

The problem of overtime: An investigation into the right to work¹

Taiwanese people are known for their tenacity and diligence. Yet behind all the hard working façade lies some pervasive problems of overtime and poor working conditions that have undermined health and in some cases cost lives. These exploitations violate the Labor Standard Law and international human rights convention. Control Yuan Members launched an own-motion investigation to determine whether the Council of Labor Affairs and other responsible agencies, if any, have failed to protect labor rights.

The Labor Standard Law acts as a safety net for the labors at large, safeguarding the worker rights, improving employment relations, and facilitating economic development. Despite its good intention, the Law has yet to protect all of the working population in Taiwan. Official data show that eight lines of work and around 230,000 workers fall outside the Law's protective circle. Increase in overtime, coupled with a decline in annual wages has undermined employee well-being and at times led to employee's death. The past eleven years have seen a decoupling of economic growth and wages. Result of the inspection shows that the percentage of overtime has quadrupled from 5.9% in 2008 to 20.4% in 2011. The Council of Labor Affairs has failed to address the sinister "exempt employment", adopted by many businesses to avoid additional over-time pay or days-off. The Council is also at fault for failing to establish a mechanism to review and inspect work hours. Eventually, it was the death of an individual worker that has brought forth the gravity of the issue.

Earlier on December 1, 2008, the company placed Mr. Hsu under exempt employment. As such, he was no longer required to clock in and out, nor was he able to apply for overtime pay. He died on January 11, 2010 of cardiac arrest. The Bureau of Labor Insurance attributed Hsu's death to natural causes and compensated accordingly. Hsu's family remained doubtful and requested the case be re-examined. After some deliberations, the Council of Labor Affairs decided to modify the guidelines for identifying job-induced cardiovascular diseases, re-attributing Hsu's death to occupational disease. Later it was made clear that the Council had not only failed to identify the purpose behind Hsu's reassignment, but also wrongly attributed his death to natural causes before carefully reviewing the guidelines.

In response to Control Yuan's redress, the Council of Labor Affairs have identified six lines of work that have fallen outside the Labor Law protection. At present there are eight lines of work whose legal protection remains unclear due to ambiguous employment, unstable job content and working hours or simply the unique nature of the work per se. The Council of Labor Affairs has proposed to raise the minimum wage to 103 NT dollars per hour. The new policy went into

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effect on January 1st, 2012. Other than the reported cases, the Council of Labor Affairs has also promised to step up on inspections to identify any irregularities. The Council has proceeded to revise a number of regulations, including guidelines for determining occupation-induced cerebral and cardiovascular diseases, amendments to Act for Protecting Worker of Occupational Accidents, and Labor Safety and Health Act that requires specific consideration for health problems or workplace violence resulted from excessive workload.