Going to Court to Change Japan

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Karōshi is one concrete manifestation of the many paradoxes born in the course of Japan’s abnormal economic growth. Your movement has great meaning, for, in considering those paradoxes, it aims to rectify the course of Japanese society.

(Mainichi Shinbun reporter Fujita Satoru, in a letter to Hiraoka Chieko, plaintiff in a karōshi suit, November 16, 1993)

Understanding the social epidemiology of karōshi in Japan, that is, how the organization of work leads to overwork and the deaths of workers, requires some explanation. At the macrolevel it is useful to think along the lines of the French sociologist Emile Durkheim (1964), who postulated that increasingly frequent social interactions, stemming from the increasingly complex social division of labor, will give rise to regulatory law. Properly regulated, complementarity in social relations of production results in social solidarity and well-being. In a particularly well-governed state, the ever-finier grained division of labor might even lead to Adam Smith’s “universal opulence.” However, Durkheim also postulated that the speed of differentiation of functions could be so great that regulatory law would not be able to keep up. In such cases, pathological forms of the division of labor may emerge.

Such was arguably the case during Japan’s era of high-speed economic growth. In the postwar rush to catch up with the West, powerful techniques for

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getting the most out of labor and increasing production became diffused throughout Japanese industries. Microlevel analysis of the work process reveals how management’s coordinated manipulation of an invented “traditional” family ideology emphasized the naturalness of hierarchical rather than horizontal alignments. The conflicts that Durkheim’s theory predicts will lead to the development of enforceable regulation of the relations between capital and labor were thus suppressed.

Anti-\textit{karōshi} activism aims to redress this manifest imbalance of power and Japanese workers’ limited access to law. Defendants in criminal trials (Steinhoff), consumer groups (Maclachlan), and union members (Turner) share with \textit{karōshi} activists many of the same institutional and practical obstacles to organizing and litigating in pursuit of their interests. As in these other cases, \textit{karōshi} litigants are not so much reluctant to litigate as turned away by the difficulties, low rewards, and risks of doing so. One problem is plaintiffs’ general ignorance of complex administrative and legal procedures, including how and where claims can be brought, who has legal standing to sue, and who can be sued. Another is a marked predisposition to avoid conflict, with a special reluctance to challenge social superordinates; most plaintiffs are wives whose social identities are a poor fit with aggressive social activism. Third, there is the fear that litigation may damage one’s reputation. This is all the more frightening because the consequences may not be immediate or flow directly from the issue. Fourth, legal and administrative procedures are often vague, opaque, or subjective; disclosure and discovery rules are biased in favor of elite insiders and major social actors. Finally, there is the sheer length of administrative processes and trials and the costs associated with waging legal battles. Recent attempts to make trials speedier and more intensive notwithstanding, the infrequency and brevity of trial sessions in Japanese courts mean that claimants must bear protracted financial and emotional burdens while trials drag on year after year. Overcoming these obstacles to litigated solutions requires collective organization, as well as an inexhaustible supply of individual resolve and pluck.

This chapter argues that the long duration and difficulties inherent in fighting \textit{karōshi} cases are, paradoxically, resources that give activists time to make facts and spur them to build civic movements that can support the plaintiffs, put pressure on bureaucrats and judges, and change the conventional wisdom of employers and employees regarding work and health.

\textbf{Origins and Overview of \textit{Karōshi} Activism}

\textit{Karōshi}, directly rendered in English as death due to overwork, is a term coined by Dr. Uehata Tetsunōjō (1978, 250). It describes the relationship he observed between work environments, stress, and the sudden deaths of Japanese workers. Movement activists do not elongate the “ro” of \textit{karōshi} when using the term in English language documents. It is their stated intent to do what they can to have
the term become part of the international lexicon (Karōshi Bengōdan Zenkoku Renrakukai 1990).\(^2\) In a later work, Dr. Uehata (1990, 98) defines karōshi as a sociomedical phenomenon characterized by “a permanent disability or death brought on by worsening high blood pressure or arteriosclerosis resulting in diseases of the blood vessels in the brain such as cerebral hemorrhage, subarachnoid hemorrhage and cerebral infarction and acute heart failure and myocardial infarction induced by conditions such as ischemic heart disease.” By coining the term karōshi and publishing widely on the links between work, stress, and death, Dr. Uehata, a specialist in occupational medicine and cardiovascular diseases and former head of the Adult Disease Department at the National Institute of Public Health, became one of the founding figures of the anti-karōshi movement.

Similar in organization to the health-related activism concerning pollution-caused mercury poisoning (Minamata-byō), cadmium poisoning (Itai-itai-byō), and PCB poisoning (Kanemi yushō), the anti-karōshi movement originated from the combined efforts of professionals in medicine, law, and academia. To a greater extent than in these famous environmental pollution cases, labor unions sometimes play prominent roles in karōshi cases. However, as in the environmental cases, no karōshi movement is possible without victims and their families. In the words of economist Morioka Koji (1993), a leading authority on Japanese working hours and karōshi, “To create a social problem in Japan, it is necessary to have a death and a trial with lawyers. This functions as a refuge (kakekomidera) for other sufferers.”

Karōshi victims come from all walks of life, all classes, and all occupational categories. Most victims are men, although a few women have also succumbed. Enduring links between work and self-worth in the gender ideology of Japanese men make reducing work or taking time off tantamount to diminishing one’s masculinity.

Company size does not predict the frequency of karōshi, nor does employment in the public sector provide protection. Many teachers, doctors, and nurses have been victims. The lead investigator in the notorious Wakayama Curry Incident died during the investigation of that nationally publicized case; his death was recognized as karōshi, and his family was awarded compensation. One of the overworked Ministry of Labor investigators I interviewed during my research made a point of showing me his day planner, in which he carefully noted the number of hours he worked each day so that his family might have this record to use as evidence in the event of his untimely passing.

Perhaps the most likely candidates for karōshi are middle-aged men from crowded metropolitan areas, who must endure long commutes to jobs in companies whose fortunes are often determined by sudden and unpredictable market shifts. Often they are subject to heavy work quotas, which rob them of occupational
autonomy and require them to make unstinting efforts. *Karōshi* risk is greatest for those whose work deprives them of adequate sleep and nutrition, starves them of psychological satisfaction, and denies them opportunities for physical and spiritual renewal.

Guided by the lawyers of the National Defense Counsel for Victims of *Karōshi* (hereafter Karōshi Bengōdan) and supported by medical and other professionals, fellow sufferers, labor activists, and growing numbers of sympathetic citizens, the anti-*karōshi* movement has made some progress in winning relief for victims’ families. Based ultimately on constitutional guarantees of equal protection and “minimum standards of wholesome and cultured living,” civil litigation and administrative lawsuits have proven to be effective tools for persuading the Ministry of Labor to revise the standards for recognizing and compensating work-related illness and death. Because of these revisions, work-induced depression and suicides are now compensated, adding to the growing tally.

For example, only about 15 percent of the just over 500 applications for *karōshi* compensation filed in 1995 were approved. These 500 applications represented only 5 percent of the estimated 10,000 annual cases of *karōshi* in Japan at that time (Kawahito 1991, 150). Press coverage of these victories stimulated public attention. In an insurance company poll of 500 Tokyo office workers, 46 percent responded that *karōshi* was a possibility for them, with 9 percent saying the possibility was high (Keizai Kikaku Chō 1994, 8).

In contrast, 2006 saw 1,757 claims filed for circulatory disease, death, or major depression caused by overwork. That year 560 claims were approved, including 66 for suicide or attempted suicide, and 355 for circulatory ailments such as stroke and heart disease. Nearly all the recognized claims concerned men (94 percent). The majority of claims for psychological problems, including suicides, concerned men in their thirties. Recognized claims for psychological distress caused by work increased 61.4 percent over 2005 (*Nikkei Shinbun* 2007). Due to revisions in the standards for recognizing these claims and the large backlog of cases, we can expect to see further increases in the ratio of claims to compensated cases in the future. It is clear that the courts and the medical profession, as well as the general public, accept *karōshi* as a cause of death.

But despite the tide of increasing recognition that overwork is bad for health, many firms (and workers) remain in purposeful denial about overwork and the toll it takes. Attempts to survey corporate attitudes toward *karōshi* produce very low response rates. On the other hand, public awareness has increased. So much so that the Ministry of Health, Labor, and Welfare website devoted to overwork was overwhelmed and crashed when it first came online in 2003 (Morioka 2005, 2–3).

Anti-*karōshi* activism has increased the visibility of the problem, but the large and growing number of cases indicates that the movement still has a long way to go to reach its two goals of relief for all victims’ families and the elimina-
tion of working conditions that cause karōshi. Still, in comparison with the United States, Japan has a well-articulated and relatively advanced concept of corporate responsibility for the relationship between work stress and illness.

In the United States, workaholism and its attendant diseases are not as clearly linked to inhumane corporate cultures and practices, nor are organized anti-overwork movements evident. Diana Fassel’s (1990) book, Working Ourselves to Death: the High Cost of Workaholism and the Rewards of Recovery, equates overwork with addictions like alcohol abuse: an individual affliction, treatable through a twelve-step program. Death may be the ultimate result, but she does not try to establish epidemiological links or inspire either collective action or litigation. To my knowledge, there is no comparable development of a movement to name death from overwork, elaborate cause and effect, seek compensation for victims, pursue revision of labor laws, or demand corporate responsibility for worker exploitation and work illness in the United States.

Overwork in the United States is not generally seen as symptomatic of corporate malaise or skewed social priorities. Individual bosses, rather than the corporate system, get the blame. A website, bullybusters.org, which gives abused employees advice on how to deal with bullying bosses, has been receiving as many as 100,000 hit per month, and I have seen advertisements in which recovering workaholics testify to the benefits of counseling. On the other hand, social crusaders like Noam Chomsky and Ralph Nader, who, like their anti-karōshi activist Japanese counterparts, argue that unaccountable concentrations of corporate power are undermining individual freedom, ethics, the environment, and health, have been characterized as political extremists. A comparative investigation of why an anti-karōshi movement can exist in Japan but not in the United States is a tantalizing question for future research.

Karōshi Activism and Japanese Civil Society

The movement’s limited progress toward its distant goal of eradicating karōshi notwithstanding, this paper argues that anti-karōshi protest is an example of two emergent trends representative of contemporary civil society. The first is common to most, if not all, the industrialized democracies. The second may have functional equivalents abroad; however, this paper will be concerned with a specific Japanese variant.

Elaborated by sociologist Steven Epstein (1995) and other theorists of “new” social movements, the first trend is the development of health-related social movements, or disease constituencies, in which diverse lay activists amass varied forms of credibility. With this credibility, they are able to take increasingly visible roles in fact making and the construction of scientific knowledge. Epstein’s study of American AIDS activism argues that credibility is a system of political
and cultural authority. This authority endows those who exercise it with power to “transform[ing] the very definition of what counts as credibility” and, consequently, to provide new moral ground for the organization of group identities (Epstein 1995, 409–10 [italics in original]).

Epstein’s notion of credibility as authority is useful for understanding how collective action by lawyers, housewives, unionists, educators, reporters, doctors, and union members in karōshi cases has the power to compel Ministry of Labor bureaucrats and employers to acknowledge the perspectives of karōshi victims as credible knowledge. The central tenet of this knowledge is the necessity of seeing the work-stress relationship from the point of view of each worker and his or her individual abilities. From this follows new medical knowledge of the relationship between work, stress, and disease, new legal doctrines regarding the burden of responsibility for employee health, and moral claims with far-reaching implications for how a humane (ningen rashii) society should be organized.

The second trend, identified by Patricia G. Steinhoff (1999 and elsewhere in this volume), is a pattern of voluntary participation in Japanese civil society with direct antecedents in the student movement of the 1960s and other, earlier criminal trials of people on the Japanese left. According to Steinhoff, this form of social movement organization has fairly standardized practices and activities. It has been carried into the post-1970s by veterans of those student protests and become institutionalized as the vehicle for a variety of social movements that support individuals and groups fighting extended legal battles amid the terrific pressures of Japan’s conformist cultural system.

Clearly a descendant of the same lineage, karōshi activism has inherited most of these same organizational characteristics. These include the use of hotlines, provision of free legal assistance, creation of volunteer support groups to help central figures weather lengthy trials, and reliance on litigation to bring about changes in social policy. It also displays some of the factionalism and conflicts particular to the contest for control of limited resources on the Japanese left.

The landmark karōshi case of Mr. Hiraoka Satoru and his family, which is described in detail below, illustrates the ways in which karōshi protest is a manifestation of the two trends sketched above. It was the first case in the nation recruited through the Karōshi Bengōdan’s “karōshi 110 ban” emergency hotline, the first to be explicitly recognized as a case of death due to overwork, and the first to pursue corporate responsibility via a civil trial. It adds to our understanding of new institutions of Japanese civil society by illuminating the central role of lawyers and other professionals in directing the activities of the lay participants in citizens’ movements. Finally, the Hiraoka case serves as an example of how the epidemiology of disease is socially constructed. It gives insights into the politics of scientific knowledge construction in the contentious arena of labor law and
occupational health and reminds us that constitutional “guarantees” depend on an informed and active citizenry.

*The Bureaucratic-Legal Context of Karōshi Struggles*

A brief outline of Japan’s labor and social welfare laws is a necessary prelude to understanding why karōshi cases require the support of a social movement. The following account is not a comprehensive overview of these laws, but deals only with those aspects relevant to karōshi. Since brevity carries the risk of oversimplification, interested readers may wish to consult additional sources, such as Upham (1987), Ueyanagi (1990), Hanami (1985), and Sugeno (1992). The Constitution of Japan (Articles 13, 25, and 27) establishes state responsibility for worker well-being. Through the Constitution, the state is charged with establishing laws to promote social welfare and public health, individual rights, and standards for wages and working hours. The most important of these laws are the Labor Standards Act of 1947 (Rōdō Kijun Hō), the Industrial Safety and Health Act of 1972 (Rōdō Anzen Eisei Hō), and a companion law that is the basis of the Workers’ Compensation Insurance System (Rōsai Hoken Seidō).

The substance and enforcement provisions of both the Labor Standards Act and Industrial Safety and Health Act are weak. Capital and labor are to reach agreements regarding working hours, overtime, and work rules in each enterprise. These are then reported to the Labor Standards Office holding jurisdiction over particular geographic areas. Above them are regional Labor Standards Bureaus with even wider jurisdictions. The Ministry of Health, Labor, and Welfare in Tokyo has ultimate jurisdiction. Both the Labor Standards Office and the Labor Standards Bureau are understaffed. Due to heavy case loads, only the most serious and intentional violations can be investigated. Compliance with the standards established by the Labor Standards Act and Industrial Safety and Health Act is thus, in effect, voluntary. Furthermore, these standards only apply to firms with ten or more workers. Consequently a large minority (between 35 and 42 percent) of the private sector workforce that works in small enterprises is not protected by these laws (Chalmers 1989, 102; Rebick 2005, 107). The Workers’ Compensation Insurance System, however, covers all workers. Even if a worker reports a violation of the Labor Standards Act or Industrial Safety and Health Act to the Labor Standards Office, the Labor Standards Office cannot issue an injunction to stop illegal labor practices, but must refer the case to the overburdened public prosecutor. In cases where a conviction is obtained, punishment seldom exceeds exhortations to make greater efforts, or small fines.

In sum, the Labor Standards Act and Industrial Safety and Health Act are inadequate to protect workers from abusive employers or dangerous working conditions. The workers themselves must know the law and see that its provisions are
carried out. However, in many companies, corporate culture or the pressure of hierarchical relations with supervisors thwart employee initiatives. Unions seldom make safety or working hours their top priorities, preferring to concentrate instead on job security and wages. The protections of the labor laws are most effective for workers in large firms.

When a worker is injured or killed on the job, he or she is eligible for Workers’ Compensation Insurance payments. The compensation system is administered by the Ministry of Health, Labor, and Welfare through the Labor Standards Office and Labor Standards Bureau, which oversee the first two steps of the application process. The ministry itself sets the standards for compensation. The basic standard is a demonstrable cause and effect relationship between work and the death or injury of the worker. When this relationship is easily established, the system moves quickly to compensate the victim’s immediate family, one of whom must file the claim. Unions and other groups may support such claims, but may not file them without the participation of the next of kin. Compensation is based on the severity of the injury. When a worker dies, compensation is based on salary at the time of the incident, the number of dependents, and the ages of any children. The average daily wage, exclusive of bonus, for the ninety days prior to death is multiplied by a number of days between 175 and 245 to get the basic compensation. This is paid monthly to the survivors and replaces the Survivor’s Pension (only about ¥120,000 per month) awarded by the Welfare Insurance System. To this is added a bonus, calculated in similar fashion (about 20 percent of the basic compensation). A one-time special payment to survivors of ¥3 million and funeral expenses of ¥600,000 complete the compensation package.

When a cause and effect relationship is more difficult to establish, as in karōshi cases, simply applying for compensation may take years. Lawyers for karōshi victims say this is due to ministerial reluctance to recognize karōshi and its implied relationship between work stress and illness. The ministry has acknowledged issuing both public and internal sets of guidelines for determining compensation in karōshi cases. Courts have taken a harsh view of that duplicity, and the criteria are now freely available on the Ministry of Health, Labor, and Welfare website. Nevertheless, there are many obstacles to reaching the courts. The claimant must first apply for compensation at the Labor Standards Office having jurisdiction over the employer. Decisions at this level are based only on documentary evidence, which the plaintiff is not allowed to view. If compensation is denied, the plaintiff has sixty days to file an appeal for a review of the judgment with the Labor Standards Bureau having jurisdiction. At this stage, a Workers’ Compensation Insurance investigator carries out an investigation based on the evidence submitted by both the claimant and the firm, sometimes including examination of the job site.

No time limit is stipulated for reaching these decisions. Two years or more
may elapse at each stage of the application process. The ministry has tried to speed the handling of cases in response to charges that it purposely stalls them as a way of discouraging victims’ families from filing karōshi claims. If the judgment at the Labor Standards Bureau is against the plaintiff, an appeal may be filed with the Central Workers’ Compensation Insurance Board in Tokyo. At this third stage plaintiffs can at last see the evidence presented by the firm, as well as have a right to be heard. Nevertheless, rejection by the board is a near certainty. In 1996, Japan’s Supreme Court ruled that plaintiffs may file a civil suit to have the judgment against compensation removed without first having to appeal to the Central Workers’ Compensation Insurance Board. Although this ruling allows plaintiffs access to the judicial system sooner, claimants must still anticipate a struggle of several year’s duration, as civil trials are often broken into brief and infrequent sessions.

Beyond these administrative hurdles, involvement in public disputes such as lawsuits imposes a significant stigma in Japan. The majority of survivors are bereaved widows who feel powerless in the face of their loss. Many refrain from filing claims for compensation because they are unfamiliar with and intimidated by bureaucrats and bureaucratic procedures; they do not wish to publicize their plight; they fear for their reputations if they complain; they are concerned that filing a claim will only prolong the suffering of their families; and they do not know that compensation is possible in karōshi cases. Moreover, companies tend to handle karōshi deaths as if the victim had merely retired. Wives seldom know that, in addition to their individual life insurance policies, their husbands have been enrolled in group life insurance through their employers; nor are they aware that the company collects on these policies because the firm rather than the family is the beneficiary. This practice is being contested in court. With this brief introduction to the social and legal difficulties of filing a claim, we can now turn to the story of Mr. Hiraoka.

From August 1993 through June 1994, I participated in several karōshi-related groups in the Kansai area. During this time, and in subsequent visits to Japan in June 1996 and again in 1998, I gathered documentary information on Tsubakimoto Seiko and the Hiraoka case. I attended sessions of the trial, observed meetings of the legal team, the Osaka Karōshi wo Kangaeru Kazoku no Kai (Osaka Association of Families Concerned with Karōshi), and the Zenkoku Karōshi wo Kangaeru Kazoku no Kai (National Association of Families Concerned with Karōshi), including negotiations at the Ministry of Labor in Tokyo. I had one formal, three-hour interview with Mrs. Hiraoka at her home on October 23, 1993, as well as many subsequent informal conversations and correspondence with her, her children, her lawyers, and other supporters. These conversations I recorded in my field notes. Movement participants sent me newspaper clippings, newsletters, magazines, and copies of books in which the case was reported when I was out of
the country. In constructing this account of the case, I have drawn from my collection of both formally and informally published sources as well as my field notes. (Sources of direct quotes are identified in the text and References.)

**The Work and Death of Hiraoka Satoru**

A native of Kagoshima Prefecture, Hiraoka Satoru first came to Osaka in 1959 at the age of nineteen. Fresh out of high school, he became a lineman for an electric company. He quit after six months because of bad working conditions, which he attributed to the firm’s lack of a union. He then joined Tsubakimoto Seiko, remaining there for twenty-eight years. At the time of his death, at age 48, Mr. Hiraoka was a section chief in charge of approximately thirty workers at Tsubakimoto’s S-2 factory in Nara. Employing a secret process, the plant produces very small, precision ball bearings, which are used in devices ranging from ballpoint pens to rockets to automobiles.

The S-2 factory came on line in 1985. It quickly became the most profitable section of the firm, and with its debut the company’s stock began to rise. Throughout 1986 and 1987, the company stepped up production in preparation for entry into the first section of the Tokyo Stock Exchange. For workers in the S-2 plant, this meant an increased workload. Saturday holidays were abolished, and the plant was operated around the clock. However, to keep costs down, it was done with only two shifts of workers each putting in large amounts of overtime and holiday work. Meeting production quotas was difficult because of labor shortages and mechanical breakdowns. Section chiefs like Mr. Hiraoka bore especially heavy burdens. Seven of them performed the work of nine by each working a double shift once a week. Section chiefs trained new workers, supervised and evaluated their sections, oversaw quality control, made frequent repairs to the production line, and worked on the line themselves.

When he collapsed due to heart failure in the toilet of his home on February 23, 1988, his family was devastated. Mrs. Hiraoka was convinced that he had “been killed by the company.” Several top company officials attended the funeral. They brought ritual sympathy and a small sum of cash. Afterward, Mrs. Hiraoka pressed the firm’s personnel manager about why her husband had been working more than 3,500 hours a year. In a rare moment of candor, he confirmed her suspicions, saying, “Well, in truth, he was doing more than one job” (Ikeda 1997, 164) However, after Mrs. Hiraoka had filled an occupational death claim with the local Labor Standards Office, relations with the firm deteriorated. Tsubakimoto Seiko refused to support her application with time cards or other records. They claimed his death was due to “personal infirmity” and handled it as if Mr. Hiraoka had simply retired. After paying the family his accumulated ¥7 million retirement bonus, the company severed ties. His daughter, Tomoko, recalled, “At the funeral, they
called him ‘Hira-san, Hira-san,’ but afterward they never even phoned to see how we were getting along” (Hiraoka Tomoko 1991, 4). Use of the diminutive form “Hira-san” was probably meant to indicate familiarity and close relations with the deceased, but, ironically, it can also be taken as a reference to “Mr. Ordinary,” as in hirashain or ordinary worker.

Reconstructing the Facts

Facing corporate indifference, Mrs. Hiraoka and her children felt betrayed and frustrated. Then, in April 1988, they happened upon a small newspaper article announcing the advent of “karōshi 110 ban.” This was a free, legal consultation hotline service offered by the Osaka Defense Counsel for Victims of Karōshi (Osaka Karōshi Mondai Renrakukai, hereafter Renrakukai). The organizers were Kansai (Osaka and Kobe) area labor lawyers. Lawyer Matsumaru Tadashi took Mrs. Hiraoka’s call. As he hung up the phone and looked at the notes he made regarding her case, he mused incredulously, “Are there really still companies with working conditions like these?” (Ikeda 1997, 164). Soon thereafter, Mrs. Hiraoka participated in a seminar about karōshi compensation and met Mr. Matsumaru and the other lawyers in the Osaka group. Her case was the first one recruited via the hotline. The Renrakukai agreed to take her case pro bono.

The first step in applying for workers’ compensation insurance benefits was to compose a portrait of Mr. Hiraoka’s work environment. Her lawyers helped her put this information into chart and graph form that would demonstrate to the Labor Standards Office that a cause and effect relationship existed between her husband’s work and his death. However, since the company would not provide her with the documents she requested, only Mrs. Hiraoka and her children, Tomoko (then 21) and Shōgō (17), could create the facts necessary to support that interpretation of Mr. Hiraoka’s death.

The company union, Mr. Hiraoka’s original reason for changing jobs, was uncooperative. Parroting the dominant discourse of Tsubakimoto’s corporate culture, the union head answered Mrs. Hiraoka’s request for support by saying, “If the firm doesn’t profit, our salaries won’t go up. Workers who can’t accept that idea aren’t needed. If the company won’t support your application for workers’ compensation, then we can’t either” (Hiraoka Chieko 1993).

Sitting together around a calendar, the three remaining members of the family reconstructed Mr. Hiraoka’s work schedule from January 4, 1988 to February 23, 1988, the day of his death. Although they had lived together, the process of recreating his schedule made the family acutely aware of how little he was with them. With his pay receipts, his datebook, and other documents found in his desk at home, as well as their memories of when he left for work and returned, mother and children established the number of days he worked, how many hours of
overtime he put in, and how many hours of night work were involved. As directed by her lawyers, Mrs. Hiraoka visited or called each of his coworkers and asked for their assistance. One former employee provided details about the nature of the work in the plant and Mr. Hiraoka’s duties, although he was unwilling to testify or be identified. When the schedule was done, it was discovered that Mr. Hiraoka had not had a single full day of rest in the fifty-one days prior to his collapse. In addition, nearly half of his working hours had been on the night shift, including two weeks of continuous night work just prior to his death.

*Effects of Overwork on Family Life*

The family had long been aware that Mr. Hiraoka’s work kept him apart from family life. They recalled him coming home late, eating alone, and then falling asleep in his chair at the dinner table, too exhausted to make it to bed. They recalled the many times he was called in to work on his days off and how he refused when the family urged him to take time off, saying, “They will just call me in anyway,” or, “I have to be there because there aren’t enough workers” (Ikeda 1997, 165). Tomoko was angry with him for working so much that he did not even have enough energy to greet family members when he returned home. Growing up, there were weeks when she did not see his face. Once she had even complained to him that the house was devoid of signs of his presence. She was upset about his slovenly (*darashinai*) appearance. Shōgō, too, had few memories of his father, but he remembered offering to walk with him to the train station “to eat ice cream” when he had to work the night shift and that arguments with Tomoko about his working at night had grown heated. Mrs. Hiraoka thinks her son was trying, in his own way, to protect her husband from becoming isolated from the family. After reconstructing his father’s working life, Shōgō had a political epiphany: “Little by little I came to see how society gives rise to *karōshi*. Ironically, I feel that it was only with his death that we came together to do something as a family for the first time. But now, as then, he isn’t here” (Ikeda 1997, 165).

*Calculating the Cause*

Extending the reconstruction back to February 1987, a full year before death, Mrs. Hiraoka and her children found that Mr. Hiraoka had been required to spend more than 4,000 hours at the factory, of which only 3,550 were paid. The first two years at the S-2 plant had actually been worse. His compensated overtime in 1986 reached 1,650 hours, and in 1985 it was 1,715 hours (Morioka 1995, 5–6). Such a workload would have been taxing for a healthy, young man. Mr. Hiraoka was neither. In 1984 his annual company physical examination revealed that he had ischemic heart disease, a narrowing of the arteries that feed the heart muscle. He
began taking medication and regularly saw a doctor in his neighborhood. He was still being treated when he died.

According to his wife, he complained of fatigue in these years. Especially after night work, his legs felt heavy:

He would be so tired that he could not climb the stairs to the second floor or change his clothes. In the last two days he was having trouble talking. The company should have taken steps to protect him, knowing that he had heart trouble. His overtime should have been restricted, but they just kept calling him in to work. If he complained, they would have told him he could leave. He didn’t want to aggravate his condition by arguing. Besides, where would he have gone? He would have been like a sumo wrestler [without a stable]. So, they could force him to work murderously long hours. (Hiraoka Chieko 1993)

**APPLYING FOR WORKERS’ COMPENSATION**

Flanked by her lawyers and children, and recorded by the media, Mrs. Hiraoka filed her application for workers’ compensation on July 7, 1988. In addition to the reconstructed schedule, she submitted depositions from Mr. Hiraoka’s doctor and a specialist in occupational medicine, both of which made a clear, strong case for overwork as the reason for his heart problems and his death. During the next ten months, she went to the Labor Standards Office every other month to ask about the progress of the investigation. At the urging of her lawyers, she talked about her case with labor unions, students, and other victims’ families. This helped her expand her network of supporters, garner publicity, and demonstrate the credibility of her interpretation and the sincerity of her intent.

**Signing Up Support**

On February 13, 1989, Mrs. Hiraoka, her lawyers, and about fifty other people gathered to hold the inaugural meeting of the Association to Consider Overwork Society and Support Recognition of Mr. Hiraoka’s Workers’ Compensation Claim (Hatarakisugi Shakai o Kangae Hiraoka-san no Rōsai Nintei o Shien Suru Kai). After being abandoned by her husband’s union and shunned by his employer, this was a great encouragement to Mrs. Hiraoka. Aided by this group, in less than a month she got more than 2,000 individuals and another 200 groups, including labor unions and associations of victims of other occupational injuries, to sign petitions urging action on her claim. These she delivered to the Labor Standards Office officer in charge of her case. Henceforth, when she visited the Labor Standards Office, members of the support group came along to demonstrate that she and her children did not stand alone. A Socialist Party parliamentarian,
sympathetic newspaper and magazine articles, and coverage of her case by NHK, the quasi-public broadcasting network, all supported her version of the facts.

Mrs. Hiraoka was unable to see copies of her husband’s time cards before her application was filed. However, once this step had been taken, her lawyers finally succeeded in obtaining time cards and other documents from Tsubakimoto Seiko. Comparing them with the calendar that the Hiraokas assembled showed that the family’s reconstruction of Mr. Hiraoka’s last year of work was essentially accurate: hours of required attendance at the plant: 4,038; hours of actual work compensated: 3,663; hours of overtime worked: 1,399; hours of overtime compensated: 1,015. Work taken home was not included in these totals. The difference between paid and unpaid hours of both regular work and overtime was 759 recorded hours, or 2.07 hours per day of uncompensated “service overtime.”

In addition to Mr. Hiraoka’s time cards, the Labor Standards Office considered his pay receipts, his physical examinations, the company’s work rules, and its Article 36 overtime work limits exemption agreement with the union in reaching its decision.

Article 36 of the Labor Standards Act provides for agreements between capital and representatives of labor in firms of ten or more full-time employees. Filed with the local Labor Standards Office, these agreements permit companies to exceed the maximum working hours established in Article 32 of the Labor Standards Act without penalty or sanctions. Workers sometimes refer to these agreements as “blue sky” agreements, the inference being that there is no limit on the amount of overtime a firm can demand. Sugeno (1992, 233–38) provides a full discussion of these agreements. At Tsubakimoto Seiko, the agreement stipulated a daily maximum of five hours of overtime for male workers and a monthly maximum of 110 hours. In practice, however, the firm ignored even these limits, and a workday in excess of 24 hours was possible when, in the firm’s judgment, it was necessary to “maintain the integrity of the production process.”

Obstacles on the Road to Compensation

Mrs. Hiraoka worried that the Labor Standards Office would not take her seriously. She learned from her lawyers that she had to insist that her husband’s death was karōshi. However, despite her conviction that his company had killed him, it was hard to take such a determined stand. She received unsigned letters in which Tsubakimoto employees or their wives criticized her campaign as self-serving and potentially damaging to the other workers. One told her she should be grateful for having been supported by the firm for twenty-eight years. Neither Mrs. Hiraoka’s parents nor her in-laws backed her efforts. The former did not wish to be associated with a public complaint. The latter claimed that sending Tomoko to a private music college contributed to their son’s need to work overtime.
When Mrs. Hiraoka first began to inquire about the progress of the investigation, the Labor Standards Office officer in charge of the case made vague statements that seemed to indicate that her application would be rejected. “Hiraokasan did not have the longest working hours at the plant. . . . Tsubakimoto’s work environment is not the worst in Nara Prefecture” (Ikeda 1997, 166). The Ministry of Labor had, in October 1987, just revised the standards for recognizing death due to work-related circulatory diseases to include the week before, rather than just one day before, the onset of symptoms. However, the tone of the officer’s statements gave Mrs. Hiraoka the impression that her case was being judged by the old standards in which it was necessary to prove that some calamity or accident immediately presaged the onset of symptoms.³

The Result: Rōsai Recognized

It was with some surprise, then, that Mrs. Hiraoka and her children received a call from the Labor Standards Office in May 1989 asking them to come and receive the decision in person. Normally the result—a single sentence, with no explanation—is sent by mail. In a decision that the lawyers felt was “epoch-making,” the Labor Standards Office ruled that in comparison with official working hours, Mr. Hiraoka’s workload had been excessive enough to cause his collapse. The Labor Standards Office cited three points: (1) three days before the onset of symptoms, he worked 16 hours despite it being a holiday; (2) Mr. Hiraoka worked almost twice the normal hours in the week prior to his death; and (3) he worked 19 and 12 hours, respectively, on a holiday and a scheduled day off eleven and twelve days prior to dying. In addition, the Labor Standards Office decision noted that Mr. Hiraoka was being treated for a mild heart ailment prior to his death and that his excessive workload could be seen to have caused the condition to worsen rapidly. Mrs. Hiraoka (1993) recalled, “When I heard the decision, I thought, ‘At last he is free of that place. He is mine again and doesn’t belong to them anymore.’” The practical result was that the Workers’ Compensation Insurance System would pay Mrs. Hiraoka and her children a package of compensation consisting of a pension, funeral expenses, and a special, one-time, lump-sum payment of ¥3,000,000. The pension would replace the much smaller Welfare Insurance System’s survivor pension she had been receiving. Details of how such pensions are calculated can be found in Osaka Karōshi Mondai Renrakukai (1989, 64–65) and Sugeno (1992, 328–32).

³ A description of both older and newer standards can be found in Osaka Karōshi Mondai Renrakukai (1989, 44–55). The standards continue to be challenged as too strict and not in keeping with either the medical understanding of the relationship between work, accumulated stress, and health, or the public sense of what the standards for compensation ought to be. Further revisions were made in 1994.
Despite the favorable outcome, the lawyers were dismayed that the Labor Standards Office decision did not mention the effects of night work and irregular shift rotation, which Mrs. Hiraoka felt had as much impact on her husband as his excessive hours. Even more dismaying were Tsubakimoto’s public comments, which betrayed the firm’s unrepentant attitude. In response, Mrs. Hiraoka and her children filed a civil suit against the firm.

**Creating Credibility through Litigation: Interpreting Karōshi in Court**

Tsubakimoto Seiko rejected the Labor Standards Office implied criticism of the firm’s work practices in its decision. “Seven others do the same work as Mr. Hiraoka,” said the personnel manager in a statement to the press. “Mr. Hiraoka’s devotion to his work was an extreme example and was not forced by the company. Our interpretation is that he overworked of his own volition” (Hiraoka Tomoko 1991, 3).

Mrs. Hiraoka was angry that Tsubakimoto could ignore even the judgment of the government. The company’s attitude was an insult to her husband’s years of unstinting hard work, and she was determined that they should apologize and pay a price for their callous disregard for his health, his memory, and the feelings of herself and her children. She declared herself committed to the goal of a karōshi-free society for the next generation.

Mrs. Hiraoka and her children together filed suit in Osaka District Court, in May 1990. In her opening statement, she made it clear that she was taking this action on behalf of her husband’s coworkers at Tsubakimoto, as well as her dead husband. The suit alleged negligence on the part of Tsubakimoto Seiko with regard to its legal obligations to abide by its own work rules and agreements with workers regarding overtime work and rest days. Furthermore, the plaintiffs alleged that Tsubakimoto should have been able to foresee that its work practices would be harmful to a 48-year-old man with heart problems. They argued that the firm was negligent in its duty to show concern for Mr. Hiraoka’s well-being, that it ordered him to work beyond all reasonable limits, and that this made his death their responsibility. The plaintiffs demanded that Tsubakimoto Seiko publicly acknowledge responsibility in the Hiraoka case and pay a total of ¥55 million to Mrs. Hiraoka and her children, as well as funeral expenses of ¥1 million, the costs of the trial, and lost wages estimated at over ¥66 million (Hiraoka Chieko 1990).

Shortly after she filed the suit, lawyers for Tsubakimoto Seiko offered Mrs. Hiraoka ¥12 million to settle out of court. She explained to them that her prime objectives were contrition and an apology. No amount of money would entice her to give up these goals. Unwilling to admit responsibility, the firm’s representatives departed. For their part, Tsubakimoto expressed regret that there would be a trial in spite of its sincere efforts to gain the understanding of the family. However,
they also said they welcomed the trial as an opportunity to make the facts of the case clear (Uchihashi 1990, 20).

The defense strategy was based on the concept of labor performed at the worker’s initiative (sossen rōdō). Tsubakimoto’s attorneys insisted that Mr. Hiraoka needed extra money to meet his living expenses. He therefore elected to work many hours of overtime on his own. Furthermore, they said his work was supervisory and did not entail physical hardship.

Making the Legal Case: Why Had Mr. Hiraoka Worked So Much?

Since the case was without precedent, Mrs. Hiraoka’s lawyers had doubts about being able to prove corporate responsibility for Mr. Hiraoka’s karōshi. The key point would be demonstrating that Tsubakimoto should have been able to foresee that its illegal labor practices would have adverse consequences for Mr. Hiraoka. In twenty-four trial sessions over the course of the next four years, the lawyers worked to expose coercion hidden within the organizational structure of Tsubakimoto Seiko. Although no rank and file worker from within the factory testified for either side, skillful use of documentary evidence and questioning of hostile management witnesses established that there were good reasons to doubt the defense notion that Mr. Hiraoka had worked so much at his own initiative.

Using time cards and pay receipts, the plaintiffs established that Mr. Hiraoka’s working hours were abnormally long and violated the company’s work rules. Operating the factory 24 hours a day, 365 days a year with only two shifts was illegal. Tsubakimoto had been previously warned about this by the Labor Standards Office, but had done nothing to rectify it. According to the firm’s work rules, the day shift should have been from 8 a.m. to 5 p.m. with an hour for lunch. Similarly, the night shift was to start at 8 p.m. and go to 5 a.m. with a 90-minute break for food and rest. In reality, to meet quality and quantity quotas set by management, four hours of overtime was automatically added to the end of each shift. This filled the gap between shifts and enabled the plant to run without interruption. But it also meant that workers seldom got the rest to which they were entitled. Mrs. Hiraoka testified that her husband told her the factory manager roamed the plant and used his rank and threatening glare to force workers to stay beyond quitting time, to work unpaid overtime, or to prevent them from taking full lunch breaks or sleeping during the 90-minute break on the night shift.

To avoid having to shut down the line during meals and other breaks, the company also insisted that half the workers take over the whole line for half the break, changing places with the other half during the second half of the break. Although the workers were paid the standard 25 percent premium for this work, the practice is illegal. The Labor Standards Office cited Tsubakimoto for this violation and cautioned it to make improvements at the time that it recognized Mrs.
Hiraoka’s workers’ compensation claim. Motivation at Tsubakimoto was by intimidation rather than rewards.

Frequent mechanical breakdowns and other difficulties with the production process, as well as a shortage of trained manpower and management’s unreasonable production targets, made long hours necessary. In theory, workers were to alternate between the day and the night shifts on a weekly basis. All Sundays and thirteen Saturdays each year were to be designated by the firm as days off. Public holidays and 20 days each year of paid leave in Mr. Hiraoka’s case, rounded out the vacation schedule.

Nevertheless, Mr. Hiraoka did not have a single 24-hour period off between January 4, 1989 and his collapse on February 23. According to his pay receipts, compensated overtime in the last three months of his life averaged 150 hours a month, which exceeded the 110-hour limit imposed by the firm’s Article 36 agreement with the company union. If money was his aim, why was he working an average of more than two hours of unpaid overtime daily?

In a notebook begun nine months before his death and entered into evidence at the trial, Mr. Hiraoka recorded his own view. As he saw it, it was impossible to keep enough good workers in the factory when the working conditions were so severe. “The real problem is to get 48 hours a week down to 40. But right now 60 or more is the norm. No one is able to take any of their paid holidays. I want the union to negotiate with management for a reduction to 48 hours in 1988” (Hiraoka Satoru 1994, 6–7). In addition, his diary expressed personal disappointment when workers he had trained quit because of the harsh working conditions.

Mrs. Hiraoka testified that her husband as a man who was proud of his abilities and the role he played in Tsubakimoto’s success. From a firm of 120 employees when he joined, it grew to have more than 900 and, at the time of his death, was the second largest manufacturer of ball bearings in Japan. She said that his sense of responsibility for his subordinates and his professional pride were strong, but the real reason for his overwork was not any abstract loyalty to the company but his manager’s cruel exploitation of his uncomplaining nature.

Ignorance Is No Defense

Mr. Hiraoka’s immediate supervisor provided the key testimony. Under intense questioning, he had to admit that foremen at Tsubakimoto were forced by quotas, understaffing, and rigged employee evaluations to both work on the production line and supervise their crews. A copy of the firm’s secret overtime plan, bearing the supervisor’s personal seal (the Japanese equivalent of a signature), was found by Mrs. Hiraoka on Mr. Hiraoka’s desk at home. When confronted with the document in court, the supervisor blurted out, “Where did you get that?” but then conceded that even leaving out work done on holidays, the firm’s schedule called for
322 hours more overtime work than authorized in the Article 36 agreement with the union. “We couldn’t meet the targets,” he sighed. He tried to deny knowing about Mr. Hiraoka’s heart problem, although his seal was also on the copy of the physical examination results that he personally handed to Mr. Hiraoka.

Other company officials also claimed ignorance of Mr. Hiraoka’s continuing heart problem. They testified that his health was his responsibility. Because he did not mention it to them, they assumed he had no problem. They also asserted darkly that he smoked and drank to excess, although the executives who testified had to admit that they seldom socialized with him. Their protestations of ignorance in regard to other matters, such as their firm’s work rules, labor laws, the legal requirement to have a physician trained in occupational medicine conduct regular inspections of the plant, and even the date of Mr. Hiraoka’s death, caused the judge to wonder aloud from the bench how a firm with such managers could stay in business. Indeed, Tsubakimoto Seiko was unable to remain independent, and in 1996 it was forced to merge with Nakashima Seisakusho. Today the company is known as Tsubaki-Nakashima.

**Credible Legal Doctrine**

Attorneys for the plaintiffs in the case argued that a proper legal notion of employee responsibility for health maintenance must be based on the worker’s right to considerate treatment by the firm as established by various provisions of the Labor Standards Act of 1947 and the Industrial Safety and Health Act of 1972. They reasoned that if a company has no system for reassigning workers to jobs commensurate with their individual physical abilities, the employer rather than the worker bears the legal obligation to protect the worker’s health. Forcing workers to announce their infirmities under such circumstances would give management carte blanche to dismiss older or handicapped workers.

This interpretation impressed the court. Moreover, Tsubakimoto’s refusal to allow inspection of the S-2 factory and failure to put any rank and file workers on the stand to support their case created a strong suspicion that they were hiding something. However, rather than issue a judgment, the court proposed a face-saving compromise settlement, which the parties accepted. Tsubakimoto would make a public apology and pay Mrs. Hiraoka and her children ¥50 million. In return, the Hiraoka family would drop their other demands. Each side would bear its own share of the costs of the trial. The plaintiffs regarded this outcome as a victorious settlement (*shōri wakai*).

The Hiraoka case might have had more of a precedent-setting impact if Mrs. Hiraoka had rejected the settlement and forced the court to issue a judgment. Her most cherished goal, however, was an apology, for an apology that recognized the firm’s negligence in her husband’s death would restore his good reputation and
validate his hard work. When Tsubakimoto agreed to publicly apologize, Mrs.
Hiraoka would have lost face by not accepting. She would have seemed more
concerned with money or revenge than honor. Moreover, forcing the case to judg-
ment would remove the social obligation for the firm to apologize. Nor did her
legal team think a judgment would lead to a significantly greater monetary award.
By concluding the case in this way, both sides could appear magnanimous. For the
lawyers, the Hiraoka case broke new ground in establishing credible legal strate-
gies for pursuing karōshi claims against employers and demonstrated how those
strategies could contribute to redress of larger social issues as well as individual
problems. Avoiding the appearance of vindictiveness was important for growing
the credibility of the movement as a whole.

SOCIAL MOVEMENT ACTORS, ACTIVITIES, AND MOTIVES

As a pioneer case, the Hiraoka Karōshi Saiban became a rallying point for a va-
riety of groups and individuals concerned with labor and quality of working life
issues in the Kansai area. Mr. Hiraoka’s death and a trial with lawyers proved to
be the key ingredients in the founding of the anti-karōshi movement in Osaka.

Mrs. Hiraoka’s earliest and most important supporters were the lawyers who
recruited her case through the hotline. All seven of her lawyers were members
of the Japan Labor Lawyers Association (Nihon Rōdō Bengōdan). The leader of
her legal team, Matsumaru Tadashi, is the de facto head of the Osaka Defense
Counsel for Victims of Karōshi (Osaka Karōshi Mondai Renrakukai), which
holds its monthly meetings at the office of the Osaka Democratic Law Association
(Minshū Hōritsu Kyōkai). Matsumaru was the college classmate of Kawahito
Hiroshi, head of the National Defense Counsel for Victims of Karōshi. Both men
graduated from the Faculty of Economics at Tokyo University before becom-
ing lawyers. Matsumaru says “widow’s tears” are behind his pro bono karōshi
work. He is also a central figure in the Stockholder’s Ombudsman (Kabunushi
Omubutsuman), a watchdog group that has been filing suits to make corporations
accountable to their stockholders. Other lawyers on the team share Matsumaru’s
zeal for using litigation to reconfigure the institutions of society to produce a more
level playing field. Above all, the lawyers’ concern is the protection of the human
rights guaranteed by the Constitution of Japan.

Frequent attendees at the monthly Renrakukai meetings also included
Professor Morioka Koji and doctors specializing in occupational medicine. One
of them, Tajiri Junichirō, was the specialist whose deposition helped win Labor
Standards Office recognition for Mrs. Hiraoka. This group was the central ner-
vous system of the movement. It directed overall strategy and planned events. The
lawyers examined potential cases carefully and took those that they felt would
help them boost their winning percentage and enhance the movement’s success.
The Renrakukai members, according to their individual political and philosophical inclinations, have diverse connections to other groups such as Occupational Disease Countermeasures Council (Shokugyōbyō Taisaku Renrakukai), the Communist Party-affiliated labor union federation Zenrōren, the Kansai Laborers’ Education Cooperative (Kansai Kinrōsha Kyōiku Kyōkai), and others.

Although Mrs. Hiraoka had Japan Socialist Party support for her workers’ compensation application, they backed away when she decided to sue for negligence. Only Communist Party supporters seemed willing to join her confrontation with Tsubakimoto management in the civil trial. Chief among these were members of the dock, chemical, and metal workers unions. Owing to the inherent dangers of working in these industries, members of these unions had a keen interest in workplace safety issues as well as a strong tradition of union activism. I was told that their history of confrontation, with management and underworld competitors, gave their solidarity a hardened edge. As the Hiraoka case went on, these unionists came to play a larger role in supporting her case. The class-struggle-oriented agenda of these unionists was broader and more militant than either Mrs. Hiraoka or her lawyers. At times they seemed to relish making the Hiraoka case an outlet for their anger.

Early in the trial, the factory manager testified that he was unable to recall the date Mr. Hiraoka died. More than anything else, for Mrs. Hiraoka this symbolized Tsubakimoto’s lack of care and concern for their employees. She and her supporters choose to use the 23rd of each month to hand out leaflets in front of the factory as a way to remind the factory manager of the date when Mr. Hiraoka died. The leaflets described in detail the progress of the trial, including some of the highlights of the testimony of company officials. The Hiraokas and their lawyers hoped that workers inside the plant might be encouraged to come forward and tell what they knew. They passed out the leaflets to workers as they walked from the nearby train station to the gates of the factory for the morning shift. Other supporters with bullhorns explained why the trial was being held and appealed to the workers for support.

Tsubakimoto’s management at first tolerated the leaflets, and the workers were cordial. However, some months later, after thirty or so of Mrs. Hiraoka’s more militant unionist supporters forced an acrimonious meeting with top management, workers were ordered by the firm not to take the leaflets. For the remainder of the trial, the firm photographed the leafleting. Telephoto lenses could be seen peeking between the blinds of the factory office, and the number of workers who accepted the handbills fell to near zero.

For the unions, who sent members to accompany Mrs. Hiraoka thereafter, the trial provided an opportunity to attack Tsubakimoto’s poor reputation and score points for unionism. They became progressively more aggressive, thrusting the
leaflets into the mid-sections of the workers and telling them to get a union that would fight for their rights and not let the company tell them who they could talk to or what they could read. Likewise, the unionists attended the trial sessions and could be counted on to mutter and grunt derisively in response to the statements of defense witnesses. When the judge asked why the court could not examine the S-2 factory, the defense attorney’s explanation was followed by cries of, “What are you hiding?!” Mrs. Hiraoka’s lawyers thought that this peanut gallery behavior had a beneficial effect on the judges as long as it was kept within reason.

Many of Mrs. Hiraoka’s personal supporters became associated with other karōshi plaintiffs through mutual friends in the Renrakukai, or through the Association of Families Concerned with Karōshi (Osaka Karōshi o Kangaeru Kazoku no Kai), a survivors’ mutual support group. As the attorneys recruited additional cases from around the Kansai area, they enrolled the plaintiffs in this mutual aid association. Here, Mrs. Hiraoka played the role of guide. Each new recruit had to be educated about how to file for compensation, how to approach doctors for depositions and expert testimony, how to gather signatures on petitions, and how to cope with the stress of bereavement and the long ordeal of being a plaintiff waiting for a bureaucratic decision. Mrs. Hiraoka symbolized the possibility of eventual success for this group. As karōshi numbers have increased, the Kazoku no Kai has grown. It is now a national organization, with lawyer-led chapters in every prefecture in Japan.

Karōshi as Moral Culture and the Struggle over the Movement’s Identity

In June of 1991, Mrs. Hiraoka’s case became even more central to the karōshi movement. A Nagoya labor drama group called Aspiration Theater (Kikyūza) had learned of the trial through the media. They approached Mrs. Hiraoka and asked if they could base a play on her family’s experiences. The group’s leader and playwright, Koguma Hitoshi, thought her case the perfect way to take up the karōshi problem, and he wanted to make it the first in a series of new productions about the impact of corporate society on the lives of workers and their families. He sent Mrs. Hiraoka a draft of the script and a tape of the proposed theme song. Mrs. Hiraoka was deeply moved to find her family’s plight rendered with such sensitivity and feeling.

The following year, the play was performed four times in Nagoya to packed houses. Called The Sudden Tomorrow (Totsuzen no Ashita), it is the story of the causes and consequences of a karōshi death. A factory supervisor is overworked, despite having a heart condition known to the company. A snarling factory manager pushes the workers unmercifully to meet ever-increasing quotas, but he refuses to take on extra staff. One worker is forced out when he thinks to file a
complaint. The company’s feckless union, afraid to make working conditions an issue, refuses to come to his aid. After the unfortunate supervisor dies, his wife, an unsophisticated woman of gentle character, and her two children find the courage to collect evidence and pursue a workers’ compensation claim. Their claim is eventually recognized thanks to evidence provided by an older worker who decides that gaining a clear conscience is worth sacrificing his retirement pension. He comes forward to tell the truth about the firm’s illegal and heartless methods. His testimony subsequently results in the widow and her children filing a civil suit against the firm, and in the dismissal of the greedy factory manager.

*Totsuzen no Ashita* is a powerful representation of the karōshi movement’s central themes. It mobilizes images of protection, mutual care, and love and insists that compassion and familial relations are the essential foundation of both a good society and a good business. With the aid of jurisprudence, rendered in the play as a booming voice from above, the dead worker’s family is reconstructed as a site of courageous resistance and source of moral value.

The play represented a cultural resource for the movement, and there was a small struggle over who would perform it in Osaka. A representative from the Communist Party-affiliated Osaka labor drama group Kizugawa asked that his group be given permission to perform the play in Osaka in December. Other movement participants wanted Kikyūza to bring the production to Osaka. Both groups worried about saturating the market. This was the same problem plaintiffs who followed Mrs. Hiraoka faced: the limited number of groups willing and able to support karōshi cases meant competition between plaintiffs that could fragment the movement. Iwaki Yutaka, one of Mrs. Hiraoka’s lawyers with close ties to various groups, brokered a win-win compromise. Kikyūza would perform the play in August, and Kizugawa would perform it in December. The two groups would work together and form the *Totsuzen no Ashita* Osaka Performances Promotion Association (*Totsuzen no Ashita* Osaka Kōen o Miru Kai). Kizugawa would help stage the August performances, and a joint committee to carry out both sets of performances was formed. This committee gathered staff members and established the Miru Kai, printed a newsletter, publicized the play, handled ticket sales and distribution, and arranged liaison between the two drama groups. The two key organizers were volunteers with strong Communist Party ties. At the event, both sets of performances played to full houses. Over ¥200,000 in donations was raised, and the funds were given to the Kazoku no Kai. The two Miru Kai organizers subsequently became the secretariat of that organization, too. Building on their success, the following year the Miru Kai published a volume of reflections and opinions about the play and the karōshi movement entitled *No More Karōshi* (Nō Moa Karōshi).

As with the play, these two skilled organizers tried to use the Kazoku no Kai and its members to create additional cultural resources and political meaning
for the movement. Their success was limited. Over 200 people turned out for a November 1993 evening of music, education, and fellowship that featured several plaintiffs in performing roles. However, the members of the Kazoku no Kai were reluctant to be used as mascots for the broad array of social causes implied by some of the speakers that evening. Their interest was less about social change and strengthening the labor movement than about gathering support for their individual cases. They resented being used as propaganda tools. After a subsequent concert with professional singers failed to generate much interest, the secretariat concentrated on returning the Kazoku no Kai to its original mission of mutual self-help for its members. Mrs. Hiraoka, who did not like the way some of her communist supporters sometimes tried to use her case as a vehicle for union organizing and JCP politics, withdrew from the Kazoku no Kai in 1996. However, she remains grateful to and friendly with them as individuals for the assistance they rendered, and she is still working for a karōshi-free future.

CONCLUDING REMARKS

While the Hiraoka case typified the social movement strategies and practices generally employed by karōshi activists, it was atypical in the ease and speed with which workers’ compensation insurance payments were granted. It was also atypical in pursuing corporate responsibility in a civil suit. In the years since her case was settled, however, it has become common for claimants who win Ministry of Health, Labor, and Welfare recognition of their cases to sue companies for additional damages. Lawyer Matsumaru says that official recognition of a karōshi case enables an easy victory over the firm.

Karōshi activists base the credibility of their claims on facts created by their own research into the work environment and its relationship to workers’ health. This is exactly what the investigators from the Labor Standards Office do. However, where once the opinions of victims’ families took a back seat to documentary evidence supplied (or not supplied) by firms, today facts discovered by the plaintiff can acquire a most potent credibility. In this, Mrs. Hiraoka was exceptionally fortunate. Her husband’s overtime schedules, medical records, and other documents were found on his desk at home. Since these became the key evidence in the civil trial, in this sense she and her children were lucky that Mr. Hiraoka was so overworked that he had to bring work home. The documents corroborated his family’s recollections of his working hours and demonstrated that the firm was willfully negligent in its failure to care for Mr. Hiraoka and provide him with a safe working environment.

Many other families have followed in the wake of Mrs. Hiraoka’s success. In Osaka, they are often led by the same lawyers who worked on the Hiraoka case. In Tokyo and other cities, her case is known through its portrayal in books.
written by those lawyers. Subsequent successful cases received similar treatment. In addition to creating a growing body of legal doctrine, the approximately 300 lawyers in the National Defense Counsel for Victims of Karōshi across Japan have been instrumental in the creation of a national karōshi discourse. They have publicized the concept of karōshi, shown how it occurs, explained how to prevent it, and how to gain compensation when it happens. In league with their medical colleagues, these lawyers are primarily responsible for making karōshi a social problem. Their guidance and suggestions teach plaintiffs the accepted conventions of credible fact making, give rise to support groups, and help plaintiffs construct their own personal discourses for use in public appearances, in petitions, or in visits to the Labor Standards Office. They also try to engineer a balanced distribution of resources among the various plaintiffs who are fighting karōshi cases at any given time.

Over time, the volume of critical judicial opinions generated by Karōshi Bengōdan activities has influenced the Ministry of Labor. Since 1987 the standards for recognizing karōshi have been relaxed three times, an example of litigation encouraging regulatory law to catch up to social realities. Recently, compensation has even been extended to victims of suicide due to work-induced stress (karōjisatsu). The concept of karōshi and the understanding of its epidemiology have become widespread in Japan. Many, though by no means all, Japanese can now identify with victims such as Mr. Hiraoka. There is a growing consensus that Japanese men have focused too much on work at the expense of family life and personal growth.

Changes in Japanese workplaces and employment practices due to the collapse of the late 1980s bubble economy and ensuing stagnation, however, are intensifying the competition for corporate survival. Pillars of social stability, such as lifetime employment and seniority wages, are being replaced by flexible, fixed-term employment and results-based compensation schemes. Revisions to the Labor Standards Act in April 1999 made women subject to the same overtime provisions as men. In the absence of strong unions, it is widely believed that these revisions, carried out in the name of gender equality, will put women in the same unprotected position as men. Business leaders have recently introduced proposals that would exempt many white-collar workers from limits on working hours and free employers from having to pay them overtime premiums (North and Weathers 2007). Mrs. Hiraoka says that while the gains of the anti-karōshi movement are not insignificant, there is little reason to be optimistic about eliminating karōshi anytime soon.

In the face of business efforts to water down or eliminate many provisions of the Labor Standards Act and Industrial Safety and Health Act, the success of karōshi plaintiffs such as Mrs. Hiraoka points to the impact that ordinary Japanese citizens can have when their energies and knowledge are mobilized within the
organizational framework and practices of a social movement led by dedicated professionals. With this guidance and expertise, victims and their families can generate credibility sufficient to activate the potential for protection and redress inherent in the law and thus, in some measure, confront and successfully battle both the manifest power differences between capital and labor and bureaucratic inertia and indifference. The tactics and strategies of the anti-\textit{karōshi} movement—using the courts and raising a public fuss about a private problem—while perhaps distasteful to many Japanese, are a viable alternative to capitulation and quietism. They contain the potential for individuals to exercise the power of the law in a way that calls attention to the common interests of workers, using litigation and the threat of litigation as a means to the enactment of policies that ultimately benefit them all.

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Karōshi activism and recent trends in Japanese civil society

Saiban o Shien Suru Kai.

