

# Working Hours in Contemporary Japan in the Context of Marx's *Capital*

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## Introduction

This report explores the characteristics of labour practices and working hours in contemporary Japan, in the context of working hours as discussed in chapter 8 (10 in English edition) of *Capital, Volume I*. I have already written about working hours as discussed in *Capital* in my article, “*Capital* and Contemporary Labour: How to Read Marx’s Theory of Working Hours,” which was published in “Marx in the 21st Century: 150 Years After *Capital*,” a special edition of the *Political Economy Quarterly*, Volume 53, No. 4 (January 2017). Therefore, this report will build on what I covered in my previous articles and explore the system of working hours in Japan in relation to the Labour Standards Act and the labour movement. At the end, I will also suggest some issues that should be dealt with by Marxian economics in Japan concerning the theoretical and practical importance of working hours.

Furthermore, as I have written previously, in *Capital*, Marx adopted the English term “a working day” (one working day = one day of working hours), called *der Arbeitstag* in German. Because of this, the Japanese edition titles chapter 8 of Volume I, “*Rodobi*” (The Working Day). Marx argued that working hours were measured in days, as a natural day is limited to 24 hours. The direct translation, *rodobi*, was therefore deliberately used to stress this. However, in colloquial Japanese, *rodobi* means “day of labour” or “the number of days of labour.” This translation was therefore incorrect Japanese that did not reflect what Marx meant, and over the years it has prevented the proper dissemination of Marx’s theory of working hours. In view of these circumstances, this article uses the ordinary Japanese terms of *rodojikan* (working hours) and *ichinichi no rodojikan* (one day’s working hours) instead of the awkward term *rodobi*.

## 1. Working hours in Japan in the context of *Capital*

### 1) Working hours in *Capital*

The Vox Populi column of the July 23, 2017, edition of *Asahi Shimbun*, stated the following about the 150th anniversary of *Capital*:

“There are books that many people start reading but fail to finish. Karl Marx’s “*Capital*,” published 150 years ago, is one notable example. When he heard the complaints that his writings on capitalism were difficult to understand, Marx reportedly suggested first reading the chapter titled “The Working Day,” which deals with the rampant problem of long working hours in Britain. The chapter contains an episode about “three railway men” who faced a trial as they were accused of “negligence” causing a disastrous railway accident that killed “hundreds of passengers.” They claimed that their performances had been affected by extremely long working hours. They said they were “ordinary men, not Cyclops.” “At a certain point their labour-power failed. Torpor seized them. Their brains ceased to think, their eyes to see.” Marx also described other shocking cases of overwork in his era. The stories sound so familiar that we start wondering if they are really descriptions of realities in the 19th century. There were people who were forced to work so many hours even without being given enough time to eat. A young worker died from overwork while trying to meet deadlines. It seems that another Japanese worker

has become a victim of the strain of excessively long and hard work. A construction company employee in his 20s who had been working at the construction site of the new Olympic stadium went missing in early March and then killed himself. During the one month before he went missing, the man had worked 211 hours of overtime, according to his family. Illegally long working hours have been going unchallenged at the site, where keeping the work schedule is apparently regarded as more important than protecting the health of the workers. The government has also been seeking to change labour regulations to allow employers to eliminate additional payments for overtime done in certain types of well-paid specialist jobs. But there is something fishy about this initiative. There are concerns that the envisioned “zero overtime pay” system might be used in the future as a loophole in the labour regulations. Rengo (Japanese Trade Union Confederation), the nation’s largest labour lobby, has been bitterly divided over how to respond to the proposal, leaving the labour community in disarray. Marx ended the chapter of “The Working Day” in “Capital” with a call for a powerful law to prevent workers from “selling” themselves and their families into “slavery and death.” His argument, regrettably, is no less relevant today.” (*Asahi Shimbun*, July 23, 2017)

This story of the railway men comes near the end of Chapter 8, Section 3, Branches of English Industry without Legal Limits to Exploitation. These statements were made at the trial of the three men—a guard, an engine-driver, and a signalman—for a train accident in which several hundred passengers were sent to “another world.” Ten or twelve years before the accident, their working hours had been eight-hour a day, but during the previous five to six years, these had been expanded to fourteen, eighteen, and then twenty hours a day. During holiday seasons, they sometimes worked for forty or fifty hours without a break. “At a certain point their labour-power failed. Torpor seized them. Their brain ceased to think, their eyes to see” (s. 268, hereinafter, all page numbers are from the Marx-Engels Werke edition of *Capital*). Please see the notes of this section for the description of another case involving a fireman in a train accident. He had worked eighty-eight and a half hours in one week, including fifteen hours on Wednesday, fifteen and a half hours on Thursday, fourteen and a half hours on Friday, and fourteen hours and ten minutes on Saturday. He was told that his pay was for a thirteen-hour day, or a shorter seventy-eight hour week of ten and a half hour days (or six days of thirteen hours).

This section describes conditions of excessive working hours in various industrial sectors not covered by the Factory Acts, including the pottery industry, the match industry, the paper-hanging industry, and the bakery industry. The most atrocious conditions are those under which children were forced to work, as exposed in the reports of the Children’s Employment Commission. A nine-year-old child working in the pottery industry was employed at age seven and was working a fifteen-hour day from 6:00 a.m. until 9:00 p.m. In the match manufacturing industry, half of the labourers were children under the age of thirteen and youth under eighteen. There were even some six year olds. Their working hours were twelve, fourteen, or fifteen hours a day. At a wallpaper mill, seven-year-old children were working sixteen-hour days, and 152 children and adults were working an average of 78 hours a week, and sometimes up to 84 hours a week. In these unprotected industries, even children were suffering from overwork, lack of sleep, or illnesses or stunted growth caused by malnutrition or unhygienic conditions. Among the adults, premature death and rapid loss of weight and height were prevalent.

The previously cited case in the *Vox Populi* column about the young worker who died of overwork while trying to meet a deadline also appears in Section 3. The case, which concerns a young woman in

her 20s, is well known as an example of “death from overwork” described in *Capital*. According to Marx, in June 1863, all the London daily papers reported on the sensational case titled. “Death from Simple Overwork,” the case of the unfortunate Mary Anne Walkley, aged 20, who was a milliner employed by a highly respectable dressmaking establishment. The milliners worked an average of sixteen and a half hours a day. During the season, they sometimes worked for thirty hours without a break. If their “labour power” flagged, they were given sherry, port, or coffee to perk them up. At the peak of the season, Mary Anne collapsed after working for twenty-six and a half hours without a break to meet the deadline for the dresses to be worn at a ball in honour of the Princess of Wales. Sixty female workers were crammed thirty to a room with only one-third of the air required. At night, they slept two to a bed and all crammed into one room that was partitioned off by boards (s. 269).

Looking at contemporary Japan in terms of the historical realities, one of the key words in the chapter on working hours in *Capital* is “death from overwork,” or today's karoshi in Japan. Besides the example of Mary Anne Walkley, the chapter on working hours contains many expressions related to death from overwork, including premature old age and death, ill-health from overwork, unpaid labour, working to death, and overwork in its discussions on the reports of the Child’s Employment Commission and the Factory Inspectors. To sum up, the aforementioned “death from simple overwork” can be considered a forerunner of karoshi, a term that came into use in Japan in the late 1980s. Furthermore, according to the 2002 on-line edition of the Oxford English Dictionary, karoshi is defined as “death brought on by overwork or job-related exhaustion.” Nowadays, this word is listed in most on-line dictionaries and English-language dictionaries.

## **2) Working hours in Japan before World War II**

The history of long working hours in Japanese capitalism dates back to the Meiji Era (1868-1912). According to *Shokko Jijo* [Conditions for Factory Workers], which was conducted in 1901 and was published in 1903 by the Ministry of Agriculture and Commerce (published in three volumes by Iwanami Bunko), cotton spinning mills that had sprung up around Osaka had instituted a system of day and night shifts. Working hours were 6:00 a.m. until 6:00 p.m. for the day shift and 6:00 p.m. until 6:00 a.m. the next day for the night shift. In this set-up, two female workers would share a mattress in the company dormitory. Excluding a thirty-minute break, the official work day was eleven and a half hours, but workers were usually made to stay an additional two or three hours, so they were actually working fourteen or fifteen hours. Not only that, but when there were not enough personnel to perform these repetitive tasks, workers were often made to work standing up for twenty-four hours at a stretch, and this was even extended to thirty-six hours in a few cases.

Even the spinning mills in the Suwa region, Nagano prefecture had work days exceeding twelve hours, sometimes extending to fourteen or fifty hours. This was not all-night work because there was no shift system, but break times and meal times were severely curtailed. One mill even had a rule that meal time should not exceed five minutes. Also, because of concern that time would be wasted if the female workers went to a cafeteria to eat, the mills made rice balls and distributed them to the machines that the workers kept so that the women would be able to continue working while they tried to eat their rice balls.

The purpose of the *Shokko Jijo* factory survey was to gather the basic materials needed to come up

with a plan for establishing a Factory Act to protect labourers from oppressively long working hours. In 1911, although it was inadequate, a Factory Act was passed that stipulated a twelve-hour work day for youths under the age of 15 and women and that prohibited the employment of youths under the age of 12. This statute went into effect in 1916. The Act was revised in 1923 to raise the minimum age by one year, to 16, and to shorten the work day to eleven hours, from twelve hours. Midnight work by youth and women was banned in 1929. However, these legal measures were quite weak and were often not enforced.

In 1919, the International Labour Organization (ILO) was established as an organ of the League of Nations, based on the Treaty of Versailles that established the post-World War I set-up. In the treaty, which was adopted at the League's first general session that year, Article 1 sets forth an eight-hour work day (eight-hour day for industries and factories, for a total of forty-eight hour a week). To win over their opponent, Japan, the European powers set a forty-eight hour work week only for pit workers and youth under the age of 16. For everyone else, they compromised on setting special measures for a work week of fifty-seven hours, with the exception of the silk mills, where the work week was sixty hours. However, although the labour representative among the four Japanese delegates was strongly in favour of an eight-hour work day in principle, the two government representatives and the employers' representative were opposed, so proposal did not go through.

Because of this, even though a Factory Act was established, it did little to limit long working hours. In 1925, after the Factory Act was revised, Wakizo Hosoi wrote in *Joko Aishi* [The Sad Story of Factory Girls] published in 1925, "There is probably no place where people are forced to work longer hours than the spinning mill" (Vol. 1, p. 128). In his critique, Hosoi asks, "Are there really any places in Europe or America where people work overtime 300 days a year?" and he calls this a policy of forced overtime (*ibid.*, p. 131).

### **3) Working hours in contemporary Japan**

In today's Japan, the image of the sad female factory worker who is subjected to horrible working conditions has virtually disappeared. Girls the age of what are now primary and middle school students were exploited before World War II, during the period when *Shokko Jijo* and *Joko Aishi* came out, but nowadays child labour is strictly prohibited. Tuberculosis, which commonly broke out due to long hours of overwork and unsanitary living conditions, has become an overwork illness of the past. The practice of demanding cash advances in employment contracts, which had served as a hotbed for forced labour and the human trafficking, has also been abolished. After World War II, the Constitution of Japan and the implementation of three labour statutes, including the Labour Standards Act, established basic work rights and set legal working hours at eight-hour per day, or forty-eight hour per week.

Nevertheless, this did not really stamp out the Japanese practice of long working hours that originated before the war. According to the MIC's 2016 Survey on Time Use and Leisure Activities, which is conducted every five years, male full-time workers put in an average of fifty-three hours per week. This exceeds 2700 hours on an annual basis. This is almost unchanged from the number of working hours reported by the labour surveys in the late 1950s. From this, it is obvious that the long hours worked by Japanese male full-time workers have not been eliminated at all since World War II. Comparing this 53 hours a week with OECD data on weekly hours worked by male full-time labourers shows that Japanese male full-time labourers work about 500 hours more per year than their counterparts in the US and UK

and about 600 hours more per year than their counterparts in Germany and France.

Yet these long working hours do not sufficiently explain the increase in Japan's karoshi workplaces. Let's look at some actual cases. In the case of Tsubakimoto Steel Ball (now known as Tsubaki Nakashima), which was a famous karoshi case in the late 1980s, I verified from the time cards obtained from the court that the victim, Satoru Hiraoka (then 48), had worked 3,663 hours during the year leading up to his death, but his actual binding hours exceeded 4,063 hours. During this period, he took off only 37 days. From January 4, 1988, until he died 51 days later, there was only one day that he did not work. At that time, the plant was operating 24 hours a day with two shifts, day and night. The company did not have auxiliary workers for the periods between shifts in the morning and the evening, from 5:00 to 8:00. Instead, the crew from the previous shift filled in by staying to work overtime.

In the case of Kazuhiko Kanameda (then 34) of Calbee Inc., who died of overwork in 1988, the victim was caught up in a cycle of working long days of fourteen to fifteen hours, going to work in the middle of the night for a week, then going home in the middle of the night for a week. The second shift started at 5:15 a.m. and ended at 1:40 p.m., but he arrived to start work earlier, at 3:00 a.m. His job duties included work preparation and equipment inspection, so he was staying an additional two hours after quitting time every day. He therefore headed home at 4:00 or 5:00 in the afternoon. Even though the first shift started at 1:35 p.m. and ended at 10:00 p.m., he had to make the next day's production schedule, prepare for in-house training sessions, and evaluate quality control reports, so he didn't leave work until 2:00 a.m. the following day.

For a more recent case, let's mention the karoshi case of Kazuya Nishigaki (then 27), who was a software engineer in the information industry. In April 2002, he joined Fujitsu's Social Science Laboratory (SSL). Starting around April 2003, when he was assigned to a project on terrestrial digital broadcasting, he began to work very long hours. He became depressed. He died of a drug overdose in January 2006, as he was alternating between taking leaves of absence and going back to work. The actual monthly hours he worked during his busiest period were 296 hours and 57 minutes, including 128 hours and 57 minutes of overtime, for an average working time per day of 11 hours and 52 minutes. During this period, he once worked for 37 hours straight, from 9:00 a.m. until 10 p.m. the following day.

The suicide case of Mina Mori (then 26) due to overwork at the Japanese-style bar chain Watami is noteworthy for the extremely long hours she worked. Mori joined the company on April 1, 2008, and committed suicide due to overwork two months later, on June 12. Records show that she had worked a total of 227 hours of overtime over those two months. In November 2012, her father told a parliamentary meeting at the House of Representatives First Members' Building that was considering legislation to prevent karoshi that his daughter's official work day was eight-hour, with two days off per week, but in actuality, works hours were the same as the bar's business hours, so she was forced to work from 3:00 p.m. until 3:30 a.m. the following day on weekdays (a twelve and a half hour commitment) and from 3:00 p.m. until 6:00 a.m. the following day on weekends (a fifteen hour commitment). She worked more than 140 hours of overtime in the month preceding her death, including late-night work for seven consecutive days, working on days off, compulsory volunteer activities, writing long reports, and taking tests of whether she had memorized the corporate values. She lacked adequate rest and sleep, and in a state of exhaustion, she lost her ability to make rational judgements and killed herself. The media

reported that she left a message in her notebook, “My body aches. I am in pain. My spirits are sinking. I can’t work fast. Please help me somehow. Can someone please help me?”

On October 8, 2016, the newspapers gave a lot of coverage to the release of the first white paper based on the Karoshi Prevention Act and to the approval as karoshi of a new Dentsu employee who killed herself at the previous Christmas as work-related. The victim, Matsuri Takahashi (then 24) had graduated from the University of Tokyo’s Faculty of Letters in March 2015 and started working at Dentsu, Japan’s largest advertising company, on April 1 of the same year. After completing the training course for new hires, she was assigned to internet advertising for automobiles and fire insurance in June. When her probationary period was over on October 1, she was also assigned to securities companies, in addition to autos and fire insurance. After getting her permanent assignment, there were severe cutbacks in the number of people in her department, and her work became extremely busy. From October 9, one month prior to becoming depressed, until November 7, she put in 105 hours of overtime. There were times when she was sleeping only two hours a day, or ten hours a week. She was subjected to power harassment by her boss, who demeaned her with such statements as, “Your overtime work is meaningless to the company,” “Don’t come to work with your hair messed up and bloodshot eyes,” and, “You have no femininity.”

In 1991, another Dentsu employee, Ichiro Oshima (then 24) also committed suicide from overwork. Before his death, he was averaging 147 hours of overtime per month. His boss had engaged in power harassment, pouring beer in his shoe at a banquet and making Oshima drink it. In this high-profile case of a young Dentsu employee’s suicide from overwork, on March 24, 2000, the Supreme Court showed the judgment that employers were obligated to consider the health of workers.

That decision served as a basis for subsequent court judgements on the recognition of *karojisatsu* (suicide from overwork that is a form of karoshi) as work-related incidents and indemnification by the company in such cases. In particular, it became a precedent for recognizing suicide from overwork as a work-related incident, which had not previously occurred. Furthermore, the Supreme Court’s ruling in the case of Oshima became the legal grounds for the Karoshi Prevention Act passed in 2014.

One characteristic of the above Takahashi’s case was the scale of the reaction, which was tantamount to shock. This has still not died down. The reason is that, as pointed out by attorney Hiroshi Kawahito at a special symposium on young people’s suicide from overwork at the Third Annual Meeting of the Japan Society for Karoshi Research, victims’ peers, as well as their parents, grandparents, children, and grandchildren can no longer remain unconcerned about doing away with such work practices.

Most recently in the news was the case of the new male employee (aged 23) at a construction company that is a primary subcontractor on the site of the new Olympic stadium. He was so stressed from overwork that he killed himself. He suddenly disappeared in March 2017, and his body was found on April 15. According to Hiroshi Kawahito, attorney for his survivors, over the approximate one-month period until he was determined to have died, he worked about 212 hours of overtime.

Such abnormally long overtime is of course not limited to young people. Immediately after the second case Dentsu case discussed above became public, there was another report that a male section chief in his 40s who had committed suicide due to overwork in April 2016. This man had worked at Kansai Electric Power’s Takahama Nuclear Power Plant and was engaged in work related to inspections to restart the reactors. In February of that year, his overtime work came to 200 hours, and he worked 150

hours of overtime during the 19 days preceding his death.

## **2. Working hour regulations and class struggle in capitalism**

### **1) What can we learn from Marx's observations?**

In the chapter on working hours in Volume I of *Capital*, Marx examines the history of factory legislation from 1833 to 1864. In England, the 1833 Factory Act inaugurated normal working days. This statute applied to cotton mills, wool mills, flax mills, and silk mills. It implemented various measures, including (1) a ban on the employment of children under the age of nine; (2) restrictions on the number of working hours per day for youth under the age of eighteen to twelve hours, and restrictions on the number of working hours per day for children under the age of thirteen to eight-hour; (3) a ban on night work by children and youth under the age of eighteen; (4) the obligation to provide education to child labourers; and (5) the creation of a factory inspection system. Initially, four people were appointed as factory inspectors under this law. The inspectors' authority included authority to enter factories and authority to set regulations. The Factory Act was subsequently revised several times after some setbacks. The most well-known revision was the enactment of the ten-hour work day, which was achieved in 1847, after the growth of the Chartist movement, which sought the establishment of universal suffrage for adult males and the abolition of property qualification rules for members of Parliament. This statute restricted the working hours for youth between the ages of thirteen and eighteen and for all women to eleven hours a day starting July 1, 1847, and to ten hours a day starting May 1, 1848. Although adult males were left out of the working hour rules under the Factory Act, as Marx said, most production processes needed children, youth, and women, so the Act likewise restricted the working hours of adult male factory labourers.

In 1865, two years before Marx published the first volume of *Capital*, he criticized John Weston at the general council meeting of the International Workingmen's Association (First International), summarizing his theories simply and concluding with the following statement from "the Struggle Between Capital and Labour and its Results", that is the final section of *Value, Price and Profit*:

"As to the limitation of the working day in England, as in all other countries, it has never been settled except by legislative interference. Without the working men's continuous pressure from without that interference would never have taken place. But at all events, the result was not to be attained by private settlement between the working men and the capitalists. This very necessity of general political action affords the proof that in its merely economical action capital is the stronger side." (*Collected Works*, Vol. 16, p. 150).

Limitations on working hours are not stipulated in labour transactions, which are akin to the exchange of a commodity. Capitalists seeking to maximize their profits will use their power as purchasers of labour to go as far as possible to stretch not only the physical limitations but also the psychological limitations of working hours. Conversely, labourers will use their power as sellers of labour to oppose the limitless expansion of working hours and to shorten working hours as much as possible so that they can protect their health and have time for themselves and their families. Regarding this, Marx said, "Between equal rights [of buyer and sellers] force decides. Hence is it that in the history of capitalist production, the determination of what is a working day, presents itself as the result of a struggle, a

struggle between collective capital, i.e., the class of capitalists, and collective labour, i.e., the working-class” (s. 249).

As Marx says, the struggle for a rise of wages is an economic struggle, which follows only in the track of previous changes such as price fluctuations, the intensity of labour, the business conditions and so on. On the other hand, the struggle to shorten working hours is a political struggle to spur legislative intervention by the government and the parliament.

Looking at Marx’s version of how England’s Factory Act was enacted, the pressure from the capitalist class in the struggle over the length of working hours was organizationally and systematically shrewd. However, the pressure from the working class was scattered and disorganized and could not be termed a broad movement of solidarity, even though it was spurred on by the factory inspectors who spoke as physicians for the workers’ interests, the understanding of some progressive factory owners and social reformers such as Robert Owen, the emergence of the Chartist movement, and the victory of the North in the US Civil War. Nevertheless, the tug of war between the classes on working-hour regulations continued for a long time. In addition, Marx noted that the Factory Act stipulated starting times, ending times, and meal times in various places, stating, “It has been seen that these minutiae, which, with military uniformity, regulate by stroke of the clock the times, limits, pauses of the work were not at all the products of Parliamentary fancy. Their formulation, official recognition, and proclamation by the State, were the result of a long struggle of classes” (s. 299). As Marx tells it, the compulsory limitations on working hours in English laws from 1833 on were “the product of a protracted civil war, more or less dissembled, between the capitalist class and the working-class” (s. 316).

As reference, in a search of the English edition’s chapter on working hours, we saw Marx use the term “struggle of classes” only once in Section 6. In the notes to the second edition of the 1873 German version, however, he clearly talks about “class struggle” four times in characterizing classical economic theory, despite its being a short phrase. We can clearly interpret this as Marx’s recognition that the struggle to establish normal working hours discussed in *Capital* is nothing other than “a class struggle between capitalists and workers” and that class struggle has developed into latent forms, official forms, and even undeveloped forms.

What has become of the struggle between capitalists and workers regarding working hour rules these days? In my short book, *Hatarakisugi no jidai* [The Era of Overwork] (Iwanami Shinsyo, 2005), I highlighted the spread of a new trend in overwork in a number of countries since the 1980s, whereby the movement toward shorter working hours had either slowed or had been reversed. The movement from normal working hours to flexible working hours rose with the globalization of economic activities, the advent of the information age, the evolution of the service economy, and the trend toward non-regular employment since the 1980s. This movement, propelled by the wave of neo liberalism that is a policy ideology that emphasizes the market individualism, served as the impetus for deregulation of working hours, and it has inevitably led to modern-day confrontations and disputes between capital and labour concerning the lengthening or shortening of working hours, which is rooted in the true nature of capitalism.

## **2) Japan’s Labour Standards Act and the so-called 36 Agreement**

During the American Occupation after World War II, Japan gradually started to democratise, and a

new Constitution was promulgated on November 3, 1946. This kicked off labour reform, and the Labour Standards Act was enacted in April 1947. The Act was a general statute that applied to all industries and to men and women alike. It was trail-blazing in that it stipulated the international standard of an eight-hour working day and a forty-eight hour working week.

A little-known fact is that the initial draft of the Act that was reviewed in 1946 by the subcommittee of the Legislative Council on Labour stipulated that working hours in excess of statutory working hours were capped at three hours per day, nine hours per week, and 150 hours per year. If this regulation had become law, the working hour regulations in the Labour Standards Act may have been much more effective than the current ones, but unfortunately, they were deleted from the subsequent council recommendations and were not incorporated into the Labour Standards Act.

When the Labour Standards Act was enacted, Article 32 stipulated that employers could not make workers labour for more than eight-hour per day, or forty-eight hour a week. However, at the same time, there were no regulations on the extent of overtime work exceeding eight-hour a day or forty-eight hour a week. In addition, giving special consideration to employers, Article 36 established a rule that excused employers from the working hour regulations, stating, “If an employer has entered into a written agreement either with a labour union organized by a majority of the workers at the workplace or with a person representing a majority of the workers and has notified the relevant government agency of such agreement, the employer may extend the working hours or have workers work on days off. This agreement was the so-called 36 Agreement, which is the institution that lifts the ceiling on working hours. This institution remained basically unchanged when the current Labour Standards Act moved to a forty hour work week in 1987.

Needless to say, the framework of the Labour Standards Act, in which the 36 Agreement rescinded the time regulations, did not exempt employers from the obligation to pay overtime allowances to their workers, and if employees had to work overtime or on their days off, the company had to pay them extra at a rate no less than 25 percent over the normal wage per working hour (but in large corporation, in the event that the working hours extended exceed 60 hours per month, no less than 50 percent over the normal wage per working hour). Forcing employees to work overtime without entering into a 36 Agreement and not paying employees an overtime wage or augmented wage for working extra hours are both illegal. Yet in actuality, the practice of not paying overtime allowances (called service overtime) for some or all overtime work is rampant, due to lenient supervision of working hours such as the discretionary labour system, increase of persons in positions of supervision or management in name only, and repressed self-reporting of overtime hours.

Going back to the 36 Agreement, because this blue-sky agreement was becoming problematic with the frequent occurrence of *karoshi*, in 1998, maximum overtime hours were set at fifteen hours per week, forty-five hours per month, and 360 hours per year by notice of the Minister of Labour. However, this notice had no legal force, and it did not go beyond the realm of administrative guidance standards. As a result, working hours can be extended without restriction beyond the above limits for such plausible situations as “budgeting and book-closing work,” “busy periods,” “urgent deadlines,” “dealing with major claims/complaints,” and “dealing with equipment problems.” Furthermore, (1) the business of building construction, etc., (2) the work of driving a vehicle, (3) the work of researching and developing new technologies, products, and (4) the work of physicians are exempt from even the above-mentioned

relaxed administrative guidance maximums.

### **3) Work style reform and regulations limiting working hours**

The system of exempting employers from paying overtime allowances to white-collar workers with incomes above a certain amount is called the “white-collar exemption,” based on US precedent.

Introducing this system in Japan was studied during the Koizumi administration, and the outline of a bill was once put together during the first Abe administration. However, there was strong pushback from labour and the public, who called it the “Free Overtime Bill” and the “Karoshi Promotion Bill,” so it was shelved in January 2007 for reasons of not having obtained the understanding of the Japanese people.

However, when the second Abe administration took office following the December 2012 general election, reform of the system for labour’s working hours was put on the agenda again. From June 2014 until January 2015, a reconstituted version of the proposal to establish a white-collar exemption (called the high-level professional system) was hammered out, and a bill amending the Labour Standards Act, which included expanding the discretionary labour system for managerial staff to include those engaged in sales, was put on the schedule of the Ordinary Diet session in 2015.

Besides that, in September 2016, the Council for the Realization of Work Style Reform, which was established by Prime Minister Shinzo Abe, suddenly suggested that the 36 Agreement be replaced with new overtime labour regulations. March 2017 saw the unveiling of an action plan for work style reform that focussed on overtime labour regulations based on a government-labour-employer agreement among Prime Minister Abe, Japanese Trade Union Confederation President Rikio Koizu, and Japan Business Federation Chairman Sadayuki Sakakibara. The plans include some dangers that should not be overlooked from the standpoint of preventing *karoshi* and eliminating overwork.

Although the action plan sets maximum overtime labour at “forty-five hours a month, or 360 hours a year, in principle,” it preserves the 36 Agreement with its special provisions, and “in the event of temporary extraordinary circumstances,” as an exception, it gives legal recognition to overtime labour of up to 720 hours a year (960 hours when work on days off is included), less than 100 hours in a single month, or within 80 hours in an average for multiple months from two- to six-month period,

The action plan is based on some kind of idea that *karoshi* can be prevented if overtime is limited to less than 100 hours a month. However, many cases of *karoshi* have involved overtime of under 100 hours. According to recent data from the Ministry of Health, Labour and Welfare’s “Status of Workers’ Compensation for *Karoshi* and others” about half of all cases awarding workers’ compensation for brain and heart disorders involve overtime of less than 100 hours. With respect to mental disorders, in cases of extreme psychological stress due to a sudden event, power harassment, or other reason, *karojisatsu* has occurred even when overtime was less than forty, or even twenty, hours a month.

On the other hand, the action plan does not set an upper limit on the extension of daily or weekly hours. It will totally gut the statutory eight-hour work day and forty hour work week. For instance, it sets up a system that legally permits extra-long working hours that exceed physical limitations, such as working overtime ten hours a day (for a total working day of eighteen hours) for ten consecutive days. Furthermore, the action plan postpones for at least five years a review of the occupations that are not subject to limitations on overtime work,

including research and development, driving, construction and physicians, which have many *karoshi* cases.

Thus, the overtime labour regulations being discussed are actually a relaxation of working hour regulations.

### 3. Japan's labour union movement: Giving up the battle for shorter hours

Long working hours in contemporary Japan are the upshot of the 36 Agreement's elimination of the Labour Standards Act's regulations on hours and its endorsement of voluntary agreements between labour and management to set working hours. One would assume that if the labour union, which is one of the parties in the 36 Agreement, is opposed, it should be able to prevent illegally long working hours. However, such an assumption is factually and theoretically incorrect. In fact, Japanese labour unions have always been passive about advocating for shorter working hours, and the workers themselves have taken a positive stance toward long overtime because it enables them to supplement their low wages with overtime pay. In addition, when the General Council of Trade Unions of Japan was dissolved and replaced by the Japanese Trade Union Confederation in 1989, labour unions became more akin to corporate entities, and after the collapse of the so-called bubble economy in 1991, Japan's economy entered a long recession, so that maintaining jobs became even more important than shorter working hours or higher wages. The annual spring labour offensive was scaled back, and strikes for higher wages virtually disappeared. After all, workers within a company are at a disadvantage vis-a-vis the employer. When decision-making about working hours is left to the company's labour-management council (agreements made through labour-management consultation at individual companies) without reference to statutory regulations, which have the force of the law, the workers are usually forced to go along with management.

Throughout the history of Japan's labour movement since World War II, there has been no instance in which a labour union-led movement to shorten working hours succeeded in getting the Labour Standards Act or other labour legislation revised. This does not mean that there were no struggles to shorten working hours. Before World War II, after May Day of 1920 (the year after the signing of the first ILO treaty), slogans advocating an eight-hour day became popular, and some steel mills and shipbuilding yard instituted an eight-hour day. However, most of the large labour disputes concerned wages and opposition to firings, and almost none directly tackled the issue of shorter working hours. From the 1950s through the first half of the 1960s, labour unions were more interested in the issue of shorter working hours than they are nowadays. The 1958 Central May Day rally demanded higher wages, ratification of the ILO treaty, and shorter working hours. In its action plan for fiscal 1962, *Sohyo* (the General Council of Trade Unions) proclaimed, "We will fight for a forty hour work week like those in Europe. We will mount a unified struggle involving all workers to fight for amending the laws so that they do not allow loopholes, such as the 36 Agreement. As a result, "big pay hikes" and "shorter working hours" became the slogans of the 1963 spring labour offensive. However, in the end, these were merely slogans, and no strikes took place in support of shorter working

hours.

The biggest reform in the history of the 1970 Labour Standards Act was its revision in 1987. The amended law changed the forty-eight hour week to a forty hour week. But even in this case, labour unions did not play a key role. Basically, this step was taken in accordance with the Maekawa report released in 1986 under the Nakasone administration in response to ongoing pressure from trade friction with the US. In 1988, the Takeshita administration announced the policy goal for economic management called “1,800-hour work year” which means the annual working time when the forty hour system is realized. This plan too was the result of external pressure to “adjust the structure of the economy for the sake of international harmony,” as stated in the Maekawa report. Labour unions did not set effective counter measures against the increase in overtime in the background of the bubble economy.

What was the outcome of this reform—the shift to a forty hour week? What happened was that weekend two-day system, that is, the five-day work week has become somewhat popular. However, their weekday working hours increased, and male full-time workers even saw their weekly working hours (total of weekdays and weekends) go up, albeit slightly. On average, male full-time employees were still working ten hours a day, or fifty hours a week.

As stated in *Capital* as well, capital may make concessions, but these concessions do not come free. With respect to working hours, progressive measures accepted by capital usually come in a set with regressive measures. In the 1987 revision of the Labour Standards Act, in exchange for moving to a forty hour work week, the regulations on statutory working hours changed from “an eight-hour day and a -” to “a forty hour week and an eight-hour day.” The reason of this revision was that relaxing the standard of the eight-hour day would expand the various types of variable working hour system including from one-month to one-year. We know that people’s lives are allotted into natural days of twenty-four hours. Therefore, working hours should be regulated in units of days. However, the key regulation based on a one-day unit was loosened. Also, this revision of the Labour Standards Act introduced the discretionary labour system, which gave impetus to the relaxation of work hour regulations.

In addition, the 1997 revision of the Equal Opportunity between Men and Women in Employment Act set a precedent in changing the regulations pertaining to discrimination against women in recruiting, hiring, assignments, and promotions from best-efforts provisions to prohibitions, but it abolished overtime restrictions for women, which had been two hours a day, six hours a week, and 150 hours a year. If true gender equality was to be achieved, the overtime restrictions for women should not have been abolished, but rather the overtime restrictions should have been applied to men as well. Instead, the law moved in the direction of making women as vulnerable to *karoshi* as men have been.

Also, in 1988, the 1,800 Hours a Year Plan was unveiled. This was also the year that the national *Karoshi* Hotline was inaugurated. The media reported extensively about how the telephone hotline set up by a group of attorneys supporting the recognition of *karoshi* as an occupational illness was swamped with calls. This is when the term “*karoshi*” came to epitomize the Japanese work style. After that, *karoshi* cases continued to occur, but the government and the Ministry of Health, Labour and Welfare did not take remarkable

measures for the prevention of karoshi except of guidance against overwork and unpaid overtime.

In 2008, on the twentieth anniversary of the Karoshi Hotline's founding, the group of attorneys took up the issue of establishing a basic law for the prevention of karoshi. And in November 2011, the Association for the Bereaved Families of Karoshi and the National Defense Counsel for Victims of Karoshi formed the National Committee to Enact a Basic Act for the Prevention of Karoshi. This group started 1 million signature-collecting campaign and sent petitions to Diet members. This led to the enactment of Karoshi prevention countermeasure promotion law (Abbreviation: Karoshi Prevention Act) in June 2014, which It specified four measures: research surveys, consultation programs, awareness activities and aid to private-sector groups. Also, July 2015 saw a Cabinet decision on the Basic Outline for karoshi prevention measures, which was subtitled "Aiming for Zero Karoshi and a Society Where People Can Have a Healthy, Fulfilling Work Life."

This law and outline allow for government-sponsored surveying and research on karoshi. Also, symposia to raise awareness of karoshi prevention will be held across the country every November, and awareness training on karoshi prevention and work rules will be conducted throughout the year at middle schools, high schools, and universities by attorneys and the families of karoshi victims.

The karoshi prevention movement that came into being with the Karoshi Hotline has succeeded in overcoming the high barriers to getting the courts to recognise karoshi and suicide due to karoshi as occupational illnesses and has made some steps toward getting the government to change its recognition criteria. This movement asks the question, "What job is more important than one's life?" and has made the government and the Labour Ministry recognise that karoshi is a serious social problem in Japan. Thirty years ago, the government would not even recognise the existence of karoshi, but now it puts the term "karoshi" in quotation marks in official documents. In 2017 fiscal year, three years after the enactment of the Karoshi Prevention Act, the government budgeted about 8,478 million yen a year for karoshi prevention programs, including overworking countermeasure expenses of Ministry of Health, Labour and Welfare and other government offices (see *White Paper on Karoshi* in 2017).

As I mentioned previously, with very few exceptions, labour unions have been passive about officially assisting the movement to get karoshi recognised as an occupational illness. Even when the survivors of karoshi victims who were labour union members ask the unions about applying for workers' compensation, the unions usually do not help them out, as they view karoshi is a personal affliction similar to trauma. If the labour unions had been working proactively toward eliminating long working hours and preventing karoshi, karoshi would not have become the serious problem that it is now, and the karoshi attorneys' group and the association of karoshi families would not have become such socially influential citizens' groups. Also, it may not have been necessary to establish a law for the prevention of karoshi. In this sense, the karoshi prevention movement consisting of attorneys and families of karoshi victims has acted as a surrogate for the passive labour unions with respect to limiting and

reducing working hours.

#### 4. Conclusion

In *Capital*, Volume I, Chapter 7. The Rate of Surplus Value, Marx states, “It is every bit as important, for a correct understanding of surplus-value, to conceive it as a mere congelation of surplus labour-time, as nothing but materialised surplus labour, as it is, for a proper comprehension of value, to conceive it as a mere congelation of so many hours of labour, as nothing but materialised labour”(s. 282) Much debate has taken place over the concept of working hours in this type of abstract dimension, where it is treated as a so-called economic principle in relation to the theory of value and the theory of surplus value.

However, working hours as discussed in the chapter on the “working day” are on a different dimension than working hours on an infinite continuum or as a mere expenditure of human labour. This is why Marx deliberately used the concept of the “working day” instead of the twenty-four hour “natural day.” Also, it must be emphasised that working hours in the chapter on the working day are working hours that comprise a basic activity of human life and that are part of real people’s time for living as circumscribed by the twenty-four hour natural day. Real people’s working hours cannot be discussed in isolation from their time outside of work in the twenty-four hour day, such as time for housework, time for the necessities of life (eating, bodily functions, grooming, sleeping, etc.), and free time.

Marx refers to free time as time to fulfil one’s mental and social needs, or as “time for education, for intellectual development, for the fulfilling of social functions and for social intercourse, for the free-play of his bodily and mental activity” (s. 280). This is why Marx wrote in *Value, Price and Profit*, “Time is the room of human development. A man who has no free time to dispose of, whose whole lifetime, apart from the mere physical interruptions by sleep, meals, and so forth, is absorbed by his labour for the capitalist, is less than a beast of burden” (*Collected Works*, Vol. 16, p. 145).

Also, at the provisional council of the International Workingmen’s Association (First International), Marx pointed out, “The limitation of the working day is a preliminary condition without which all further attempts at improvement and emancipation must prove abortive... Such is a prerequisite for the working class...to restore its health and physical strength and for the working class to develop its intellect, and to ensure the opportunity to participate in social events and in social and political activities.... I propose eight-hour as the legal limit of the working day” (*Collected Works*, Vol. 16, p. 191). Furthermore, near the end of the chapter on the working day, he quotes this excerpt from the resolutions of the Congress of the First International, which he himself had proposed in 1866 (s. 319). Marx’s concept of the working day cannot be understood without a grasp of these views on the limitation of the working hours and the acquisition of the free time.

However, with the exception of Hajime Kawakami’s *Introduction to “Capital,”* traditional Japanese books about *Capital* have not given Volume I, Chapter 8. The Working Day, and Chapter 13. Machinery and Modern Industry the theoretical attention that they deserve. The

Institute for Fundamental Political Economy, which celebrates its fiftieth anniversary next year, initially recommended that *Capital* be read with an emphasis on working hours and the Factory Act because of both their theoretical importance and their ease of understanding. This may be a wrong course from the standpoint of Rozenberg's *Comments on "Capital,"* which recommends reading the book in order from beginning to end, but I worry that we may overlook the essence of *Capital* as labour economics in the original meaning of words, if we listen to Rozenberg and view the observations about the working day in Chapter 8 as historical accounts.

Accounts addressing working hours are few and far between not only in introductions to or commentaries on *Capital*, but also in textbooks on the basic economic theories and economic principles of Marxian economics. In this connection, we should remember that, with the gradual weakening of labour unions and large fall-off in strikes after the 1980's, literature based on Marxian economics, whether it concerns the basic economic theory, studies on the Japanese economy, or theories on contemporary capitalism, makes almost no mention of class struggle any more. Looking back at this, we need to relearn from *Capital* that working hours are a focus of class struggle between workers and capitalists and that they are a central economic and sociological theme not only in situations where class struggle is in outright ascendancy, but also in cases where it has been defeated to the point of going underground. Finally, I would like to emphasise this in the context of my own research.\*

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