislated solution to karoshi

Building on litigated success, karoshi activists declared in 2008 their intention to seek passage of the Basic Law to Prevent Karoshi (Karōshi bōshi kihon-hō). In 2010, they began intensive lobbying in the Japanese Diet, and even sent a delegation to Geneva, which gained UN backing for their legislative proposal. In Japan, more than 550,000 people signed petitions in support. By the summer of 2014, more than 100 municipal and prefectural assemblies had passed resolutions supporting such a basic law. With the unanimous support of all major parties, a compromise bill, the Karoshi Prevention Countermeasures Promotion Law (Karōshi tō bōshi taisaku suishin-hō) was passed by the Diet in June of 2014 and enacted on 1 November.

This statute defines karoshi and recognizes it as a social problem for which the Government of Japan is responsible. The law requires the government (i) to investigate and publicize its findings about the cause and effect relationship between work and illness; (ii) to draw up prevention plans and educate the people of Japan about them (November is established as “Karoshi Awareness Month”); (iii) to support citizens’ groups involved with karoshi; (iv) to provide counseling and advice for workers and families troubled by overwork; (v) to establish an advisory committee consisting of health experts and representatives of labor, business, and bereaved families; and (vi), as necessary, to enact and fund measures to prevent karoshi based on research findings and advisory committee advice. An annual report on karoshi must be submitted to the Diet and review of the law is mandated for 2017. There is, however, nothing in the law that could be construed as a constraint or burden on employers: no penalties for noncompliance are imposed.

7 Conclusion: assessing the method of hope

The tragedies of karoshi and karōjisatsu are intensely personal ones, yet they point to societal issues that affect many workers and their families. In this paper, we have shown how loss of life due to stress and overwork called forth a hopeful response characterized by attempts to restore social order and preserve sanity by reorienting knowledge of the common moral sense of society, merging it with advances in medicine and law, and using them to build a social movement. We saw that this hope was initially passive in Zigon’s terms: plaintiffs were supplicants, dependent upon bureaucratic recognition. As successful case numbers mounted, however, a systematic vision of karoshi’s causes was
articulated in the courts and reflected in MHLW guidelines, reaching a milestone with the Dentsu case decision of 2000. Subsequently, movement hopes became increasingly active, culminating in lobbying and legislative proposals, and the eventual passage of the Karoshi Prevention Countermeasures Promotion Law (Karōshi tō bōshi taisaku suishin-hō) in 2014. We have seen how karoshi has come to symbolize mainstream critiques of today’s working conditions and management practices. Karoshi causes people to question the costs of economic growth, drawing attention to how the neoliberal common sense of the business class is increasingly distant from the lives of ordinary people. Karoshi-inspired hopes are grim hopes of recompense and restoration. Despite springing from tragedy, they support perseverance “through the life into which one has been thrown” (Zigon 2009: 258).

The anti-karoshi movement is a notable Japanese civil society success, but it is not clear how much hope karoshi legislation warrants. Like Japan’s Basic Law for a Gender Equal Society and its Equal Employment Opportunity Law, the Karoshi Prevention Countermeasures Promotion Law is an attempt to govern private sector practices through moral suasion. Those other two laws provide a façade of equality behind which customary inequalities persist. Like the new karoshi law, no serious penalties are imposed for violations. If adequate sleep and time for meals is all it takes to prevent karoshi, then imposing EU-style intervals between periods of work would be effective means to those ends, as would higher overtime wage premiums. In the run-up to passage of the new karoshi law, many Diet members concerned with labor and welfare issues voiced support for improving Japan’s work–life balance by limiting work hours. But by making “countermeasures promotion” rather than “karoshi prevention” the focus, and by making that promotion the duty of the Japanese state, there arises a worrisome possibility that the law passed in 2014 may result in anti-karoshi movement capture by parliamentarians and bureaucrats, who are daunted by the task of enforcing work hour limits, let alone compelling employer benevolence. The distance between good intentions and good legislation remains great, although the desirability of legislating care to eliminate karoshi is clear.

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